

# SECURITIES AND EXCHANGE COMMISSION

## FORM 6-K

Current report of foreign issuer pursuant to Rules 13a-16 and 15d-16 Amendments

Filing Date: **2013-01-09** | Period of Report: **2013-01-09**  
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### FILER

#### **CDC CORP**

CIK: **1076770** | IRS No.: **000000000** | State of Incorporation: **K3** | Fiscal Year End: **1231**  
Type: **6-K** | Act: **34** | File No.: **000-30134** | Film No.: **13519452**  
SIC: **7372** Prepackaged software

#### Mailing Address

*11/F ING TOWER  
308 DES VOEUX ROAD  
CENTRAL  
HONG KONG K3 00000*

#### Business Address

*11/F ING TOWER  
308 DES VOEUX ROAD  
CENTRAL  
HONG KONG K3 00000  
85228938200*

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**UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION**  
Washington, D.C. 20549

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**FORM 6-K**

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**REPORT OF FOREIGN PRIVATE ISSUER  
PURSUANT TO RULE 13a-16 OR 15d-16  
UNDER THE SECURITIES EXCHANGE ACT OF 1934**

January 9, 2013

Commission File Number: 000-30134

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**CDC CORPORATION**

(Translation of Registrant's name into English)

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**Cayman Islands**

(Jurisdiction of incorporation or organization)

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**11/F, ING Tower**

**308 Des Voeux Road Central**

**Hong Kong**

(Address of Principal Executive Offices)

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Indicate by check mark whether the registrant files or will file annual reports under cover Form 20-F or Form 40-F:  Form 20-F  
 Form 40-F

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(1):

Indicate by check mark if the registrant is submitting the Form 6-K in paper as permitted by Regulation S-T Rule 101(b)(7):

Indicate by check mark whether the registrant by furnishing the information contained in this Form is also thereby furnishing the information to the Commission pursuant to Rule 12g3-2(b) under the Securities Exchange Act of 1934:  Yes  No

If "Yes" is marked, indicate below the file number assigned to the registrant in connection with Rule 12g3-2(b): n/a

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## Update on Chapter 11 and Related Court Proceedings

### *Settlement of Evolution Litigation*

On December 19, 2012, the U.S. Bankruptcy Court for the Northern District of Georgia (the “Court”) entered an order (the “Settlement Order”) approving the settlement of all asserted and potential claims between or among Evolution Capital Management and certain affiliates thereof, Aptean (f.k.a. CDC Software Corporation) (“CDC Software”), Asia Pacific Online Limited and certain former directors and officers of CDC Software and CDC Corporation (collectively, the “New York Defendant Parties”) upon the terms and conditions described in that certain Current Report on Form 6-K of CDC Corporation (“Debtor” or the “Company”) dated December 17, 2012.

The Settlement Order also authorizes the release of certain reserves related to the Evolution litigation and other litigation expenses.

On December 18, 2012, the Settlement Agreement and Side Agreement (as defined in the December 17, 2012 Form 6-K) were executed by all parties thereto. In connection with the foregoing, on December 21, 2012, the Company paid an aggregate of \$7.8 million to the Evolution Parties.

The foregoing description of the Settlement Agreement, Side Agreement and Settlement Order is qualified in its entirety by the text of such documents, copies of which are attached hereto as Exhibits 99.1, 99.2 and 99.3, respectively, and incorporated herein by reference.

### *Approval of Reserves Required for Initial Distribution to Equity Holders and Final Form of Liquidation Trust Agreement*

As previously disclosed, on September 6, 2012, the Court in the Chapter 11 bankruptcy proceeding (the “Bankruptcy Proceeding”) of CDC Corporation entered its Findings of Fact, Conclusions of Law, and Order Under 11 U.S.C. § 1129(a) and (b) and Fed.R.Bankr.P. 3020 Confirming the Second Amended Joint Plan of Reorganization of CDC Corporation (the “Plan”).

On December 19, 2012, the Court entered an order (the “Approval Order”) providing that:

- (i) all of the conditions to the Effective Date set forth in the Plan and the Confirmation Order have been satisfied, and that the Company is authorized to establish December 19, 2012 or as soon thereafter as practicable as the Effective Date of the Plan;

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- (ii) reserves for Effective Date Available Cash, Disputed Claims, and Liquidation Trust Expenses established by the Debtor, the Disbursing Agent, or the Liquidation Trust, as applicable, were approved, as follows:

Effective Date Available Cash Reserve \$8,680,000

Reserve for Payment of Evolution Settlement \$7,800,000

Litigation Expense Reserve \$1,193,175.66

Disputed Claims Reserve \$10,005,576

Liquidation Trust Expenses Reserve \$13,050,000

- (iii) the Liquidation Trust Agreement is approved, and authorizing the Debtor to execute the Liquidation Trust Agreement in accordance with the Plan;
- (iv) the Deed of Assignment, evidencing the exchange of 38,135,399 Class A Common Shares of the Debtor into an equivalent number of Beneficial Interests in the Liquidation Trust, is approved, subject to reconciliation, and authorizing the Debtor to execute the Deed of Assignment; and
- (v) the Distribution Schedule filed in Debtor' s supplemental motion dated December 17, 2012 is approved, and authorizing an initial distribution in accordance therewith after the Effective Date (the "Distribution") and the execution of the Liquidation Trust Agreement.

The Court also issued a Notice of Effective Date establishing December 19, 2012 as the Effective Date of the Plan.

Accordingly, on December 19, 2012, the Company: (i) established a liquidation trust ("Liquidation Trust"); and (ii) executed the Liquidation Trust Agreement and Deed of Assignment, and substantially all of Debtor' s assets except for cash to fund the Effective Date Available Cash Reserve were subsequently transferred to the Liquidation Trust.

Pursuant to the Plan, all shares of the Company, except for one share held in the name of the Liquidation Trustee, held by shareholders of record on the Effective Date have been cancelled and fully-extinguished in exchange for Beneficial Interests in the Liquidation Trust.

The Company has retained Computershare Shareholder Services, LLC to effectuate the distributions under the Plan and to document the exchange.

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Holders of certificated shares will receive written instructions on how to surrender their certificates and receive payment.

Such initial distribution was made to shareholders on or about December 24, 2012.

As soon as practicable after the Effective Date, the Company intends to initiate a voluntary dissolution in the Cayman Islands to dissolve the Company.

None of the securities issued by the Liquidation Trust will be registered under the Securities Act of 1933, as amended, or the Securities Exchange of 1934, as amended.

The Liquidation Trustee in respect of the Liquidation Trust is Marcus A. Watson, c/o Finley, Colmer and Company, 5565 Glenridge Connector, Suite 200, Atlanta, GA 30342, (678) 579-5808.

The trust interests will be issued in uncertificated form, evidenced by notations on the books and records of the Liquidation Trustee. Pursuant to the Liquidation Trust Agreement, the trust interests may not be assigned, pledged, mortgaged, sold, transferred or otherwise disposed of except, after written notice to the Liquidation Trustee: (i) pursuant to applicable laws of descent and Distribution (as in the case of a deceased individual Beneficiary); or (ii) by operation of law

The foregoing descriptions of the Approval Order, Notice of Effective Date, the Liquidation Trust Agreement, the Deed of Assignment, Distribution Schedule and Plan are qualified in their entirety by reference to such documents, copies of which are attached hereto as Exhibits 99.4, 99.5, 99.6, 99.7, 99.8 and 99.9, respectively, and incorporated herein by reference.

Terms not specifically defined herein shall have the meaning ascribed to them in the Plan or the Liquidation Trust Agreement, as applicable.

In addition, the Approval Order, as well as copies of the Plan and the Liquidation Trust Agreement may be obtained via the Bankruptcy Court's Case Management/Electronic Case Filing system at <http://ecf.mdb.uscourts.gov> and in paper format during normal business hours at the following address: Bankruptcy Clerk's Office, U.S. Bankruptcy Court, Suite 1340, 75 Spring Street, S.W., Atlanta, Georgia 30303.

#### ***Cessation of Trading; Suspension and Termination of Reporting Obligations***

As a result of the Plan being declared effective on December 19, 2012, the Company's common stock, which had been trading in the pink sheets under the symbol "CDCAQ", has ceased trading.

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As of January 1, 2013, as a result of the cancellation of the Company's outstanding Class A common stock and the other actions undertaken in connection with the consummation of the Plan, the Company had one shareholder of record.

As a result, the Company intends to file a Form 15 with the Securities and Exchange Commission pursuant to Rules 12g-4 and 15d-6 under the Securities Exchange Act of 1934, as amended (the "Exchange Act"). The filing of the Form 15 will immediately suspend the Company's reporting obligations under Sections 12(g) and 15(d) of the Exchange Act, including obligations to file Forms 6-K and 20-F. The Company's reporting obligations under Section 12(g) will be terminated 90 days after the filing of the Form 15.

### **Forward-looking Statements**

This Form 6-K includes "forward-looking statements" within the meaning of the United States Private Securities Litigation Reform Act of 1995. These forward-looking statements may be identified by words such as "may," "could," "should," "would," "believe," "anticipate," "estimate," "expect," "intend," "plan," "projects," "outlook," or similar expressions. Additionally, forward-looking statements may include statements regarding: (i) any course of dealing with respect to the Evolution litigation, the New York Defendants and the Settlements; (ii) any course of action the Company may take in the future with respect to Distributions, including the amount and timing thereof; (iii) any course of action, considerations, procedures, amounts or timelines relating to the Plan or the Liquidation Trust Agreement, or any expectations regarding reserves and the amounts thereof, which may be subject to change; (iv) any expectations regarding the amount of cash available for distributions to holders of Beneficial Interests in the Liquidation Trust; (v) any expectations regarding Liquidation Trust Expenses; and (vi) any expectations regarding the dissolution of the Company, the Company's filing of a Form 15 with the U.S. Securities Exchange Commission and the subsequent suspension and termination of the Company's reporting obligations under applicable laws, rules and regulations; and (vii) other matters or events that are not historical fact, the achievement of which involve risks, uncertainties and assumptions, many of which are beyond the Company's control. These statements are based on management's current expectations and are subject to risks and uncertainties and changes in circumstances. If any such risks or uncertainties materialize or if any of the assumptions prove incorrect, the Company's results could differ materially from the results expressed or implied by the forward-looking statements contained herein. All forward-looking statements included in this Form 6-K are based upon information available to management as of the date of this Form 6-K, and you are cautioned not to place undue reliance on any forward-looking statements, which speak only as of the date of this Form 6-K. The Company assumes no obligation to update or alter

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the forward-looking statements whether as a result of new information, future events or otherwise. For these and other reasons, investors are cautioned not to place undue reliance upon any forward-looking statement in this Form 6-K.

**Exhibit**

<u>No.</u>	<u>Description of Exhibit</u>
99.1	Settlement Agreement
99.2	Side Agreement
99.3	Settlement Order
99.4	Approval Order
99.5	Notice of Effective Date
99.6	Liquidation Trust Agreement
99.7	Deed of Assignment
99.8	Distribution Schedule
99.9	Second Amended Plan of Reorganization of CDC Corporation

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SIGNATURE

Pursuant to the requirements of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

Date: January 9, 2013

CDC CORPORATION

By: /s/ Marcus A. Watson

Name: Marcus A. Watson

Title: Chief Restructuring Officer

**EXHIBIT INDEX**

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## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into as of the 18 day of December, 2012, by and among: (1) CDC Corporation, as debtor and debtor-in-possession (“CDC” or “Debtor”) and the Official Committee of Equity Security Holders of Debtor CDC Corporation (“Committee”) (together, the “Debtor Parties”); (2) Evolution Capital Management, LLC (“ECM”), Evolution CDC SPV Ltd. (“Evolution SPV”), Global Opportunities Fund Ltd., SPC, Segregated Portfolio M (f.k.a. Evolution Master Fund Ltd., SPC, Segregated Portfolio M) (“M Fund”), Evo China Fund (“Evo China”) and E1 Fund, Ltd. (“E1 Fund”) (collectively, the “Evolution Parties”); and (3) CDC Software Corporation (“CDC Software”), Wong Chung Kiu (a.k.a. C.K. Wong) (“C.K. Wong”), Yip Hak Yung (a.k.a. Peter Yip) (“Yip”), Asia Pacific Online Limited (a.k.a. Asia Pacific On-line Limited) (“APOL”), Ch’ ien Kuo Fung (a.k.a. Raymond Ch’ ien) (“Ch’ ien”), Francis Kwok-Yu Au (“Au”), Donald L. Novajosky (“Novajosky”), Monish Bahl (“Bahl”), Thomas M. Britt III (“Britt”), Wong Kwong Chi (a.k.a. Simon Wong) (“S. Wong”), and Wang Cheung Yue (a.k.a. Fred Wang) (“Wang”) (collectively, the “NY Defendant Parties”), each of which is a “Party” and all together are the “Parties.”

### RECITALS

WHEREAS, on October 4, 2011, CDC filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C §§ 101-1532 (as amended, the “Bankruptcy Code”), Case No. 11-79079-PWB (the “Bankruptcy Case”) pending in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “Bankruptcy Court”);

WHEREAS, on or about April 27, 2012, the Evolution Parties filed an action alleging various torts against the NY Defendant Parties in the Supreme Court for the State of New York, entitled *Evolution Capital Management, LLC, Evolution CDC SPV Ltd., Global Opportunities Fund Ltd., SPC, Segregated Portfolio M (f.k.a. Evolution Master Fund Ltd., SPC, Segregated Portfolio M), Evo China Fund and E1 Fund, Ltd. Vs. CDC Software Corporation, Wong Chung Kiu, Yip Hak Yung (a.k.a. Peter Yip), Asia Pacific Online Limited (a.k.a. Asia Pacific On-line Limited), Ch’ ien Kuo Fung (a.k.a. Raymond Ch’ ien), Francis Kwok-Yu Au, Donald L. Novajosky, Monish Bahl, Thomas M. Britt III, Wong Kwong Chi (a.k.a. Simon Wong), and Wang Cheung Yue (a.k.a. Fred Wang)*, Index No. 651395/2012, which was subsequently removed by APOL to the United States Court for the Southern District of New York, Case No. 1:12-cv-04841 (AJN) (the “New York Action”);

WHEREAS, on or about May 1, 2012, ECM filed a Proof of Claim in the Bankruptcy Case alleging various torts against the Debtor (the “ECM Proof of Claim”);

WHEREAS, the NY Defendant Parties have raised various claims for indemnification against the Debtor arising from the New York Action (the “Indemnity Claims”);

WHEREAS, on or about August 31, 2012, Debtor filed an Adversary Complaint alleging various breaches of a settlement agreement against the Evolution Parties and challenging the ECM Proof of Claim, Adversary Proceeding No. 12-05441 (the “Adversary Proceeding”);

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WHEREAS, on or about October 17, 2012, ECM moved to withdraw the reference of certain portions of the Adversary Proceeding from the Bankruptcy Court to the United States District Court for the Northern District of Georgia;

WHEREAS, on or about November 6, 2012, the Committee filed an Intervenor Complaint against the Evolution Parties in the Adversary Proceeding;

WHEREAS, in light of the risks, cost, and delays associated with the disputes between the Parties arising out of: (i) the New York Litigation, (ii) the ECM Proof of Claim, and (iii) the Adversary Proceeding, the Parties have reached an agreement to settle all asserted and potential claims between or among the Parties arising out of or relating to these disputes in accordance with the terms and conditions set forth in this Agreement.

NOW THEREFORE for and in consideration of the mutual covenants contained in this Agreement and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

1. Definitions. In addition to the terms that are defined elsewhere in this Agreement, the following terms shall have the following meanings ascribed to them:

Approval Order shall mean an Order entered by the Bankruptcy Court in the Bankruptcy Case approving this Agreement and authorizing Debtor to perform under this Agreement, which Order shall, among other things, expressly provide that it will be binding upon any Chapter 7 or Chapter 11 trustee at any time appointed, and be in form and substance satisfactory to the Debtor Parties and the Evolution Parties.

Claims shall mean any and all claims (whether for indemnification, contribution or otherwise), manner of actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extants, executions, liens, obligations, liabilities, demands, losses, costs and expenses (including attorney's fees) of any kind, character, or nature whatsoever, known or unknown, fixed or contingent, liquidated or unliquidated, matured or unmatured, in law, equity, admiralty, bankruptcy or otherwise; provided, however, that, notwithstanding anything contained herein to the contrary, "Claims" shall not include any obligations due and owing in connection with the Indemnity Claims or the Indemnity Obligations.

Estate shall mean the bankruptcy estate in the Bankruptcy Case, including all property of such estate under Section 541 of the Bankruptcy Code, and any successors thereto.

Indemnity Obligations shall mean any and all obligations that the Debtor or any other Party may have to indemnify or otherwise compensate any of the NY Defendant Parties for any and all losses, fees and expenses incurred by the NY Defendant Parties in connection with the New York Action on account of the Indemnity Claims or otherwise; provided, however, that the Parties stipulate that the Evolution Parties have no Indemnity Obligations and this paragraph shall not be construed to mean that any of the Evolution Parties have any Indemnity Obligations.

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Person shall mean any individual, partnership, corporation, limited liability company, limited liability partnership, joint venture, trust, or unincorporated organization or association, any “doing business as” entity, any other form of business or commercial entity, or a government or any governmental agency or political subdivision.

Settlement Date shall mean the date upon which the Approval Order is entered.

## 2. Settlement Amount.

(a) To the Evolution Parties. The Debtor shall - no later than five (5) business days after entry of the Approval Order, and without further order of the Bankruptcy Court - pay to the Evolution Parties, on account of its obligations to indemnify one or more of the NY Defendant Parties, the sum of Seven Million Eight Hundred Thousand Dollars (\$7,800,000.00) (the “Payment”). Payment shall be made in full by wire transmission to ECM in accordance with the wire instructions provided in Section 8 of this Agreement, unless otherwise agreed by ECM in writing. For the avoidance of doubt, no payment into escrow, to the Bankruptcy Court, or to any party or intermediary other than an entity so designated in writing by ECM shall be deemed a Payment under this Agreement. The date the wire transmission is completed is the “Payment Date.”

(b) To CDC. Software shall - no later than five (5) business days after entry of the Approval Order, and without further order of the Bankruptcy Court - pay to CDC \$400,000.00. Payment shall be made in full by wire transmission to CDC in accordance with the wire instructions provided in Section 8 of this Agreement, unless otherwise agreed to by CDC.

## 3. Releases.

(a) *Of the Evolution Parties.* Effective upon the Payment Date, the Debtor Parties and NY Defendant Parties, on behalf of themselves, the Estate, and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, in-house counsel, heirs, spouses, predecessors in interest, successors in interest, and assigns (the “CDC Releasers”), do hereby remise, release, acquit and forever discharge the Evolution Parties and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, attorneys and assigns (the “Evolution Releasees”), from any and all Claims which the CDC Releasers had, ever had or now have against any of the Evolution Parties, whether known or unknown, for, upon, or by reason of any manner, cause, or thing whatsoever from the beginning of the world to the date of this Release, or which may hereafter arise out of or be connected with, any act of commission or omission of any of the Evolution Releasees existing or occurring prior to the Settlement Date, and will not initiate, or encourage other persons or entities to initiate, or file any complaint, proceeding, grievance, appeal or action in any capacity in any forum against the Evolution Releasees on account of any of the Claims released herein; provided, however, that nothing herein shall be construed to release Claims for breach of this Settlement Agreement or release of any of the Indemnity Obligations.

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(b) *Of the Debtor Parties and NY Defendant Parties.* Effective upon the Payment Date, the Evolution Parties, on behalf of themselves and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, in-house counsel, heirs, spouses, predecessors in interest, successors in interest, and assigns (the “Evolution Releasors”), do hereby remise, release, acquit and forever discharge the Debtor Parties and NY Defendant Parties and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, attorneys and assigns (the “CDC Releasees”), from any and all Claims which the Evolution Releasors had, ever had or now have against any of the Debtor Parties or NY Defendant Parties, whether known or unknown, for, upon, or by reason of any manner, cause, or thing whatsoever from the beginning of the world to the date of this Release, or which may hereafter arise out of or be connected with, any act of commission or omission of any of the CDC Releasees existing or occurring prior to the Settlement Date, and will not initiate, or encourage other persons or entities to initiate, or file any complaint, proceeding, grievance, appeal or action in any capacity in any forum against the CDC Releasees on account of any of the Claims released herein; provided, however, that nothing herein shall be construed to release Claims for breach of this Settlement Agreement or release of any of the Indemnity Obligations.

4. Dismissal of Actions and Release of ECM Reserve. After entry of the Approval Order and no later than five (5) business days after the Payment being wired as per this Agreement: (i) the Evolution Parties shall dismiss, or cause to be dismissed, the New York Action with prejudice and with each party to bear its own costs; (ii) ECM and Debtor shall withdraw, or cause to be withdrawn, the ECM Proof of Claim; and (iii) the Debtor Parties shall dismiss, or cause to be dismissed, the Adversary Proceeding with prejudice and with each party to bear its own costs. Notwithstanding anything herein to the contrary, the foregoing shall not limit, amend, modify or otherwise affect the Indemnity Obligations in any way.

5. Release of Evolution and Litigation Expense Reserves. Upon Payment being wired to the Evolution Parties as provided herein, the \$32.5 million reserve for the ECM Proof of Claim may be released to the Estate and all but \$1.0 million of the Litigation Expense Reserve may be released. Upon satisfaction in full of all claims for reimbursement of litigation expense costs of those NY Defendant Parties to whom Debtor has acknowledged an obligation to pay defense costs, any remaining Litigation Expense Reserve may be released to the Estate.

6. Approval of Bankruptcy Court. This Agreement shall not become effective unless and until approved by entry of the Approval Order by the Bankruptcy Court after such notice to creditors and other parties in interest and a hearing or opportunity for hearing, as deemed appropriate by the Bankruptcy Court. Upon the execution and delivery of this Agreement by each Party hereto, CDC promptly shall file in the Bankruptcy Case a motion (the “Settlement Motion”) seeking expedited Bankruptcy Court approval of this Agreement in the month of December, 2012. The Parties shall cooperate in seeking Bankruptcy Court approval of this Agreement and shall use their best efforts to have the Approval Order entered by December 19, 2012, including, without limitation, attending any hearing before the Bankruptcy Court on the Settlement Motion, such that Payment is made and the ECM Reserve is released by December 31, 2012.

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7. Notices. All notices, requests and demands to or upon a Party shall be in writing and sent by facsimile transmission and overnight courier, and, unless otherwise expressly provided herein, shall be deemed to have been validly served by the sending Party on the date of transmission and deemed received by the noticed Party one (1) business day after transmission, when addressed as follows:

If to Debtor Parties:        Marcus A. Watson  
   Finley, Colmer and Company  
   5565 Glenridge Connector, Suite 200  
   Atlanta, GA 30342  
   Tel: (770) 668-0637  
   Fax: (678) 579-5808

With a copy to:                James C. Cifelli  
   Gregory D. Ellis  
   Lamberth, Cifelli, Stokes, Ellis & Nason, P.A.  
   3343 Peachtree Road, NE  
   East Tower, Suite 550  
   Atlanta, GA 30326  
   Telephone: (404) 262-7373  
   Facsimile: (404) 262-9911

J. David Dantzler, Jr.  
Troutman Sanders, LLP  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, GA 30308-2216  
Telephone: (404) 885-3314  
Facsimile: (404) 962-6799

If to Evolution Parties:        Richard Chisholm  
   Evolution Capital Management LLC  
   2425 Olympic Blvd, Suite 120 E  
   Santa Monica, California 90404  
   Tel: (310) 315-8861  
   Fax: (310) 315-8881

With a copy to:                Aaron M. Zeisler  
   Satterlee Stephens Burke & Burke LLP  
   230 Park Avenue, 11<sup>th</sup> Floor  
   New York, New York 10169  
   Tel: (212) 404-8737  
   Fax: (212) 818-9606

-and-

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C. Edward Dobbs  
Parker, Hudson, Rainer & Dobbs, LLP  
1500 Marquis Two Tower  
285 Peachtree Center Avenue, NE  
Atlanta, GA 30303  
Telephone: (404) 420-5529  
Facsimile: (404) 522-8409

If to NY Def. Parties: Daniel P. Goldberg  
Holwell Shuster & Goldberg LLP  
125 Broad Street, 39th Floor  
New York, NY 10004  
Telephone: (646) 837-5154  
Facsimile: (646) 837-5150

*Counsel for Peter Yip and Asia Pacific Online Ltd.*

Matthew Solum  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 446-4800  
Facsimile: (212) 446-6400

*Counsel for CDC Software Corporation*

Eric Lopez Schnabel  
Christopher G. Karagheuzoff  
Dorsey & Whitney LLP  
51 West 52nd Street  
New York, New York 10019-6119  
Telephone: 212.415.9200  
Facsimile: 212.953.7201

*Counsel for Wong Chung Kiu (a.k.a. C.K. Wong), Ch'ien  
Kuo Fung (a.k.a. Raymond Ch'ien), Thomas M. Britt III,  
Wong Kwong Chi (a.k.a. Simon Wong), and Wang  
Cheung Yue (a.k.a. Fred Wang)*

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Steven J. Estep  
Cohen Cooper Estep & Allen  
3330 Cumberland Blvd., Suite 600  
Atlanta, GA 30339  
Telephone: (404) 814-0000 x210  
Facsimile: (404) 816-8900

*Counsel for Monish Bahl*

Erin N. Brady  
Jones Day  
555 South Flower Street  
Fiftieth Floor  
Los Angeles, CA 90071  
Telephone: (213) 489-3939  
Facsimile: (213) 243-2539

*Counsel for Francis Kwok-Yu Au*

Charles T. Spada  
Lankler Siffert & Wohl LLP  
500 Fifth Avenue  
New York, New York 10010  
Telephone: (212) 921-8399  
Facsimile: (212) 764-3701

*Counsel for Donald L. Novajosky*

Any Party may change the address at which that Party shall receive notice or the name of the person receiving a copy of such notice by furnishing the other Party a change of address or change of person receiving copies of notice in the manner set forth herein for the giving of notices. A notice of change of address or change of person receiving copies shall become effective five (5) business days after delivery.

8. Wire Instructions. Payment of the Settlement Amount shall be by means of a wire transfer of immediately available funds to ECM in accordance with the following wire transfer instructions:

Bank: Bank of America N.A.

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9. No Admission of Liability. This Agreement shall not in any way be construed as an admission by any Party of any acts of misconduct whatsoever against any other Party or Person, and all Parties specifically disclaim any liability to any other Party or Person, except as otherwise stated in this Agreement. The Parties specifically acknowledge and agree that this Agreement is made to compromise and settle the Parties' respective rights, defenses and Claims and that neither this Agreement nor any action taken pursuant to this Agreement shall be offered or received in evidence in any action or proceeding as an admission of liability or wrongdoing of any nature on the part of any Party.

10. Authority. Subject to the entry of the Approval Order, each of the Parties represents and warrants to the other that it has full power and authority to enter into this Agreement.

11. No Prior Transfer or Assignment. Each Party hereby represents and warrants that every Claim or other matter released by such Party under Section 3 of this Agreement: (a) has not heretofore been assigned or encumbered by such Party (or if previously assigned or encumbered by a Party, has been assigned back to such Party and the encumbrance released) and is not the subject of a transfer (as the term "transfer" is defined in 11 U.S.C. § 101(54)), by such Party; and (b) such Party owns and has the power to grant the releases which said Party is purporting to release under Section 3 of this Agreement.

12. Certain Representations and Warranties. Each of the Parties represents and warrants to the others, as an inducement for the others to enter into this Agreement, that:

(a) Such Party has read and understands all of the terms and conditions set forth in this Agreement;

(b) Such Party has had the benefit of legal counsel of its own choosing in deciding to execute this Agreement;

(c) Such Party, without promise of benefit other than as set forth herein, is voluntarily entering into this settlement;

(d) There is good and valid consideration to support such Party's entering into this Agreement and to bind such Party by the terms and conditions of this Agreement; and

(e) Such Party was not coerced, threatened or otherwise forced to sign this Agreement, and its signature appearing below is voluntary and genuine and was duly and validly authorized and given.

13. Parties to Bear Own Costs. Except as otherwise stated in this Agreement, each Party to this Agreement shall bear its own costs (including attorneys' fees) incurred in connection with the negotiation, preparation and execution of this Agreement and any other agreements, instruments, or documents executed in accordance with the terms of this Agreement. Notwithstanding the foregoing or anything else contained herein to the contrary, nothing in this Agreement shall constitute or be deemed to be a release, waiver, or modification, or otherwise affect any of the Indemnity Claims or the Indemnity Obligations.

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14. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully-executed counterparts. Counterparts of this Agreement also may be exchanged via electronic facsimile machines or computer, and any such electronic transmission of any Party' s signature shall be deemed to be an original signature for all purposes.

15. Entire Agreement. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, each Party specifically warrants that this Agreement is executed without reliance upon any statement or representation by the other Party, except as expressly stated in this Agreement,

16. Amendment. The terms of this Agreement shall not be altered, amended, modified or otherwise changed in any respect except by a writing duly executed by all the Parties.

17. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

18. Binding Agreement. This Agreement shall be binding upon, and inure to the benefit of, the Parties, the Estate, and the respective agents, legal representatives, successors, transferees, administrators, heirs and assigns of the Parties, including, without limiting the foregoing, any subsequent committee, Chapter 7 Trustee, Chapter 11 Trustee, Liquidation Trust, Liquidation Trustee, or plan administrator. No Chapter 11 plan of reorganization or liquidation proposed by CDC or confirmed by the Bankruptcy Court shall amend or alter any of the covenants, obligations, terms or conditions of this Agreement.

19. Construction. Should any provision of this Agreement require interpretation, the Parties agree that the judicial body or arbitration forum interpreting or construing such provision shall not apply any assumption that the terms of this Agreement shall be more strictly construed against any Party because of the rule of construction that an instrument is to be construed more strictly against the drafting Party, each Party hereby acknowledging and agreeing that all Parties and their respective agents have participated in the preparation of this Agreement.

20. Section Headings; References: Gender and Number. The titles of the Sections herein have been inserted as a matter of convenience and for reference only and shall not control or affect the meaning or construction of any of the terms or the provisions in the Section. Words of any gender used in this Agreement shall be deemed to include the other gender or the neuter, and words in the singular shall be deemed to include the plural and the plural to include the singular when the sense requires,

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21. Governing Law. This Agreement shall be construed under and governed by the internal laws of the State of New York.

22. No Waiver. No failure of a Party to notify any other Party of any default shall prejudice any remedy for any subsequent defaults. No failure of a Party to insist on strict compliance by any other Party with its obligations under this Agreement and no custom or practice of the Parties in variance with the terms of this Agreement shall constitute a waiver of the party' s right to demand exact compliance with the terms of this Agreement. Any waiver by a Party of a default shall be limited to the particular instance and shall not operate or be deemed to waive any further default.

23. Further Documents. Each Party agrees to execute promptly any and all documents and to do and perform any and all acts and things reasonably necessary or proper to effectuate or further evidence the terms and provisions of this Agreement.

24. Bankruptcy Court Jurisdiction. An action for breach of this Agreement shall be brought only in the Bankruptcy Court, which shall retain jurisdiction over the subject matter and the Parties for this purpose.

25. Restoration. In the event that the Bankruptcy Court denies approval of this Agreement, this Agreement shall terminate and be null and void and have no further force or effect and the Parties shall be restored to their respective factual and legal positions which existed immediately prior to execution of this Agreement.

26. Party in Interest. Nothing in this Agreement shall be construed to prohibit any Party from appearing as a party in interest in any matter to be adjudicated in the Bankruptcy Case so long as such appearance and the positions advocated in connection therewith are not inconsistent with this Agreement.

IN WITNESS WHEREOF, the Parties have at their hands and seals, or their appropriate officer or agent has executed this Agreement, on the date first written above.

CDC Corporation

Evolution CDC SPV Ltd.

/s/ Joseph D. Stutz

/s/ Richard Chisholm

By: Joseph D. Stutz

By: Richard Chisholm

Its: Secretary and General Counsel

Its: Director

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Evolution Capital Management, LLC

/s/ Richard Chisholm

By: Richard Chisholm

Its: General Counsel

Evo China Fund

/s/ Richard Chisholm

By: Richard Chisholm

Its: Director

CDC Software Corporation

/s/ James P. Hickey

By: James P. Hickey

Its: Secretary

Wong Chung Kiu (a.k.a. C.K. Wong)

/s/ Chung Kiu Wong

Yip Hak Yung (a.k.a. Peter Yip)

/s/ Peter Yip

Ch' ien Kuo Fung (a.k.a. Raymond Ch' ien)

/s/ Raymond K.F. Ch' ien

Evolution Master Fund Ltd., SPC,  
Segregated Portfolio M

/s/ Richard Chisholm

By: Richard Chisholm

Its: Director

E1 Fund, Ltd.

/s/ Richard Chisholm

By: Richard Chisholm

Its: Director

Asia Pacific Online Limited

/s/ Nicola Chu Ming Nga

By: Nicola Chu Ming Nga

Its: Authorized Signatory

Monish Bahl

/s/ Monish Bahl

Thomas M. Britt III

/s/ Thomas M. Britt III

Wong Kwong Chi (a.k.a. Simon Wong)

/s/ Simon Wong

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Francis Kwok-Yu Au

Wang Cheung Yue (a.k.a. Fred Wang)

/s/ Frank Au

/s/ Wang Cheung Yue

Donald L. Novajosky

/s/ Donald L. Novajosky

## SETTLEMENT AGREEMENT

THIS SETTLEMENT AGREEMENT (the “Agreement”) is made and entered into as of the 18<sup>th</sup> day of December, 2012, by and among: (1) CDC Corporation, as debtor and debtor-in-possession (“CDC” or “Debtor”) and the Official Committee of Equity Security Holders of Debtor CDC Corporation (“Committee”) (together, the “Debtor Parties”); (2) CDC Software Corporation (“CDC Software”); and (3) Wong Chung Kiu (a.k.a. C.K. Wong) (“C.K. Wong”), Yip Hak Yung (a.k.a. Peter Yip) (“Yip”), Asia Pacific Online Limited (a.k.a. Asia Pacific On-line Limited) (“APOL”), Ch’ ien Kuo Fung (a.k.a. Raymond Ch’ ien) (“Ch’ ien”), Francis Kwok-Yu Au (“Au”), Donald L. Novajosky (“Novajosky”), Monish Bahl (“Bahl”), Thomas M. Britt III (“Britt”), Wong Kwong Chi (a.k.a. Simon Wong) (“S. Wong”), and Wang Cheung Yue (a.k.a. Fred Wang) (“Wang”) (collectively, the “NY Defendant Parties”), each of which is a “Party” and all together are the “Parties.”)

### RECITALS

WHEREAS, on October 4, 2011, CDC filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C §§ 101-1532 (as amended, the “Bankruptcy Code”), Case No. 11-79079-PWB (the “Bankruptcy Case”) pending in the United States Bankruptcy Court for the Northern District of Georgia, Atlanta Division (the “Bankruptcy Court”);

WHEREAS, on or about April 27, 2012, Evolution Capital Management, LLC (“ECM”), Evolution CDC SPV Ltd. (“Evolution SPV”), Global Opportunities Fund Ltd., SPC, Segregated Portfolio M (f.k.a. Evolution Master Fund Ltd., SPC, Segregated Portfolio M) (“M Fund”), Evo China Fund (“Evo China”) and E1 Fund, Ltd. (“E1 Fund”) (collectively, the “Evolution Parties”) filed an action alleging various torts against the NY Defendant Parties in the Supreme Court for the State of New York, entitled *Evolution Capital Management, LLC, Evolution CDC SPV Ltd., Global Opportunities Fund Ltd., SPC, Segregated Portfolio M (f.k.a. Evolution Master Fund Ltd., SPC, Segregated Portfolio M), Evo China Fund and E1 Fund, Ltd. Vs. CDC Software Corporation, Wong Chung Kiu, Yip Hak Yung (a.k.a. Peter Yip), Asia Pacific Online Limited (a.k.a. Asia Pacific On-line Limited), Ch’ ien Kuo Fung (a.k.a. Raymond Ch’ ien), Francis Kwok-Yu Au, Donald L. Novajosky, Monish Bahl, Thomas M. Britt III, Wong Kwong Chi (a.k.a. Simon Wong), and Wang Cheung Yue (a.k.a. Fred Wang)*, Index No. 651395/2012, which was subsequently removed by APOL to the United States Court for the Southern District of New York, Case No. 1:12-cv-04841 (AJN) (the “EVO II Action”));

WHEREAS, the EVO II Action arises out of a prior action in the Supreme Court for the State of New York entitled *Evolution CDC SPV Ltd., Evolution Master Fund Ltd., SPC, Segregated Portfolio M and E1 Fund Ltd. v. CDC Corporation*, Index No. 650749/2009, and a prior action in the Supreme Court for the State of New York entitled *CDC Corporation v. Evolution Capital Management LLC, Evolution Capital Management Asia, Ltd., Evolution Special Opportunities Fund I SPC, Segregated Portfolio A, Evolution CDC SPV Ltd., Evolution Master Fund Ltd., SPC, Segregated Portfolio M, Evolution Master Fund Ltd., SPC, and E1 Fund, Ltd.*, Index No. 600526/2010 (together with the EVO II Action, the “New York Actions”);

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WHEREAS, on or about May 1, 2012, ECM filed a Proof of Claim in the Bankruptcy Case alleging various torts against the Debtor (the "ECM Proof of Claim");

WHEREAS, the NY Defendant Parties have raised various claims for indemnification against the Debtor and/or CDC Software arising from the New York Actions (the "Indemnity Claims"), and CDC has agreed to advance defense costs to some of the NY Defendant Parties pursuant to deeds of indemnity, articles of association, and/or other contractual arrangements;

WHEREAS, on or about August 31, 2012, Debtor filed an Adversary Complaint alleging various breaches of a settlement agreement against the Evolution Parties and challenging the ECM Proof of Claim, Adversary Proceeding No. 12-05441 (the "Adversary Proceeding");

WHEREAS, on or about October 17, 2012, ECM moved to withdraw the reference of certain portions of the Adversary Proceeding from the Bankruptcy Court to the United States District Court for the Northern District of Georgia;

WHEREAS, on or about October 18, 2012, the Bankruptcy Court entered an Order establishing certain reserves including for the payment of the Indemnity Claims (the "Reserve Order");

WHEREAS, on or about November 6, 2012, the Committee filed an Intervenor Complaint against the Evolution Parties in the Adversary Proceeding;

WHEREAS, in light of the risks, cost, and delays associated with the disputes between the Parties arising out of: (i) the New York Actions, (ii) the ECM Proof of Claim, and (iii) the Adversary Proceeding, the Debtor Parties, CDC Software, the Evolution Parties, and the NY Defendant Parties (the "EVO Settlement Parties") have reached an agreement to settle all asserted and potential claims between or among the EVO Settlement Parties arising out of or relating to these disputes in accordance with the terms and conditions set forth in that certain Settlement Agreement dated December \_\_, 2012 (the "EVO Settlement"); and

WHEREAS, as partial inducement to enter into the EVO Settlement, the terms of which are incorporated herein by reference, the Parties desire to settle certain asserted and potential claims between or among the Parties.

NOW THEREFORE, for and in consideration of the mutual covenants contained in this Agreement and in the EVO Settlement, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties, intending to be legally bound hereby, agree as follows:

1. Definitions. In addition to the terms that are defined elsewhere in this Agreement, the following terms shall have the following meanings ascribed to them, unless the context requires otherwise:

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Approval Order shall mean an Order entered by the Bankruptcy Court in the Bankruptcy Case approving this Agreement and authorizing the Debtor to perform under this Agreement, which Order shall, among other things, expressly provide that it will be binding upon any Chapter 7 or Chapter 11 trustee at any time appointed, be in form and substance reasonably satisfactory to the Parties, and shall expressly provide for an amendment of the Reserve Order, as necessary, consistent with the provisions of Section 2 set forth herein.

Claims shall mean any and all claims (whether for indemnification, contribution or otherwise), manner of actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, extants, executions, liens, obligations, liabilities, demands, losses, costs and expenses (including attorneys fees) of any kind, character, or nature whatsoever, known or unknown, fixed or contingent, liquidated or unliquidated, matured or unmatured, in law, equity, admiralty, bankruptcy or otherwise.

Debtor' s Contribution Claims shall mean any and all Claims to recover, return, clawback, avoid, and/or otherwise seek contribution from any of the NY Defendant Parties on account of the NY Indemnity Obligations, including any advancement or conditional payment of the NY Indemnity Obligations.

Estate shall mean the bankruptcy estate in the Bankruptcy Case, including all property of such estate under Section 541 of the Bankruptcy Code, and any successors thereto.

EVO Approval Order shall mean an Order entered by the Bankruptcy Court in the Bankruptcy Case approving the EVO Settlement and authorizing Debtor to perform under the EVO Settlement, which Order shall, among other things, expressly provide that it will be binding upon any Chapter 7 or Chapter 11 trustee at any time appointed.

NY Defendant Invoices shall mean all invoices (1) for legal fees and expenses incurred by the NY Defendant Parties in connection with the New York Actions and/or the NY Indemnity Obligations that the Debtor Parties have already paid to or on behalf of the NY Defendant Parties pursuant to the Reserve Order; (2) for reasonable and necessary legal fees and expenses incurred by the NY Defendant Parties in connection with the New York Actions and/or the NY Indemnity Obligations submitted to, but not yet paid by, the Debtor Parties in accordance with the Reserve Order, and (3) and all other invoices that the NY Defendant Parties shall submit to the Debtor for amounts reasonably and necessarily due and owing in connection with the NY Indemnity Obligations and/or the New York Actions, including all unpaid legal fees and expenses. Provided, however, that NY Defendant Invoices do not include legal fees and expenses incurred by APOL or CDC Software.

NY Indemnity Obligations shall mean any and all obligations that the Debtor or any other Party, including but not limited to CDC Software, may have to indemnify or otherwise compensate any of the NY Defendant Parties for any and all losses, fees and expenses incurred by the NY Defendant Parties in connection with the New York Actions on account of the Indemnity Claims or otherwise, whether such obligations arise out of deeds of indemnity, articles of association, and/or separate agreements or undertakings.

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Other Indemnity Obligations shall mean any and all obligations that the Debtor or any other Party, including but not limited to CDC Software, if any, may have to indemnify or otherwise compensate any of the NY Defendant Parties for any and all losses, fees and expenses incurred by the NY Defendant Parties other than in connection with the New York Actions whether such obligations arise out of deeds of indemnity, articles of association, and/or separate agreements or undertakings.

Person shall mean any individual, partnership, corporation, limited liability company, limited liability partnership, joint venture, trust, or unincorporated organization or association, any “doing business as” entity, any other form of business or commercial entity, or a government or any governmental agency or political subdivision.

Settlement Date shall mean the date upon which both the Approval Order and EVO Approval Order have been entered by the Bankruptcy Court.

2. Settlement Amount. The Debtor shall pay all NY Defendant Invoices. Within five (5) business days after the Settlement Date, the NY Defendant Parties shall submit to the Debtor any NY Defendant Invoices that have not yet been submitted and/or paid. The Debtor shall - no later than two (2) business days after receipt by the Debtor of the NY Defendant Invoices, and without further order of the Bankruptcy Court - pay to the NY Defendant Parties all amounts due and owing under the NY Defendant Invoices (the “Payment”). Payments shall be made in full by wire transmissions to each of the NY Defendant Parties in accordance with the wire instructions provided in Section 6 of this Agreement, unless otherwise agreed to by the NY Defendant Parties. For the avoidance of doubt, no payment into escrow, to the Bankruptcy Court, or to any party or intermediary other than an entity so designated in writing by the NY Defendant Parties shall be deemed a Payment under this Agreement. The date that the last wire transmission required under this Agreement is completed is the “Payment Date.” To the extent any term set forth in this Section 2 shall contradict any of the terms set forth in the Reserve Order, the terms of this Section 2 shall control and this Agreement shall be deemed to be an amendment of the Reserve Order, as necessary.

### 3. Releases.

(a) The Debtor Parties and CDC Software of the NY Defendant Parties. Effective upon the Payment Date, the Debtor Parties and CDC Software, on behalf of themselves, the Estate, and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, assigns, and any litigation or liquidating trust or trustee arising out of the confirmed plan of reorganization or liquidation in the Debtor’s Bankruptcy Case (the “CDC Releasers”), do hereby remise, release, acquit and forever discharge the NY Defendant Parties and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, attorneys and assigns (the “NY Defendant Releasees”), from any and all Claims, including the Debtor’s Contribution Claims, which the CDC Releasers may have, or claim to have, now or which may hereafter arise out of, relate to, or be connected with the New York Actions, including any act of commission or omission of any of the NY Defendant Releasees existing or occurring prior to the Settlement Date, and will not initiate, or encourage other persons or

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entities to initiate, or file any complaint, proceeding, grievance, appeal or action in any capacity in any forum against the NY Defendant Releasees on account of any of the Claims released herein; provided, however, that nothing herein shall be construed to release Claims for breach of this Agreement and any Claims against the CDC Releasers' former officers and directors arising out of conduct, activities, and transactions not arising out of, in connection with, or related to the New York Actions. For avoidance of doubt, the CDC Releasers expressly release any right they might otherwise have to recover from the NY Defendant Releasees any amounts that have been or will be paid on account of the NY Defendant Invoices or the EVO Settlement.

(b) The NY Defendant Parties of the Debtor Parties and CDC Software. Effective upon the Payment Date, the NY Defendant Parties, on behalf of themselves and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, and assigns (the "NY Defendant Releasers"), do hereby remise, release, acquit and forever discharge the Debtor Parties and CDC Software and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, attorneys and assigns (the "CDC Releasees"), from any and all Claims which the NY Defendant Releasers may have, or claim to have, now or which may hereafter arise out of, relate to, or be connected with the New York Actions, including the NY Indemnity Obligations and including any act of commission or omission of any of the CDC Releasees existing or occurring prior to the Settlement Date, and will not initiate, or encourage other persons or entities to initiate, or file any complaint, proceeding, grievance, appeal or action in any capacity in any forum against the CDC Releasees on account of the Claims released herein; provided, however, that nothing herein shall be construed to release Claims arising from, related to, or in connection with breach of this Agreement, the NY Defendant Invoices, the Other Indemnity Obligations, and Claims or interests in the Debtor Parties unrelated to the New York Actions including any proofs of claim and proofs of interest filed in the Debtor' s Bankruptcy Case.

(c) The Debtors Parties of CDC Software. Effective upon the Payment Date, the Debtor Parties, on behalf of themselves, the Estate, and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, assigns, and any litigation or liquidating trust or trustee arising out of the confirmed plan of reorganization or liquidation in the Debtor' s Bankruptcy Case (the "Debtor Party Releasers"), do hereby remise, release, acquit and forever discharge CDC Software and its past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, attorneys and assigns (the "CDC Software Releasees"), from any and all Claims which the Debtor Party Releasers may have, or claim to have, now or which may hereafter arise out of, relate to, or be connected with the New York Actions, including any act of commission or omission of any of the CDC Software Releasees existing or occurring prior to the Settlement Date, and will not initiate, or encourage other persons or entities to initiate, or file any complaint, proceeding, grievance, appeal or action in any capacity in any forum against the CDC Software Releasees on account of any of the Claims released herein; provided, however, that nothing herein shall be construed to release Claims for breach of this Agreement.

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(d) CDC Software of the Debtor Parties. Effective upon the Payment Date, CDC Software, on behalf of itself and its past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, and assigns (the “CDC Software Releasers”), do hereby remise, release, acquit and forever discharge the Debtor Parties and their past and present officers, directors, members, employees, principals, agents, shareholders, parents, subsidiaries, affiliates, representatives, attorneys, heirs, spouses, predecessors in interest, successors in interest, attorneys and assigns (the “Debtor Party Releasees”), from any and all Claims which the CDC Software Releasers may have, or claim to have, now or which may hereafter arise out of, relate to, or be connected with the New York Actions, including any act of commission or omission of any of the Debtor Party Releasees existing or occurring prior to the Settlement Date, and will not initiate, or encourage other persons or entities to initiate, or file any complaint, proceeding, grievance, appeal or action in any capacity in any forum against the Debtor Party Releasees on account of any of the Claims released herein; provided, however, that nothing herein shall be construed to release Claims for breach of this Agreement, the Other Indemnity Obligations, and Claims or interests in the Debtor Parties unrelated to the New York Actions including any proofs of claim and proofs of interest filed in the Debtor’s Bankruptcy Case.

4. Approval of Bankruptcy Court. This Agreement shall not become effective unless and until approved by entry of both the Approval Order and EVO Approval Order by the Bankruptcy Court after such notice to creditors and other parties in interest and a hearing or opportunity for hearing, as deemed appropriate by the Bankruptcy Court. The Debtor promptly shall file in the Bankruptcy Case a motion (the “Settlement Motion”) seeking expedited Bankruptcy Court approval of this Agreement in the month of December, 2012. The Parties shall cooperate in seeking Bankruptcy Court approval of this Agreement and shall use their best efforts to have the Approval Order entered by December 19, 2012, including, without limitation, attending any hearing before the Bankruptcy Court on the Settlement Motion, such that each of the Payments is made by December 31, 2012.

5. Notices. All notices, requests and demands to or upon a Party shall be in writing and sent by facsimile transmission and overnight courier, and, unless otherwise expressly provided herein, shall be deemed to have been validly served by the sending Party on the date of transmission and deemed received by the noticed Party one (1) business day after transmission, when addressed as follows:

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If to Debtor Parties: Marcus A. Watson  
Finley, Colmer and Company  
5565 Glenridge Connector, Suite 200  
Atlanta, GA 30342  
Tel: (770) 668-0637  
Fax: (678) 579-5808

With a copy to: James C. Cifelli  
Gregory D. Ellis  
Lamberth, Cifelli, Stokes, Ellis & Nason, P.A.  
3343 Peachtree Road, NE  
East Tower, Suite 550  
Atlanta, GA 30326  
Telephone: (404) 262-7373  
Facsimile: (404) 262-9911

J. David Dantzler, Jr.  
Troutman Sanders, LLP  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, GA 30308-2216  
Telephone: (404) 885-3314  
Facsimile: (404) 962-6799

If to CDC Software: Matthew Solum  
Kirkland & Ellis LLP  
601 Lexington Avenue  
New York, New York 10022  
Telephone: (212) 446-4800  
Facsimile: (212) 446-6400

If to NY Def. Parties: Daniel P. Goldberg  
Holwell Shuster & Goldberg LLP  
125 Broad Street, 39<sup>th</sup> Floor  
New York, NY 10004  
Telephone: (646) 837-5154  
Facsimile: (646) 837-5150

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Eric Lopez Schnabel  
Dorsey & Whitney LLP  
51 West 52<sup>nd</sup> Street  
New York, New York 10019-6119  
Telephone: (212) 415-9200  
Facsimile: (212) 953-7201

Erin N. Brady  
Jones Day  
555 South Flower Street  
Fiftieth Floor  
Los Angeles, CA 90071  
Telephone: (213) 489-3939  
Facsimile: (213) 243-2539

Charles T. Spada  
Lankler Siffert & Wohl LLP  
500 Fifth Avenue  
New York, New York 10010  
Telephone: (212) 921-8399  
Facsimile: (212) 764-3701

Steven J. Estep  
Cohen Cooper Estep & Allen  
3330 Cumberland Blvd., Suite 600  
Atlanta, GA 30339  
Telephone: (404) 814-0000 x210  
Facsimile: (404) 816-8900

Any Party may change the address at which that Party shall receive notice or the name of the person receiving a copy of such notice by furnishing the other Party a change of address or change of person receiving copies of notice in the manner set forth herein for the giving of notices. A notice of change of address or change of person receiving copies shall become effective five (5) business days after delivery.

6. Wire Instructions. Payment of the Settlement Amount shall be by means of wires to each of the NY Defendant Parties in accordance with the following wire transfer instructions:

Correspondent Bank:                   JP Morgan Chase Bank NA, New York  
[Complete instructions to be transmitted by separate letter]

7. No Admission of Liability. This Agreement shall not in any way be construed as an admission by any Party of any acts of misconduct whatsoever against any other Party or any other Person, and all Parties specifically disclaim any liability to any other Party or any other Person, except as otherwise stated in this Agreement. The Parties specifically acknowledge and agree that

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this Agreement is made to compromise and settle the Parties' respective rights, defenses and Claims and that neither this Agreement nor any action taken pursuant to this Agreement shall be offered or received in evidence in any action or proceeding as an admission of liability or wrongdoing of any nature on the part of any Party.

8. Authority. Subject to the entry of the Approval Order, each of the Parties represents and warrants to the other that it has full power and authority to enter into this Agreement.

9. No Prior Transfer or Assignment. Each Party hereby represents and warrants that every Claim or other matter released by such Party under Section 3 of this Agreement: (a) has not heretofore been assigned or encumbered by such Party (or if previously assigned or encumbered by a Party, has been assigned back to such Party and the encumbrance released) and is not the subject of a transfer (as the term "transfer" is defined in 11 U.S.C. § 101(54)), by such Party; and (b) such Party owns and has the power to grant the releases which said Party is purporting to release under Section 3 of this Agreement.

10. Certain Representations and Warranties. Each of the Parties represents and warrants to the others, as an inducement for the others to enter into this Agreement, that:

- (a) Such Party has read and understands all of the terms and conditions set forth in this Agreement;
- (b) Such Party has had the benefit of legal counsel of its own choosing in deciding to execute this Agreement;
- (c) Such Party, without promise of benefit other than as set forth herein, is voluntarily entering into this settlement;
- (d) There is good and valid consideration to support such Party's entering into this Agreement and to bind such Party by the terms and conditions of this Agreement; and
- (e) Such Party was not coerced, threatened or otherwise forced to sign this Agreement, and its signature appearing below is voluntary and genuine and was duly and validly authorized and given.

11. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement, and the signature pages from any counterpart may be appended to any other counterpart to assemble fully-executed counterparts. Counterparts of this Agreement also may be exchanged via electronic facsimile machines or computer, and any such electronic transmission of any Party's signature shall be deemed to be an original signature for all purposes.

12. Entire Agreement. This Agreement sets forth all of the promises, covenants, agreements, conditions and understandings between the Parties with respect to the subject matter hereof and supersedes all prior and contemporaneous agreements, understandings, inducements or conditions, express or implied, each Party specifically warrants that this Agreement is executed without reliance upon any statement or representation by the other Party, except as expressly stated in this Agreement,

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13. Amendment. The terms of this Agreement shall not be altered, amended, modified or otherwise changed in any respect except by a writing duly executed by all the Parties.

14. Severability. Wherever possible, each provision of this Agreement shall be interpreted in such a manner as to be effective and valid under applicable law. If any provision of this Agreement shall be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

15. Binding Agreement. This Agreement shall be binding upon, and inure to the benefit of, the Parties, the Estate, and their respective agents, legal representatives, successors, transferees and assigns, including, without limiting the foregoing, any subsequent committee, Chapter 7 Trustee, Chapter 11 Trustee, or plan administrator. No Chapter 11 plan of reorganization or liquidation proposed by CDC or confirmed by the Bankruptcy Court shall amend or alter any of the covenants, obligations, terms or conditions of this Agreement.

16. Construction. Should any provision of this Agreement require interpretation, the Parties agree that the judicial body or arbitration forum interpreting or construing such provision shall not apply any assumption that the terms of this Agreement shall be more strictly construed against any Party because of the rule of construction that an instrument is to be construed more strictly against the drafting Party, each Party hereby acknowledging and agreeing that all Parties and their respective agents have participated in the preparation of this Agreement.

17. Section Headings; References: Gender and Number. The titles of the Sections herein have been inserted as a matter of convenience and for reference only and shall not control or affect the meaning or construction of any of the terms or the provisions in the Section. Words of any gender used in this Agreement shall be deemed to include the other gender or the neuter, and words in the singular shall be deemed to include the plural and the plural to include the singular when the sense requires,

18. Governing Law. This Agreement shall be construed under and governed by the internal laws of the State of New York.

19. No Waiver. No failure of a Party to notify any other Party of any default shall prejudice any remedy for any subsequent defaults. No failure of a Party to insist on strict compliance by any other Party with its obligations under this Agreement and no custom or practice of the Parties in variance with the terms of this Agreement shall constitute a waiver of the party's right to demand exact compliance with the terms of this Agreement. Any waiver by a Party of a default shall be limited to the particular instance and shall not operate or be deemed to waive any further default.

20. Further Documents. Each Party agrees to execute promptly any and all documents and to do and perform any and all acts and things reasonably necessary or proper to effectuate or further evidence the terms and provisions of this Agreement.

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21. Bankruptcy Court Jurisdiction. An action for breach of this Agreement shall be brought only in the Bankruptcy Court, which shall retain jurisdiction over the subject matter and the Parties for this purpose.

22. Restoration. In the event that the Bankruptcy Court denies approval of this Agreement, this Agreement shall terminate and be null and void and have no further force or effect and the Parties shall be restored to their respective factual and legal positions which existed immediately prior to execution of this Agreement.

23. Party in Interest. Nothing in this Agreement shall be construed to prohibit any Party from appearing as a party in interest in any matter to be adjudicated in the Bankruptcy Case so long as such appearance and the positions advocated in connection therewith are not inconsistent with this Agreement.

IN WITNESS WHEREOF, the Parties have at their hands and seals, or their appropriate officer or agent has executed this Agreement, on the date first written above.

CDC Corporation

/s/ Joseph D. Stutz

By: Joseph D. Stutz

Its: Secretary and General Counsel

CDC Software Corporation

/s/ James P. Hickey

By: James P. Hickey

Its: Secretary

Wong Chung Kiu (a.k.a. C.K. Wong)

/s/ Chung Kiu Wong

Yip Hak Yung (a.k.a. Peter Yip)

/s/ Peter Yip

Asia Pacific Online Limited

/s/ Nicola Chu Ming Nga

By: Nicola Chu Ming Nga

Its: Authorized Signatory

Monish Bahl

/s/ Monish Bahl

Thomas M. Britt III

/s/ Thomas M. Britt III

---

Ch' ien Kuo Fung (a.k.a. Raymond Ch' ien)

/s/ Raymond K.F. Ch' ien

Francis Kwok-Yu Au

/s/ Frank Au

Donald L. Novajosky

/s/ Donald L. Novajosky

---

Wong Kwong Chi (a.k.a. Simon Wong)

/s/ Simon Wong

Wang Cheung Yue (a.k.a. Fred Wang)

/s/ Wang Cheung Yue

---

**IT IS ORDERED as set forth below:**



**Date: December 19, 2012**

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**Paul W. Bonapfel**  
**U.S. Bankruptcy Court Judge**

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

IN RE: : CHAPTER 11  
: :  
CDC CORPORATION, : CASE NO. 11-79079  
: :  
Debtor. : JUDGE BONAPFEL

**ORDER PURSUANT TO RULE 9019(a) OF THE FEDERAL RULES OF BANKRUPTCY PROCEDURE:  
(1) AUTHORIZING AND APPROVING A SETTLEMENT AGREEMENT RESOLVING DISPUTES BETWEEN DEBTOR,  
THE EQUITY COMMITTEE, EVOLUTION PARTIES, AND DEFENDANT PARTIES IN RELATED LITIGATION;  
(2) AUTHORIZING AND APPROVING A SETTLEMENT AGREEMENT BETWEEN DEBTOR, THE EQUITY  
COMMITTEE, AND DIRECTOR AND OFFICER AND OTHER PARTIES; AND (3) AUTHORIZING RELEASE OF  
EVOLUTION RESERVE AND LITIGATION EXPENSE RESERVE**

This matter is before the Court on the Motion for Entry of an Order Pursuant to Rule 9019(a) of the Federal Rules of Bankruptcy Procedure: (1) Authorizing and Approving a Settlement Agreement Resolving Disputes Between Debtor, the Equity Committee, Evolution Parties, and Defendant Parties in Related Litigation; (2) Authorizing and Approving a Settlement Agreement Resolving Disputes Between Debtor, the Equity Committee, and Director and Officer and Other Parties; and (3) Authorizing the Release of the Evolution Reserve and the Litigation Expense Reserve (the "Motion"). All capitalized terms used but not defined herein shall have the meanings given to them in the Settlement Agreements (as defined below), and should the terms of the Motion and Settlement Agreements differ, the Settlement Agreements shall control.

The Court has considered the Motion and the matters reflected in the record of the hearing held on the Motion. It appears that the Court has jurisdiction over this proceeding; that appropriate and sufficient notice of the Motion has been given; that this is a core proceeding; that the relief sought in the Motion is in the best interests of Debtor, the estate, and the creditors and interest holders; and that good and sufficient cause exists for such relief.

Accordingly, it is hereby ORDERED as follows:

1. The Motion is GRANTED.

2. The settlement agreement by and between the Debtor, the Committee, the Evolution Parties, CDC Software, Wong Chung Kiu (a.k.a. C.K. Wong), Yip Hak Yung (a.k.a. Peter Yip), Asia Pacific Online Limited (a.k.a. Asia Pacific On-line Limited), Ch' ien Kuo Fung (a.k.a. Raymond Ch' ien), Francis Kwok-Yu Au, Donald L. Novajosky, Monish Bahl, Thomas M. Britt III, Wong Kwong Chi (a.k.a. Simon Wong), and Wang Cheung Yue (a.k.a. Fred Wang) (the "Evolution Settlement Agreement") is approved.

3. The settlement agreement by and between the Debtor, the Committee, CDC Software, Wong Chung Kiu (a.k.a. C.K. Wong), Yip Hak Yung (a.k.a. Peter Yip), Asia Pacific Online Limited (a.k.a. Asia Pacific On-line Limited), Ch' ien Kuo Fung (a.k.a. Raymond Ch' ien), Francis Kwok-Yu Au, Donald L. Novajosky, Monish Bahl, Thomas M. Britt III, Wong Kwong Chi (a.k.a. Simon Wong), and Wang Cheung Yue (a.k.a. Fred Wang) (the "Side Agreement" and, together with the Evolution Settlement Agreement, the "Settlement Agreements") is approved.

4. The Evolution Settlement Agreement and the Side Agreement are interdependent and together constitute the settlement and compromise approved hereunder pursuant to Bankruptcy Rule 9019.

5. Debtor is authorized and directed to execute the Settlement Agreements and to take any and all actions as may be reasonably necessary and appropriate to consummate the settlements described therein.

6. The release of the Evolution Reserve and the Litigation Expense Reserve in accordance with and subject to the provisions of the Evolution Settlement Agreement is approved.

7. This order and the Settlement Agreements are binding on the Bankruptcy Estate and the signatory parties' successors and assigns, any Chapter 7 or 11 trustee at any time hereafter appointed, the Liquidation Trust, Liquidation Trustee, and any plan administrator.

8. This Order is effective upon entry and is not stayed under Bankruptcy Rule 6004(h); and

9. The Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Order.

**[END OF DOCUMENT]**

**Prepared and presented by:**

LAMBERTH, CIFELLI, STOKES,  
ELLIS & NASON, P.A.  
Counsel for Debtor

*/s/ James C. Cifelli*

\_\_\_\_\_  
James C. Cifelli

Georgia Bar No. 125750

[jcifelli@lcsenlaw.com](mailto:jcifelli@lcsenlaw.com)

3343 Peachtree Road, NE, Ste. 550

Atlanta, GA 30326

(404) 262-7373 / Fax (404) 262-9911

**Identification of parties to be served:**

Office of the United States Trustee, 362 Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303

James C. Cifelli, Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., 3343 Peachtree Road NE, East Tower, Suite 550, Atlanta, GA 30326

Jeffrey W. Kelley, Troutman Sanders, LLP, 600 Peachtree Street, NE, Suite 5200, Atlanta, GA 30308-2216

Aaron M. Zeisler, Satterlee Stephens Burke & Burke, LLP, 230 Park Avenue, 11th Floor, New York, NY 10169



IT IS ORDERED as set forth below:

Date: December 19, 2012

Paul W. Bonapfel  
U.S. Bankruptcy Court Judge

UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: : CHAPTER 11  
: :  
CDC CORPORATION, : CASE NO. 11-79079 -PWB  
: :  
Debtor : :

**ORDER APPROVING RESERVES REQUIRED  
FOR INITIAL DISTRIBUTION TO EQUITY HOLDERS  
UNDER CONFIRMED JOINT PLAN OF REORGANIZATION,  
AND APPROVING FINAL FORM OF LIQUIDATION  
TRUST AGREEMENT**

In accordance with the provisions of the Second Amended Joint Plan of Reorganization for CDC Corporation (the "Plan"; Docket No. 542), which was confirmed by this Court on September 6, 2012 (the "Confirmation Order"; Docket No. 551), CDC Corporation (the "Debtor") filed the "Debtor's Motion for Approval of Reserves Required for Initial Distribution to Equity Holders under Confirmed Joint Plan of Reorganization and for Approval of Final Form of Liquidation Trust Agreement" on December 3, 2012 (the "Motion"; Docket No. 635).<sup>1</sup> The Motion was the subject of a hearing before this Court on December 18, 2012 (the "Hearing").

<sup>1</sup> Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Motion.

Also scheduled at the Hearing was Debtor' s "Motion for Entry of an Order Pursuant to Rule 9019(a) of the Federal Rules of Bankruptcy Procedure: (1) Authorizing and Approving a Settlement Agreement Resolving Disputes Between Debtor, the Equity Committee, Evolution Parties, and Defendant Parties in Related Litigation; (2) Authorizing and Approving a Settlement Agreement Resolving Disputes Between Debtor, the Equity Committee, and Director and Officer and Other Parties, and (3) Authorizing the Release of the Evolution Reserve and the Litigation Expense Reserve" filed on December 12, 2012 (the "Evolution Settlement Motion"; Docket No. 654).

Prior to the Hearing, Debtor filed a Supplement to the Motion dated December 17, 2012 (the "Supplement"; Docket No. 667). As an exhibit to the Supplement, the Debtor filed a "Distribution Schedule" which set forth the amount of the proposed initial distribution to holders of Beneficial Interests under the Liquidation Trust, with a distribution resulting from approval of the Evolution Settlement Motion. Such schedule also reflected the Debtor' s proposed accounting for the APOL Settlement approved by Order of the Bankruptcy Court dated August 16, 2012 (Docket No. 518), the redistribution of the proceeds from the APOL Settlement to other holders of Beneficial Interests, and the net distribution to APOL as a result of the deeming of APOL' s Option Interests exercised under the Plan. As an exhibit to the Supplement, Debtor further filed a proposed form of a "Deed of Assignment" evidencing the exchange of 38,135,399 Class A Common Shares of the Debtor into an equivalent number of units of Beneficial Interests in the Liquidation Trust, and a proposed form of the "Liquidation Trust Agreement" creating the Liquidation Trust.

At the Hearing, Debtor's counsel announced that APOL had been unable to deliver instructions to its brokers such that APOL's initial distribution could be adjusted to effectuate payment in full of APOL's obligation under the APOL Settlement. As a result, the Debtor<sup>2</sup>, assuming consummation of the Plan and settlement in the Evolution Settlement Motion, would only be able to deduct \$12,824,956.04 of the \$14,163,446.52 necessary to be deducted from APOL's distribution in accordance with the APOL Settlement, leaving an additional amount of \$1,338,490.48 due from APOL to satisfy its obligations under the APOL Settlement.<sup>3</sup> To resolve this potential shortfall, Debtor's counsel, APOL counsel, and Equity Committee counsel announced at the Hearing that the parties had agreed to modify the APOL Settlement to permit the Liquidation Trustee to deduct the shortfall from future distributions to APOL, as a holder of Beneficial Interests. Debtor's counsel further announced that the share count on the Distribution Schedule was subject to minor adjustments in the reconciliation process due to the nature of accounting for the pending transfers in Debtor's shares.

Debtor's counsel also announced at the Hearing that, as part of the terms of the settlement set forth in the Evolution Settlement Motion, the Debtor had agreed that no future distributions, with the exception of distributions resulting from the granting of the Motion and the Evolution Settlement Motion, would be made to holders of Beneficial Interests under the Plan without an order of this Court approving such distribution.

Finally, Debtor's counsel proffered evidence that the reserves for Employee Compensation Requests included requests for issuance of Option Interests, that all such requests would likely be settled by cash payment such that a reserve for additional Beneficial Interest was not required, and in the event a Beneficial Interest on account of such request needed to be issued under the Plan, no separate reserve was required.

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<sup>2</sup> Where the context requires Debtor includes the Disbursing Agent and Liquidation Trustee under the Plan.

<sup>3</sup> The shortfall without consummation of the settlement set forth in the Evolution Settlement Motion is \$4,662,380.

The only objection filed to the Motion was the “Limited Objection of Madhu Ankarath” (the “Limited Objection”; Docket No. 659). Therein, Madhu Ankarath objected to the Motion on the grounds that his claim, Claim No. 132, filed in the Debtor’s bankruptcy case in the amount of \$849,338.34 (the “Ankarath Claim”) was not reserved for by the Debtor in the reserves proposed in the Motion.

Having considered the Motion and other papers filed by parties in interest, as well as the presentations and proffers of counsel during the Hearing, this Court makes the following findings of fact and conclusions of law:<sup>4</sup>

A. This Court has jurisdiction to consider the Motion under 28 U.S.C. §§ 157 and 1334. This matter is a core proceeding pursuant to 28 U.S.C. §157(b). Venue is proper in this Court pursuant to 28 U.S.C. §§ 1408 and 1409.

B. After the Effective Date, the Plan provides for the formation of a Liquidation Trust and for substantially all of Debtor’s assets to be transferred to the Liquidation Trust. Upon the establishment of the Liquidation Trust, the Liquidation Trustee will become the representative of the Estate and perform his duties under the Liquidation Trust, which include making distributions to holders of Beneficial Interests in the Liquidation Trust as set forth in the Plan and paying Liquidation Trust Expenses.

C. Pursuant to the Confirmation Order, “[n]o distribution shall be made to holders of Equity Interests or holders of Beneficial Interests in the Liquidation Trust unless and until appropriate reserves are established in accordance with Sections 8.2 and 8.3 of the Plan and

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<sup>4</sup> Findings of fact shall be construed as conclusions of law and conclusions of law shall be construed as findings of fact when appropriate. *See* Federal Rule of Bankruptcy Procedure 7052.

either approved by the Court or agreed to by the applicable objecting party.” See Confirmation Order, ¶ MM. Sections 8.2 and 8.3 of the Plan respectively provide for the establishment of a Disputed Claims Reserve for holders of Disputed Claims and a Disputed Equity Interests Reserve for holders of Disputed Equity Interests.

D. In accordance with the Plan and the Confirmation Order, before any of the Debtor’s assets are transferred to the Liquidation Trust and any subsequent distribution can be made to the holders of Beneficial Interests in the Liquidation Trust (i.e., equity security holders), appropriate reserves for Effective Date Available Cash, Disputed Claims, and Disputed Equity Interests must be established and approved by the Court. In addition, prior to any distribution to holders of Beneficial Interests in the Liquidation Trust, the Liquidation Trustee must reserve for Liquidation Trust Expenses to ensure sufficient funds to pay such expenses.

E. The reserves approved by this Order are sufficient to pay, or reserve for the payment of, all claims against the Debtor in full and no separate reserve is required for Disputed Equity Interests.

F. The reserves approved by this Order, coupled with Debtor’s agreement not to make any further disbursement to Beneficial Interest holders from dispositions of Trust Assets without order of the Court, are sufficient for the Effective Date under the Plan to occur, and such reserves are sufficient for the Liquidation Trustee to proceed with the initial distribution to holders of Beneficial Interests in accordance with the Plan, which includes the release of the reserves in connection with the Evolution Settlement Motion.

G. All of the conditions to the Effective Date set forth in the Plan and the Confirmation Order have been satisfied, and the Effective Date may occur under the Plan.

H. The modification of the APOL Settlement as announced at the Hearing does not alter any material terms of the APOL Settlement previously approved by the Court, and, accordingly such modification is hereby approved without any further notice or hearing.

I. To the extent any of the provisions in the form of the Liquidation Trust Agreement, Deed of Assignment, and modification of the APOL Settlement modify the Plan, such modifications are immaterial, comply with the intent of the Plan and are therefore approved without further notice and hearing pursuant to 11 U.S.C. Section 1127.

Accordingly, it is hereby ORDERED and ADJUDGED as follows:

1. The Motion is GRANTED as set forth herein;

2. The Limited Objection is hereby OVERRULED; provided however that, after the Effective Date, a separate reserve in the amount of \$849,338.34 shall be established for the Ankarath Claim to be funded from the following sources as such funds first become available: (1) the net sales of Trust Assets under the Liquidation Trust; and (2) unused reserve funds under the reserves established by the Debtor as set forth in this Order to the extent claims reserved for under such reserves are paid or resolved in amounts less than the amounts for which originally reserved;

3. The reserves for Effective Date Available Cash, Disputed Claims, and Liquidation Trust Expenses established by the Debtor, the Disbursing Agent, or the Liquidation Trust, as applicable, are APPROVED, as follows:

Effective Date Available Cash Reserve	\$8,680,000.00
Reserve for Payment of Evolution Settlement	\$7,800,000.00
Litigation Expense Reserve	\$1,193,175.66
Disputed Claims Reserve	\$10,005,576.00
Liquidation Trust Expenses Reserve	\$13,050,000.00

Such reserves may be adjusted and reduced for claims and expenses paid since October 31, 2012, and after entry of this Order;

4. The Contingency Reserve established pursuant to this Order in the amount of \$7,500,000.00, which is included in the Liquidation Trust Expenses Reserve hereinabove, is APPROVED and may be used to pay additional Allowed Claims or Equity Interests in the event any reserve established by this Order is insufficient to pay same;

5. A separate reserve for Disputed Equity Interests is not required;

6. The reserve for professional fees set forth on Exhibit "A" to the Motion is an estimate of such fees and does not represent a limit on possible professional fees and expenses in the Chapter 11 Case;

7. The Liquidation Trust Agreement, substantially in the form filed in the Supplement, is hereby APPROVED. The Debtor is authorized to execute the Liquidation Trust Agreement, substantially in such form, in accordance with the Plan;

8. The Deed of Assignment, substantially in the form filed in the Supplement and evidencing the exchange of 38,135,399 Class A Common Shares of the Debtor into an equivalent number of Beneficial Interests in the Liquidation Trust, is hereby APPROVED. The Debtor is authorized to execute the Deed of Assignment, substantially in such form.

9. The Distribution Schedule filed in the Supplement is hereby APPROVED. Upon the occurrence of the Effective Date and after the execution of the Liquidation Trust Agreement, the Liquidation Trustee is authorized to make a distribution as set forth on the Distribution Schedule to those holders of Beneficial Interests in accordance with the Plan and to APOL under the distribution calculation to APOL with no suppression letters, leaving an additional amount of \$1,338,490.48 due from APOL to satisfy its obligations under the APOL Settlement;

10. The Debtor and any successor in interest, including the Liquidation Trustee, shall only make disbursements to holders of Beneficial Interests, other than those disbursements expressly authorized herein, upon approval of the Court after a hearing with notice to the following parties by way of service on their counsel of record in the Debtor's bankruptcy case or in the Second Evolution Action, if they have not appeared in the Debtor's bankruptcy case: Wong Chung Kiu (a.k.a. C.K. Wong), Yip Hak Yung (a.k.a. Peter Yip), Asia Pacific Online Limited (a.k.a. Asia Pacific On-line Limited), Ch' ien Kuo Fung (a.k.a. Raymond Ch' ien), Francis Kwok-Yu Au, Donald L. Novajosky, Monish Bahl, Thomas M. Britt III, Wong Kwong Chi (a.k.a. Simon Wong), and Wang Cheung Yue (a.k.a. Fred Wang);

11. The Debtor is authorized to adjust and/or withhold distributions to APOL in order to effectuate the APOL Settlement;

12. The Debtor is authorized to make adjustment to the share count as necessary to reconcile such amounts to the records of ComputerShare Shareowner Services, LLC, provided such adjustments do not exceed 100,000 shares.

13. The Debtor is authorized to establish the Effective Date as **December 19, 2012**, or as soon thereafter as practicable; and

14. This Court shall retain exclusive jurisdiction over any and all issues related to the reserves established and maintained in accordance with the provisions hereof and of the Plan. The Debtor or the Liquidation Trust may seek to modify any reserve established under this Order for cause shown.

END OF DOCUMENT

[SIGNATURE ON FOLLOWING PAGE]

**Prepared and presented by:**

LAMBERTH, CIFELLI, STOKES,  
ELLIS & NASON, P.A.

*Attorneys for Debtor*

By: /s/ Gregory D. Ellis

\_\_\_\_\_  
Gregory D. Ellis  
Georgia Bar No. 245310  
[gellis@lcsenlaw.com](mailto:gellis@lcsenlaw.com)  
Sharon K. Kacmarcik  
Georgia Bar No. 405717  
[skacmarcik@lcsenlaw.com](mailto:skacmarcik@lcsenlaw.com)

3343 Peachtree Rd., N.E.  
East Tower, Suite 550  
Atlanta, GA 30326  
(404) 262-7373  
(404) 262-9911 (facsimile)

**Identification of parties to be served:**

Office of the United States Trustee, 362 Richard B. Russell Federal Building, 75 Spring Street, SW, Atlanta, GA 30303

Gregory D. Ellis, Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., 3343 Peachtree Road NE, East Tower, Suite 550, Atlanta, GA 30326

Jeffrey W. Kelley, Troutman Sanders, LLP, 600 Peachtree Street, NE, Suite 5200, Atlanta, GA 30308-2216

J. Robert Williamson, Scroggins & Williamson, P.C., 1500 Candler Building, 127 Peachtree Street, NE, Atlanta, GA 30303

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

In re: ) CHAPTER 11  
)  
CDC CORPORATION, ) CASE NO. 11-79079-PWB  
)  
Debtor. )  
\_\_\_\_\_ )

**NOTICE OF EFFECTIVE DATE  
UNDER SECOND AMENDED JOINT PLAN OF REORGANIZATION  
AND OF TRANSFER OF TRUST ASSETS TO LIQUIDATION TRUST**

PLEASE TAKE NOTICE that, as set forth in that certain Order of the Bankruptcy Court entered December 19, 2012 (the “Effective Date Order”; Docket No. 669), the Debtor has satisfied all conditions to the Effective Date under the “Second Amended Joint Plan of Reorganization for CDC Corporation” dated August 29, 2012 (the “Plan”; Docket No. 542),<sup>1</sup> including those conditions set forth in the Plan and the Order confirming the Plan entered September 6, 2012 (the “Confirmation Order”; Docket No. 551);

PLEASE TAKE FURTHER NOTICE that, as a result of entry of the Effective Date Order, **December 19, 2012, is the Effective Date of the Plan;**

PLEASE TAKE FURTHER NOTICE that the Debtor has executed the Deed of Assignment attached hereto as Exhibit “A” and, accordingly, pursuant to Section 7.10 of the Plan, the filing of this Notice vests the Trust Assets in the Liquidation Trust; and

PLEASE TAKE FURTHER NOTICE that the Plan, the Confirmation Order, and the Effective Date Order are available for review during normal business hours in the Office of the Clerk, United States Bankruptcy Court, Suite 1340, 75 Spring Street, S.W., Atlanta, Georgia 30303, or a copy thereof may be obtained (i) online at <http://ecf.ganb.uscourts.gov> (registered users), or (ii) by contacting and requesting a copy from Elizabeth Miller at the office of Debtor’s counsel, Lamberth, Cifelli, Stokes, Ellis & Nason, P.A., 3343 Peachtree Road, N.E., Suite 550, Atlanta, Georgia, (404) 262-7373, or [emiller@lcsenlaw.com](mailto:emiller@lcsenlaw.com).

Dated: December 19, 2012

**LAMBERTH, CIFELLI, STOKES,  
ELLIS & NASON, P.A.**  
*Attorneys for the Debtor*

By: /s/ Gregory D. Ellis  
\_\_\_\_\_  
Gregory D. Ellis  
Georgia Bar No. 245310  
[gellis@lcsenlaw.com](mailto:gellis@lcsenlaw.com)

3343 Peachtree Road, N.E, Ste. 550  
Atlanta, GA 30326  
(404) 262-7373

<sup>1</sup> Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Plan.

**EXHIBIT "A"**

Date: 19 December, 2012

**CDC CORPORATION**

**and**

**MARCUS A. WATSON, as the trustee of the  
CDC LIQUIDATION TRUST**

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**DEED OF ASSIGNMENT**

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SOLOMON HARRIS  
ATTORNEYS-AT-LAW

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P.O. Box 1990  
FirstCaribbean House, 3rd Floor  
George Town, Grand Cayman  
Cayman Islands KY1-1104

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Tel: 345 949 0488, Fax: 345 949 0364

[www.solomonharris.com](http://www.solomonharris.com)

**THIS DEED OF ASSIGNMENT** is made on the 19<sup>th</sup> day of December, 2012

**BETWEEN:**

**CDC CORPORATION**, a company formed under the laws of the Cayman Islands, having a registered office situate at the offices of Offshore Incorporations (Cayman) Limited, Scotia Centre, 4<sup>th</sup> Floor, P.O. Box 2804, George Town, Grand Cayman, Cayman Islands (the “Assignor”); and

**MARCUS A. WATSON**, as the initial Liquidation Trustee of the CDC Liquidation Trust, a trust created under or pursuant to the Laws of the State of Georgia, in the United States of America (the “Assignee”)

**WHEREAS:**

1. The Assignor filed a petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.
2. The Assignor is a debtor and a debtor in possession for the purposes of the Bankruptcy Code.
3. The Assignor proposes to satisfy various claims made against in accordance with the terms of the Plan.
4. In accordance with the Plan, a liquidation trust, known as the CDC Liquidation Trust, shall be established on behalf of, and for the benefit of, holders of common shares, equity rights, restricted stock awards and option interests of the Assignor (collectively, the “Equity Interests”).
5. In order to satisfy certain claims made by holders of Equity Interests, the Assignor has agreed to transfer certain assets to the CDC Liquidation Trust.
6. The assets of the Assignor include cash and the Shares.

**NOW THIS DEED WITNESSETH** as follows:

1. **INTERPRETATION**

Words and expressions used in this Deed shall have the following meanings.

“**Allowed Equity Interest**” has the meaning set out in the Plan.

“**Assets**” has the meaning set out in the Plan.

“**Assignee**” means Marcus A. Watson, as the Initial Liquidation Trustee.

“**Assignor**” means CDC Corporation.

“**Bankruptcy Code**” means Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, and as such title has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Chapter 11 Case.

“**Bankruptcy Court**” means the United States Bankruptcy Court for the Northern District of Georgia, or such other court having jurisdiction over the Chapter 11 Case or any proceeding within, or appeal of an order entered in, the Chapter 11 Case.

“**CDC Liquidation Trust**” means the liquidation trust established pursuant to Section 7.8 of the Plan in accordance with the Liquidation Trust Agreement.

“**Chapter 11 Case**” means the bankruptcy case of CDC Corporation pending before the Bankruptcy Court, and bearing case number 11-79079 (PWB).

“**Completion**” has the meaning described in Clause 6 of this Deed.

“**Consideration**” means the consideration described in Clause 3 of this Deed.

“**Debtor**” means CDC Corporation, a company formed under the laws of the Cayman Islands, having a registered office situate at the offices of Offshore Incorporations (Cayman) Limited, Scotia Centre, 4<sup>th</sup> Floor, P.O. Box 2804, George Town, Grand Cayman, Cayman Islands, as debtor and debtor in possession in the Chapter 11 case.

“**Effective Date**” means the 19<sup>th</sup> day of December, 2012.

“**Equity Committee**” has the meaning set out in the Plan

“**Equity Interests**” has the meaning set out in the Plan.

“**Liquidation Trust Agreement**” means the agreement to be executed between the initial Liquidation Trustee and the Debtor establishing CDC Liquidation Trust under or pursuant to the Laws of the State of Georgia, in the United States of America.

“**Liquidation Trust Interests**” means that number of beneficial interests in the Liquidation Trust equal to aggregate number of Allowed Equity Interests as at the Effective Date.

“**Liquidation Trustee**” means the person and any successor thereto, which shall be appointed as the trustee of the CDC Liquidation Trust (or any successor trust) in accordance with the Confirmation Order and Plan, and “**Initial Liquidation Trustee**” means Marcus A. Watson.

“**Plan**” means the First and Second Amended Joint Plan of Reorganization for CDC Corporation, together with any exhibits, the Plan Supplement and any amendments or modifications as the Proponents may file hereafter in accordance with the terms of the Plan.

“**Plan Supplement**” has the meaning set out in the Plan.

“**Proponents**” means CDC Corporation, as the Debtor, and the Equity Committee.

“**Retained Assets**” means those assets set out in Exhibit B to the Liquidation Trust Agreement, including, without limitation, the urls legally or beneficially owned or held by the Debtor or both, whether registered or unregistered, and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case, all rights or forms of protection applicable to ownership of such urls effective anywhere in the world.

“**Shares**” means all of the shares of the Subsidiaries and the shares of E2-Capital (Holdings) Limited, Mgame Corp. and China.com Inc. held by CDC Corporation as at the Effective Date.

“**Subsidiaries**” means the corporations and companies that are wholly owned directly by CDC Corporation as at the Effective Date, including, without limitation, CDC Software International Corporation, Lucky Victoria Limited, CDC Delaware Corp., china.dom Investment Holdings Limited, china.com Strategic, Inc., china.com Studios Inc., CDC Cloud, Inc., chinadotcom IP Limited, CCC Nominees Limited, CDC Mobile Corporation, CDC Acquisition Corporation, CDC Asia Acquisition Corporation, chinadotcom Finance Corporation Limited, chinadotcom Secretarial Services Limited, CDC Multimedia Group Limited, CDC Games International Corporation, and chinadotcom Mobile Interactive Corporation.

“**Transferred Assets**” means all Assets other than the Retained Assets, including, without limitation, the Shares.

## 2. ASSIGNMENT

The Assignor hereby assigns, transfers, conveys and sets over unto the Assignee all of the Assignor’ s legal and beneficial ownership, right, title and interest in and to the Transferred Assets, TO HOLD for the sole benefit of the Assignee absolutely.

The Assignee hereby accepts the assignment, transfer and conveyance of the entire interest of the Assignor in and to the Transferred Assets, from and after the Effective Date.

3. **CONSIDERATION**

As Consideration for the assignment by the Assignor to the Assignee of the Transferred Assets, the Assignee hereby agrees to issue, and the Assignor agrees to accept as payment in full, that number of Liquidation Trust Interests equal to the number of Allowed Equity Interests as sole Consideration for the assignment of the Transferred Assets.

4. **ENTIRE AGREEMENT**

This Deed contains the entire agreement between the parties hereto pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

5. **CONFIDENTIALITY**

No Party shall disclose any information relating to the Intellectual Property or any information provided by a Party to the other Party without the prior written consent from the appropriate Party unless:

- (a) it is commercially customary to do so and such disclosure would not breach any applicable laws;
- (b) such disclosure is necessary for the performance of this Deed, including, without limitation, the Completion of this Deed;
- (c) if such disclosure is required by any applicable law or in connection with any litigation pertaining to the Intellectual Property or this Deed; or
- (d) such information is known to the recipient to whom the disclosure is made, is in the public domain or is generally known at the time of disclosure.

6. **COMPLETION**

This Deed shall not be considered to be completed and fully performed until such time as all indicia of ownership of the Transferred Assets are in the name of the Assignee. From and after the Effective Date, the Assignor shall take all steps and do all things necessary or desirable to ensure or procure that all indicia of

ownership of the Transferred Assets, including, without limitation, the Shares, are transferred into the name of the Assignee. For greater certainty, commencing on and after the Effective Date, the Assignor shall act as a bare trustee of the Transferred Assets and as the agent of the Assignee, whether or not such agency is disclosed to a third party, with respect to such Transferred Assets until such time as all indicia of ownership of the Transferred Assets are in the name of the Assignee.

**7. FURTHER ASSURANCES**

Each party agrees that it will execute and deliver such other documents and take such other action, whether prior or subsequent to the date hereof, as may be reasonably requested by the other party to consummate the transaction contemplated by this Deed. The provisions of this Clause 7 shall survive Completion.

**8. COUNTERPARTS**

This Deed may be executed in counterparts, all such executed counterparts shall constitute the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

**9. NOTICES**

Any demand, notice or other communication in connection with this Deed will be in writing and will be deemed to have been duly delivered if given or made as follows:-

- (a) if sent by domestic post, on the fourth Business Day after the date of posting;
- (b) if sent by international post, on the tenth Business Day after the date of posting;
- (c) if delivered by hand, upon delivery at the address provided for in this Deed; or
- (d) if sent by facsimile or other means of electronic transmission, on the day of successful transmission.

provided that, if it is delivered by hand or sent by facsimile or other electronic transmission on a day which is not a Business Day or after 4 p.m. on a Business Day, it will be deemed to have been given or made on the next Business Day.

**10. SEVERABILITY**

If any provision of this Deed is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Deed shall nonetheless remain in full force and effect, provided that the invalidity or unenforceability of such provision does not materially adversely affect the benefits accruing to any party hereunder.

**11. GOVERNING LAW AND JURISDICTION**

This Deed is governed by Cayman Islands law and the Assignor and the Assignee hereby submit to the non-exclusive jurisdiction of the courts of the Cayman Islands in respect of any dispute which might arise under or in relation to this Deed.

**12. THIRD PARTIES**

The provisions of this Deed and of the documents to be executed and delivered pursuant to the Deed are and will be for the benefit of the Assignor and Assignee only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Deed or of the documents to be executed and delivered at Completion.

**13. CAPTIONS**

The section headings appearing in this Deed are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

**14. CONSTRUCTION**

The parties acknowledge that the parties and their counsel have reviewed and revised this Deed and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Deed or any exhibits or amendments hereto.

**15. ASSIGNMENT**

This Deed shall not be assignable by a party except with the prior written consent of the other party, which consent will not be unreasonably withheld. This Deed shall be binding upon the successors and permitted assigns of both parties hereto.



**LIQUIDATION TRUST AGREEMENT**

**CDC CORPORATION,**

**as Debtor,**

**and**

**MARCUS A. WATSON,**

**as Liquidation Trustee**

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## TABLE OF CONTENTS

	<b>PAGE</b>
<b>SECTION I APPOINTMENT OF LIQUIDATION TRUSTEE</b>	<b>2</b>
<b>SECTION II LIQUIDATION TRUST</b>	<b>2</b>
A. Establishment	2
B. Funding	2
C. Purpose	4
D. Beneficiaries Deemed Grantors of Liquidation Trust	5
E. Documentation of Trust Assets	5
F. Initial Valuation of Trust Assets	5
G. Termination	5
<b>SECTION III LIQUIDATION TRUSTEE</b>	<b>6</b>
A. Liquidation Trustee Is a Fiduciary	6
B. Scope of Authority	6
C. Power to Declare Disputed Ownership Funds	10
D. Power to Establish Qualified Settlement Funds	10
E. Proof of Authority	10
F. Limitations on Liquidation Trustee' s Authority; Permitted Investments	11
G. Reliance by Liquidation Trustee	12
H. Authorization to Expend Trust Assets	12
I. Trust Administrator	13
J. Post Effective Date Management	14
K. Compensation	14
L. Bond	15
M. Insurance	15
N. Confidentiality	15
O. Final Decree	15
P. Termination	15
<b>SECTION IV BENEFICIARIES</b>	<b>15</b>
A. Maintenance of List of Beneficiaries	15
B. Identification of Beneficiaries	16
C. Withholding	16
D. Tax Identification Numbers	16

<b>SECTION V</b>	<b>LIQUIDATION TRUST OVERSIGHT BOARD</b>	<b>16</b>
A.	Duties and Powers	16
B.	Oversight Board Members	16
C.	Oversight Board is a Fiduciary	17
D.	Material Decisions	17
E.	Unanimous Decisions	18
F.	Conflicts	18
G.	Bylaws and Voting; Selection of Chair; Execution of Documents	18
H.	Reporting	18
I.	No Compensation; Reimbursement of Committee Members	19
J.	Termination	19
<b>SECTION VI</b>	<b>DISTRIBUTIONS</b>	<b>19</b>
A.	Application of Trust Assets	19
B.	Distributions	19
C.	Reserves Established by Liquidation Trustee	20
D.	Priorities	20
E.	Fractional and De Minimis Distributions	20
F.	Undeliverable Distributions	20
G.	Compliance with Laws	20
H.	Repurchase of Beneficial Interests	20
<b>SECTION VII</b>	<b>REPORTS, TAX MATTERS, BOOKS AND RECORDS</b>	<b>20</b>
A.	Initial Valuation	20
B.	Annual Financial Statements and Statement to Beneficiaries	20
C.	Quarterly Filings with Bankruptcy Court and U.S. Trustee	21
D.	Federal Income Tax	21
E.	Other Filings	21
F.	Disputed Ownership Fund - Tax Effect	21
G.	Qualified Settlement Fund - Tax Effect	22
H.	Books and Records	22
<b>SECTION VIII</b>	<b>LIMITATION OF LIABILITY</b>	<b>22</b>
A.	Exculpation	22
B.	Indemnification	23

---

<b>SECTION IX</b>	<b>SUCCESSOR LIQUIDATION TRUSTEE</b>	<b>23</b>
A.	Removal	23
B.	Resignation; Death	24
C.	Continuation of Liquidation Trust	24
<b>SECTION X</b>	<b>EVIDENCE OF AND NON-TRANSFERABILITY OF BENEFICIARY' S INTERESTS</b>	<b>25</b>
A.	Beneficial Interests Maintained in Book Entry Form	25
B.	Non-Transferability of Beneficial Interests	25
C.	Limited Exception to Non-Transferability of Beneficial Interests	25
D.	Beneficial Interests in Liquidation Trust Not a Security	25
<b>SECTION XI</b>	<b>MISCELLANEOUS</b>	<b>26</b>
A.	Amendment; Waiver	26
B.	Intention of Parties to Establish Grantor Trust	26
C.	Successor; Preservation of Privilege	26
D.	Bankruptcy Court Jurisdiction	26
E.	Books and Records	27
F.	Governing Law	27
G.	Severability	27
H.	Notices	27
I.	Notices if to a Beneficiary	29
J.	Third-Party Beneficiary	29
K.	Headings	29
L.	Counterparts	29
M.	Definitions; Rules of Construction	30

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## **LIQUIDATION TRUST AGREEMENT**

**THIS LIQUIDATION TRUST AGREEMENT** (this “Agreement”) is made this \_\_\_\_ day of \_\_\_\_\_, 2012, by and among **CDC Corporation**, a Cayman Islands exempted company (the “Debtor”), and **Marcus A. Watson** (“Watson”), and together with any successors, in his capacity as Liquidation Trustee under the Plan (in such capacity, the “Liquidation Trustee”).

### **PRELIMINARY STATEMENTS:**

**A.** On October 4, 2011, Debtor filed a voluntary petition for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in the United States Bankruptcy Court for the Northern District of Georgia (the “Bankruptcy Court”).

**B.** By Order, dated September 6, 2012 [Dkt. No. 551], the Bankruptcy Court confirmed the Second Amended Joint Plan of Reorganization of CDC Corporation dated August 29, 2012 [Dkt. No. 542] (as same has been or may be further amended or restated, the “Plan”).

**C.** The Plan provides for the establishment of a liquidation trust for federal income tax purposes in which Assets of the Debtor shall vest on the Plan’s Effective Date. The purpose of the liquidation trust is to appoint a trustee to liquidate the Assets of the Debtor and make the distributions provided for under the Plan.

**D.** As provided under the Plan and in this Agreement, the Liquidation Trust (as defined below) shall (i) accept the Assets of the Debtor transferred to the Liquidation Trust or cause any Liquidation Trust Entity (as defined below) to accept the Assets of the Debtor transferred to such Liquidation Trust Entity, free and clear of Liens, except as provided under the Plan, and (ii) distribute Assets of the Debtor’s Estate to the holders of Allowed Equity Interests in the Debtor.

**E.** This Agreement establishes the Liquidation Trust, allows the Liquidation Trust to establish any Liquidation Trust Entity to further the purposes of this Agreement, appoints the Liquidation Trustee for the Liquidation Trust, gives the Liquidation Trust certain rights and powers with respect to any such Liquidation Trust Entity, and provides the framework within which the Liquidation Trustee shall carry out its duties and implement key provisions of the Plan. As provided below, all distributions the Liquidation Trustee makes to creditors and holders of Equity Interest shall be made in accordance with the Plan, this Agreement and § 301,7701-4(d) of the Treasury Regulations issued pursuant to the Internal Revenue Code (the “Treasury Regulations”). In accordance with such Treasury Regulations, the Liquidation Trust has no objective to continue or engage in the conduct of a trade or business. The Liquidation Trust contains a fixed determinable termination date that is not more than five (5) years from the date of creation of the Liquidation Trust, subject to extension as set forth herein based on all of the facts and circumstances.

**F.** Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in the Plan.

**NOW, THEREFORE**, in consideration of the premises and the mutual covenants and agreements contained herein and in the Plan, the Debtor and the Liquidation Trustee agree as follows:

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**SECTION I**  
**APPOINTMENT OF LIQUIDATION TRUSTEE**

Marcus A. Watson shall serve as the Liquidation Trustee under the Plan, and Watson hereby accepts such appointment and agrees to serve in such capacity, effective upon the Effective Date of the Plan.

**SECTION II**  
**LIQUIDATION TRUST**

**A. Establishment.** Pursuant to the Plan, the Debtor and the Liquidation Trustee hereby establish the “CDC Liquidation Trust” (the “Liquidation Trust”)<sup>1</sup> on behalf of, and for the benefit of, the Holders of Allowed Equity Interests of the Debtor (whether such Interests are Allowed as of or subsequent to the Effective Date) (collectively, the “Beneficiaries”). Subject to retention of the Reserve for Effective Date Available Cash provided for in Section 7.22 of the Plan, and except as provided for herein, the Liquidation Trust shall be vested with title to all Assets of the Debtor.

**B. Funding.**

1. Transfer of Title. The Debtor hereby transfers, assigns, and delivers to the Liquidation Trust, effective as of the Effective Date, for the benefit of the Beneficiaries with Equity Interests in the Debtor, all of the Debtor’s right, title and interest in and to all of its Assets, including without limitation, all Claims and Causes of Action of its Estate, provided, however, (i) the Debtor hereby retains its right, title and interest in the Reserve for Effective Date Available Cash pursuant to the terms of the Plan, (ii) the Debtor hereby retains its title to, and transfers beneficial title to, its Retained Assets pursuant to Section II.B.2(i), and (iii) the Debtor may transfer its title to any Asset to any Entity created by the Liquidation Trust in accordance with Section II.B.2(ii); provided, further, that all Assets as to which legal or beneficial title is transferred to the Liquidation Trust or any Entity created by the Liquidation Trust are transferred free and clear of any Lien, Claim or interest of any other Person except as provided in the Plan. The “Trust Assets” shall mean (a) all Assets as to which legal and beneficial title are transferred to the Liquidation Trust by the Debtor, and (b) the beneficial title to all Retained Assets as to which legal title is retained by the Debtor. The Assets transferred to any Entity created by the Liquidation Trust in accordance with Section II.B.2(ii) (each, a “Liquidation Trust Entity”) are not Trust Assets, but the Liquidation Trust’s equity interest in such Liquidation Trust Entity is a Trust Asset. In accordance with § 1123(b) of the Bankruptcy Code, the Liquidation Trust shall be vested with, retain and may exclusively enforce, prosecute and resolve any or all Causes of Action that the Debtor, the Estate or the Equity Committee may have against any Person.

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<sup>1</sup> As used in this Agreement, the terms “CDC Liquidation Trust” or “Liquidation Trust” shall have the same meaning as the term “Liquidation Trust” used in the Plan.

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The Liquidation Trustee hereby agrees to transfer to the Debtor 38,135,399 units in the Liquidation Trust as Beneficial Interests in the Liquidation Trust to be transferred by the Debtor to the Holders of Equity Interests as consideration for the purchase of such Holders' Equity Interests. The Liquidation Trustee hereby accepts and agrees to hold the Trust Assets of the Debtor in trust for the Beneficiaries with Allowed Interests in the Debtor, in accordance with the terms of this Agreement and the Plan.

2. Retained Assets; Assets Transferred to a Liquidation Trust Entity; Abandonment of Trust Assets.

(i) Retained Assets.

From time to time on and after the Effective Date, the Liquidation Trustee may elect for convenience purposes to retain in the Debtor legal title to certain Assets of the Debtor and shall identify on Exhibit B hereto any such Assets (collectively, the "Retained Assets"). As to any such Asset, the Liquidation Trust shall acquire beneficial ownership of, but shall not have legal title to, such Asset. The Liquidation Trustee may in its discretion amend or modify Exhibit B from time to time. Upon the identification of such Retained Assets on Exhibit B, the beneficial title to those Retained Assets will be deemed conveyed as of the Plan's Effective Date. The Liquidation Trustee shall update Exhibit B from time to time to reflect all assets that shall constitute Retained Assets under this Agreement. The Liquidation Trust shall have no responsibility for or liability pertaining to the Retained Assets, except as provided in this Agreement. Upon the liquidation of any Retained Assets by the Debtor, the Liquidation Trustee shall promptly cause such proceeds to be paid to the Liquidation Trust in satisfaction of its obligations under the Plan.

(ii) Asset Transferred to or Held in a Liquidation Trust Entity.

From time to time on and after the Effective Date, the Debtor may convey all its right, title and interest in any Asset (including its legal title to any Retained Asset), and the Liquidation Trustee may contribute all of its right, title and interest in any Trust Asset (including its beneficial title to any Retained Asset), to any Liquidation Trust Entity that the Liquidation Trust may form, so that such Liquidation Trust Entity has all legal and beneficial title thereto. All the benefits of ownership and liabilities with respect to such Asset or Trust Asset conveyed (hereinafter an "Entity Asset") shall transfer to such Liquidation Trust Entity. The Liquidation Trust shall have no responsibility for or liability pertaining to any Entity Asset, except as provided in this Agreement, but shall have the rights and limitation of liability protections that inure to the Liquidation Trust as the equity owner of such Liquidation Trust Entity.

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(iii) Abandonment of Trust Assets.

From time to time on and after the Effective Date, the Liquidation Trust or a Liquidation Trust Entity may, with the approval of the Oversight Board, abandon any Trust Asset or Entity Asset (including any Retained Asset as to which it has beneficial ownership) to the Debtor so that the Debtor has legal and beneficial title thereto. Further, the Liquidation Trustee may cause the Debtor to create an Entity to own and hold such asset. All the benefits of ownership and liabilities with respect to such asset shall transfer to such Debtor or Entity. The Liquidation Trust shall have no responsibility for or liability pertaining to any asset owned by the Debtor or any Entity created by the Debtor.

3. Transfer Is Subject to Liabilities. The Assets of the Debtor as to which legal or beneficial title is transferred to the Liquidation Trust or any Liquidation Trust Entity are hereby transferred subject to the following liabilities, if any, which arise out of or relate to any known or unknown Claim against the Debtor or its Estate (the “Liabilities”):
- i. all Allowed Administrative Claims, Allowed Fee Claims, Allowed Priority Tax Claims, Allowed Priority Claims, Allowed General Unsecured Claims, and Disbursing Agent Expenses to the extent the Effective Date Available Cash is insufficient to pay such Allowed Claims;
  - ii. all U.S. Trustee fees until such time as the Bankruptcy Court enters a final decree closing the Debtor’ s Chapter 11 Case; but
  - iii. excluding, however, any Claims that have been barred by, or satisfied under, the Plan.
4. Plan Distributions and Reserves. The Liquidation Trust is hereby deemed vested with title to the Trust Assets on the Effective Date, excluding the Effective Date Cash Available Cash. The Liquidation Trustee shall distribute from the Trust Assets all distributions provided for in the Plan, but excluding those to be paid by the Disbursing Agent pursuant to the Plan. As provided in Section VI, the Liquidation Trustee shall also establish (1) a Disputed Equity Interest Reserve, and (2) a Liquidation Trust Expense Reserve to ensure that the Liquidation Trust has adequate capital to permit the Liquidation Trust to liquidate the Trust Assets, to permit any Liquidation Trust Entity to liquidate its Entity Assets, and to permit the Debtor to liquidate its Retained Assets.

**C. Purpose.** The Liquidation Trust shall be established for the primary purpose of liquidating and distributing the Trust Assets to the Beneficiaries and payment of Liquidation Trust Expenses with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidation purpose of the Liquidation Trust.

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**D. Beneficiaries Deemed Grantors of Liquidation Trust.** It is intended that the Liquidation Trust will be treated as a “liquidation trust” within the meaning of Treasury Regulation §301.770 1-4(d) and as a grantor trust pursuant to IRC Sections 671-677. The primary purpose of the Liquidation Trust is the liquidation and distribution of the Trust Assets, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidation purpose of the Liquidation Trust. Accordingly, for federal income tax purposes, the transfer of Trust Assets, subject to the assumption of liabilities on a non-recourse basis to the Beneficiaries, to the Liquidation Trust shall be treated by the Estate and the Liquidation Trustee as a deemed transfer of such Trust Assets, subject to the assumption of liabilities, by Debtor and the Estate to holders of Allowed Equity Interests in Class 3A, and a deemed further transfer by such holders to the Liquidation Trust in exchange for Beneficial Interests therein. For federal income tax purposes, the holders of Allowed Equity Interests in Class 3A shall be treated by the Estate and the Liquidation Trustee as the grantors of the Liquidation Trust and as the deemed owners of the assets of the Liquidation Trust, and the Liquidation Trust shall not be treated as a successor of Debtor. Notwithstanding anything to the contrary contained in the Plan, the failure of the Liquidation Trust to be treated for tax purposes in the manner and/or with the effects contemplated by this Section 7.14 shall not limit or affect the validity or formation of the Liquidation Trust or the effectiveness of the Plan or the power or authority of the Liquidation Trustee, and the Liquidation Trustee shall be entitled to take such steps or actions as the Liquidation Trustee deems appropriate or advisable, in order to further or support the tax treatment and effects contemplated by this Section

**E. Documentation of Trust Assets.** The Debtor shall, on or prior to the Effective Date, execute such documents as shall be reasonably required to evidence the transfer to the Liquidation Trust or any Liquidation Trust Entity on behalf of the Beneficiaries effective as of the Effective Date (in accordance with Section B.1 and B.2 of this Article II) any and all of the Debtor’s real and personal property (other than legal title to any Retained Assets) to form the Trust Assets or the Entity Assets. The Debtor shall have no further obligation to provide any funding with respect to the Liquidation Trust, except for (i) the transfer of any Cash remaining in the Reserve for Effective Date Available Cash after payment of all Allowed Claims pursuant to Section 7.22 of the Plan and (ii) proceeds from any liquidation of any Retained Assets as provided in Section II.B.2.

**F. Initial Valuation of Trust Assets.** The Liquidation Trustee shall, in consultation with the Liquidation Trust Oversight Board (the “Oversight Board”), make a good faith determination of the fair market value of the Trust Assets transferred to the Liquidation Trust as of the Effective Date and file such valuation with the Bankruptcy Court. The Liquidation Trustee and all holders of Allowed Equity Interests in Class 3A shall use these values for the Trust Asset transferred to the Liquidation Trust consistently for all federal income tax purposes. Such valuation shall include the value of the Liquidation Trust’s equity in any Liquidation Trust Entity and the Liquidation Trust’s beneficial ownership of any Retained Assets.

**G. Termination.** The Liquidation Trust shall terminate at such time as (i) all Disputed Equity Interests have been resolved, (ii) all of the Trust Assets have been liquidated, (iii) all duties and obligations of the Liquidation Trustee under the Plan and this Agreement have been fulfilled, (iv) all distribution of all Trust Assets and the full performance of all other duties and functions of the Liquidation Trustee under the Plan and this Agreement, and (v) the Chapter 11 Case has been

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closed, or as otherwise ordered by the Bankruptcy Court. Notwithstanding the foregoing, the Liquidation Trust shall terminate no later than the fifth (5<sup>th</sup>) anniversary of the date the Liquidation Trust is created; provided, however, the term of the Liquidation Trust, subject to the approval of the Bankruptcy Court, may be extended for a finite period if it is necessary to the liquidating purpose thereof. Multiple extensions can be obtained. Each extension shall be approved by the Bankruptcy Court within six months of the extended term.

### SECTION III LIQUIDATION TRUSTEE

**A. Liquidation Trustee Is a Fiduciary.** The Liquidation Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of the Liquidation Trust. The Liquidation Trustee may deal with the Trust Assets, Entity Assets or Retained Assets, as permitted by the provisions hereof. The Liquidation Trustee shall have the authority to bind the Liquidation Trust and for all purposes hereunder shall be acting in the capacity as Liquidation Trustee and not individually.

**B. Scope of Authority.** Except as otherwise provided in the Plan, the Confirmation Order, or this Agreement, the Liquidation Trustee shall have all authority to take all steps deemed by the Liquidation Trustee to be necessary, appropriate, or desirable to accomplish the purposes of the Plan and to administer and/or otherwise control or exercise authority over the Trust Assets, including without limitation, over the acquisition, management and disposition thereof, and over the management and conduct of the administration of the Liquidation Trust, including, without limitation, to cause or authorize distributions to the Beneficiaries (and other distributions as allowed pursuant to the Plan), to review and maintain objections to or compromise Claims, and to pursue and/or compromise Estate Causes of Action after consultation with the Oversight Board. The Liquidation Trustee shall in an expeditious but orderly manner liquidate and convert to Cash the Trust Assets, the Entity Assets and the Retained Assets, make distributions and not unduly prolong the duration of the Liquidation Trust. In so doing, the Liquidation Trustee shall exercise its reasonable business judgment in liquidating the Trust Assets. Without limiting the foregoing, and without any further Bankruptcy Court approval (except as specifically required herein) and without the approval of the Oversight Board (except as specifically required herein), and subject in all respects to the other terms and conditions of this Agreement, the Plan, and the Confirmation Order, the Liquidation Trustee shall have the power and authority to take the following actions:

- (1) by any means permitted by law, liquidate the Trust Assets, cause any Liquidation Trust Entity to liquidate its Entity Assets, and cause the Debtor to liquidate its Retained Assets, including, without limitation, the sale of such assets and the prosecution or settlement of Causes of Action;
- (2) handle the prosecution or settlement of objections to and estimations of Claims;
- (3) calculate and implement all distributions in accordance with the Plan; whether to be made on or after the Effective Date of the Plan;

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- (4) manage the wind-down of the Debtor' s operations, if any, including filing tax returns of the Debtor (including the filing of final tax returns and the payment of any taxes shown thereon, and the right to request an expedited determination under § 505 of the Bankruptcy Code), settling or satisfying Administrative Claims, Priority Tax Claims, and Priority Claims, and completing any sales of Assets that were not completed as of the Effective Date (including on behalf of the Debtor any sale of Retained Assets);
  - (5) file pleadings and papers and seek relief before the Bankruptcy Court or other courts of competent jurisdiction, where appropriate;
  - (6) hold legal or beneficial title to the Trust Assets;
  - (7) protect and enforce the rights to the Trust Assets vested in the Liquidation Trustee by this Agreement by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to any applicable law and general principles of equity;
  - (8) take all actions, including the power to initiate, commence, prosecute, litigate, defend, compromise, collect, settle and/or otherwise administer Claims, Equity Interests, and Causes of Action, where appropriate, and in consultation with the Oversight Board as required herein hereof, and in connection therewith to participate in or initiate any proceeding before the Bankruptcy Court or any other court of competent jurisdiction and voluntarily participate as a party in any administrative proceeding, arbitration, mediation or other non-judicial proceeding;
  - (9) establish, maintain and terminate accounts at banks and other financial institutions, in a clearly specified fiduciary capacity, in which the Trust Assets or other Cash and property of the Liquidation Trust may be deposited, and draw checks or make withdrawals from such accounts on the sole signature of the Liquidation Trustee;
  - (10) execute any document or pleading, and file any pleading, incidental to the exercise of any of the Liquidation Trustee' s powers granted herein (whether relating to the Trust Assets, any Entity Assets or any Retained Assets), including the exercise of the Debtor' s or the Equity Committee' s respective rights as such rights existed prior to the Effective Date to conduct discovery and oral examinations of any party under Rule 2004 of the Federal Rules of Bankruptcy Procedure;
  - (11) determine and satisfy any and all liabilities created, incurred or assumed by the Liquidation Trust;
  - (12) pay all Liquidation Trust Expenses, make distributions, and pay other obligations owed by the Debtor, the Estate, or the Liquidation Trust from the Trust assets, including U.S. Trustee Fees, cause any Liquidation Trust Entity to pay any fees, expenses, and all other payments relating to, the administration, management, maintenance, operation, preservation or liquidation of its Entity Assets, and cause the Debtor to do so with respect to its Retained Assets;

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- (13) file or cause to be filed, if necessary, any and all tax and information returns with respect to the Debtor, the Estate, the Liquidation Trust or any Liquidation Trust Entity, and pay or cause to be paid taxes properly payable by the Debtor, the Estate, the Liquidation Trust or any Liquidation Trust Entity, if any;
  - (14) seek ruling(s) or other guidance from the Internal Revenue Service, state tax authorities or other governmental entities as to the status of the Liquidation Trust for tax purposes and the correct tax treatment of any income, payment or asset or the correct tax filing requirements relating to the same, all as the Liquidation Trustee shall deem necessary and appropriate;
  - (15) obtain insurance coverage with respect to the liabilities and obligations of the Liquidation Trustee and the Liquidation Trust (including as an officer, director, manager, shareholder or member of any Liquidation Trust Entity or Debtor), in the form of an errors and omissions policy, fiduciary policy or otherwise; provided, however, the Liquidation Trust is a successor of the Debtor for the purposes of continuing to receive benefits under insurance policies entered into by the Debtor;
  - (16) obtain or cause to be obtained insurance coverage with respect to real and personal property which is or may become Trust Assets, Retained Assets or Entity Assets;
  - (17) dissolve any Entity (including the Debtor or Liquidation Trust Entity), terminate joint ventures, and otherwise wind up any Entity;
  - (18) create any Entity (referred to as a Liquidation Trust Entity) for the purpose of holding or managing Entity Assets, or in connection with the sale or other disposition thereof or for any other purpose, and exercise on behalf of such Liquidation Trust Entity all the corporate or limited liability company or other powers available to such Liquidation Trust Entity under applicable law, and cause such Liquidation Trust Entity to dividend, as a return on capital, the net proceeds from the sale of Entity Assets, all such powers to be exercised in a manner that is consistent with the other provisions of this Agreement;
  - (19) execute rights of setoff against any and all Claims, Equity Interests, rights and Causes of Action of any nature that the Liquidation Trustee may at any time hold against such Holder; provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim or Equity Interest under or in accordance with the Plan shall constitute a waiver or release by the Liquidation Trustee of any such Claim, Equity Interest, right or Cause of Action that the Liquidation Trustee may at any time possess against such Holder;

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- (20) retain and pay, or cause to be retained and paid, law firms to aid the Liquidation Trustee in the prosecution of any Causes of Action that constitute Trust Assets or Entity Assets, and to perform such other functions as may be appropriate, including advising or assisting the Liquidation Trustee in the discharge of its duty as Liquidation Trustee. The Liquidation Trustee may commit the Liquidation Trust to and shall pay such law firms' reasonable compensation for services rendered and expenses incurred. A law firm shall not be disqualified because it was counsel to the Debtor or the Equity Committee or its members or continues to serve as counsel to the Debtor;
  - (21) retain and pay, or cause to be retained and paid, public accounting firms to perform such reviews and/or audits of the financial books and records of the Liquidation Trust and any Liquidation Trust Entity, and to prepare and file any tax returns or informational returns for the Liquidation Trust and any Liquidation Trust Entity, or to consult on matters impacting the Liquidation Trust or any Liquidation Trust Entity. The Liquidation Trustee may commit the Liquidation Trust to pay, and shall cause any Liquidation Trust Entity to pay, any such accounting firm' s reasonable compensation for services rendered and expenses incurred;
  - (22) retain and pay such other Professional Persons or third parties as necessary or appropriate to assist the Liquidation Trustee in carrying out its powers and duties under this Agreement. The Liquidation Trustee may commit the Liquidation Trust to pay, and shall cause any Liquidation Trust Entity to pay, all such persons or entities reasonable compensation for services rendered and expenses incurred;
  - (23) employ employees to assist the Liquidation Trustee in carrying out its powers and duties under this Agreement. The Liquidation Trustee shall pay all such employees reasonable salaries in the amounts it shall determine are appropriate. If the Liquidation Trustee employs employees, it shall establish payroll procedures and pay any and all federal, state or local tax withholding required under applicable law with respect to such employees, obtain workers' compensation insurance, and take all other actions it deems necessary;
  - (24) invest any moneys held as part of the Trust Assets in accordance with the terms of Section III.F.2 hereof;
  - (25) represent the interests of the Beneficiaries with respect to any matters relating to the Plan, this Agreement, the Liquidation Trust, or any Liquidation Trust Entity affecting the rights of such Beneficiaries; and engage in any transaction necessary or appropriate to the foregoing or to facilitate implementation of the Plan and the Confirmation Order, including but not limited to, entering into, performing and exercising rights under contracts and leases on behalf of the Liquidation Trust or any Liquidation Trust Entity;

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- (26) serve as a director, officer or manager of the Debtor and any of its subsidiaries, with the power to appoint and remove any director, officer or manager of the Debtor and any of its subsidiaries, and in such capacities act as the Liquidation Trustee deems appropriate with respect to any and all matters impacting the Debtor or any of its subsidiaries after the Effective Date, all as determined by the Liquidation Trustee and in accordance with this Agreement; and
  - (27) such other responsibilities and powers as may be vested in or assumed by the Liquidation Trustee (in its capacity as such or in its capacity as an officer, director, manager, shareholder or member of any Liquidation Trust Entity) pursuant to the Plan or Bankruptcy Court Order or not inconsistent therewith, or as may be necessary and proper to carry out the provisions of the Plan.

**C. Power to Declare Disputed Ownership Funds.** The Liquidation Trustee shall be permitted to make the election described in § 1.468B-9(c)(2)(ii) of the Treasury Regulations to treat any portion of the Liquidation Trust subject to Disputed Claims or Interests as a “disputed ownership fund.” The Liquidation Trustee may establish one or more disputed ownership funds with respect to Disputed Claims or Interests. The Liquidation Trustee may also, to the extent permitted by law, make such an election for state and local income tax purposes. If the election is made to treat any Disputed Claims or Interests as a “disputed ownership fund,” then the Liquidation Trust may (i) allocate taxable income or loss to such Disputed Claims or Interests, with respect to any given taxable year (but only for the portion of the taxable year with respect to which such Claims are Disputed), and (ii) distribute Liquidation Trust Assets from the Disputed Interest Reserve as, when, and to the extent, such Claims or Interests that are Disputed cease to be Disputed, whether by virtue of becoming Allowed or otherwise resolved, subject to such approval of the Bankruptcy Court, if any, as may be required. The Beneficiaries will be bound by such election, if made by the Liquidation Trustee, and, as such, will, for U.S. federal income tax purposes (and, to the extent permitted by law, for state and local income tax purposes), report consistently therewith.

**D. Power to Establish Qualified Settlement Funds.** The Liquidation Trustee shall be permitted to establish one or more “qualified settlement funds” within the meaning of the Internal Revenue Code and related Treasury Regulations with respect to any Claims for which a “qualified settlement fund” is required or permitted by law.

**E. Proof of Authority.** No person dealing with the Liquidation Trust or any Liquidation Trust Entity shall be obligated to inquire into the authority of the Liquidation Trustee or a Trust Administrator in connection with the protection, conservation or disposition of Trust Assets or Liquidation Trust Assets. It is intended that a signed copy of this Agreement serves as adequate proof of the authority of the Liquidation Trustee to act, if such proof is required for any reason by any third party. If proof of authority of a Trust Administrator is required for any reason by any third party, it is intended that a signed copy of this Agreement, together with a letter signed by the Liquidation Trustee confirming that such Person is as of a relevant date a Trust Administrator, serve as adequate proof of the authority of a Trust Administrator to act. If proof of authority of a director,

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officer or manager of the Debtor or any of its subsidiaries is required for any reason by any third party, it is intended that a signed copy of this Agreement, together with a letter signed by the Liquidation Trustee confirming that such Person is as of a relevant date a director, officer or manager of such entity, serve as adequate proof of the authority of such Person to act.

**F. Limitations on Liquidation Trustee's Authority; Permitted Investments.**

1. No Trade or Business. The Liquidation Trustee shall not and shall not be authorized to engage in any trade or business with respect to the Trust Assets (and shall not allow any Liquidation Trust Entity to do so with respect to Entity Assets) or any proceeds therefrom, except to the extent reasonably necessary to, and consistent with, the liquidating purpose of the Liquidation Trust within the meaning of Treasury Regulation § 301.7701-4(d). The Liquidation Trustee shall take such actions consistent with the orderly liquidation of the Trust Assets and the Entity Assets as required by applicable law and consistent with the treatment of the Liquidation Trust as a liquidating trust under Treasury Regulation § 301.7701-4(d).
2. Permitted Investments. The Liquidation Trustee is authorized to invest Trust Assets only in investments (a) that are consistent with the provisions of § 345 of the Bankruptcy Code unless ordered otherwise by the Bankruptcy Court and (b) that a liquidating trust within the meaning of Treasury Regulation § 301.7701-4(d) may be permitted to hold, pursuant to the Treasury Regulations, whether set forth in IRS rulings, notices, guidelines or other IRS pronouncements. Subject to the foregoing, investments of Trust Assets (i) shall be administered in view of the manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs and (ii) shall be limited to demand and time deposits, such as certificates of deposit, having maturities of not more than one year, and U.S. Treasury bills or other temporary liquid investments that are readily convertible to known amounts of Cash. The Liquidation Trustee shall have no liability for interest or producing income on any moneys received by the Liquidation Trust hereunder, and held for distribution or payment to the Beneficiaries, except for interest income actually received by the Liquidation Trustee. The Liquidation Trustee shall have no responsibility or liability for or by reason of or in connection with the financial performance of, or any diminution in value or losses suffered or incurred in connection with, any of such investments, or the solvency of any bank or other financial institution. The Liquidation Trustee shall cause any Liquidation Trust Entity to comply with this paragraph as regards any Entity Assets comprised of Cash.
3. Oversight Board. The Liquidation Trustee must regularly consult with and seek approval from the Oversight Board regarding the prosecution and/or settlement of Causes of Action as described in Section V.D herein.

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4. Bankruptcy Court Approval. The Liquidation Trustee must obtain approval by the Bankruptcy Court of any settlements of Causes of Action as described in Section V.D. herein.
  5. No Investment Company. The Liquidation Trustee shall not take any action that would result in the Liquidation Trust becoming subject to registration as an “investment company” pursuant to the Investment Company Act of 1940, as amended.
  6. No Commingling. All moneys and other Assets received by the Liquidation Trust shall, until distributed or paid over as herein provided, be held in trust for the benefit of the Beneficiaries, but need not be segregated from other Trust Assets, unless and to the extent required by law or by the Plan. The Liquidation Trustee shall not commingle any of the Trust Assets with its own property or the property of any other Person, except that Trust Assets may be deposited in an IOLTA account maintained by legal counsel for the Liquidation Trust. The Liquidation Trustee shall cause any Liquidation Trust Entity to comply with this paragraph as regards any Entity Assets comprised of Cash.

**G. Reliance by Liquidation Trustee.**

1. The Liquidation Trustee, and the Liquidation Trustee’s agents (including any Trust Administrator), may rely upon, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by it to be genuine and to have been signed or presented by the proper party or parties.
2. The Liquidation Trustee, and the Liquidation Trustee’s agents (including any Trust Administrator), may consult with legal counsel, financial or accounting advisors, and other professionals to be selected by the Liquidation Trustee, and neither the Liquidation Trustee nor such agent shall be liable for any action taken or omitted to be taken by it in accordance with the advice thereof.
3. Persons dealing with the Liquidation Trustee or any of the Liquidation Trustee’s agents (including any Trust Administrator) shall look only to the Trust Assets to satisfy any liability incurred by the Liquidation Trustee or the Liquidation Trust to such Person in carrying out the terms of this Agreement. The Liquidation Trustee shall have no personal obligation to satisfy any such liability, except to the extent such liability or obligation is determined by a Final Order to have resulted primarily and directly from the Liquidation Trustee’s gross negligence, fraud, or willful misconduct.

**H. Authorization to Expend Trust Assets.** The Liquidation Trustee may incur reasonable and necessary expenses in liquidating and converting to Cash the Trust Assets, any Liquidation Trust Entity’s Entity Assets, and any Debtor’s interest in Retained Assets. Such

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expenses shall be payable from the corpus of the Liquidation Trust with a priority that is senior to distributions to Beneficiaries. Without limiting the foregoing, the Liquidation Trustee may expend the Trust Assets (i) to pay fees and expenses of administration of the Liquidation Trust to perform the Liquidation Trustee's obligations under this Agreement, or to cause any Liquidation Trust Entity or Debtor to liquidate its asset for the benefit of this Liquidation Trust (including, but not limited to, the fees and expenses of the Liquidation Trustee, expenses of the Oversight Board members and fees and expenses of their respective counsel, any taxes imposed on the Liquidation Trust or in respect of the Trust Assets, and fees and expenses in connection with litigation), and (ii) to satisfy other liabilities incurred or assumed by the Liquidation Trust or to which the Trust Assets or Entity Assets are otherwise subject under the Plan in accordance with this Agreement, the Plan or the Confirmation Order. With respect to any Entity Assets, the Liquidation Trustee may expend Trust Assets to cause any Liquidation Trust Entity to monetize its Entity Assets, and to maintain such assets until they are sold and the proceeds remitted to the Liquidation Trust. With respect to any Retained Assets, the Liquidation Trustee may expend Trust Assets to cause the Debtor to monetize the Retained Assets to which the Debtor has legal title, and to maintain such assets until they are sold and the proceeds remitted to the Liquidation Trust. The Liquidation Trustee shall not need the approval of the Bankruptcy Court to make any payment that the Liquidation Trustee is authorized to make under this Agreement.

**I. Trust Administrator.** The Liquidation Trustee may appoint one or more Persons to serve with the designation of Trust Administrators for the Liquidation Trust (each, a "Trust Administrator"). A Trust Administrator shall serve at the discretion of the Liquidation Trustee. The appointment or removal of a Trust Administrator shall be set forth in a letter or other notice of appointment or removal, addressed to such Person and signed by the Liquidation Trustee, and shall be effective on the date stated in such notice. It shall be the duty of any Trust Administrator to assist the Liquidation Trustee in the performance of the Liquidation Trustee's routine and administrative duties under this Agreement. In furtherance of the foregoing, a Trust Administrator shall have the authority to take any of the following actions, in the name of or on behalf of the Liquidation Trust or any Estate of the Debtor:

1. handle all matters relating to the administration of Trust Assets owned by the Liquidation Trust, including without limitation the execution of documents on behalf of the Liquidation Trust or the Estate of the Debtor;
2. deposit funds into or transfer funds among any of the accounts maintained by the Trust, on the sole signature of the Trust Administrator or its authorized officer;
3. withdraw funds from any general operating account of the Liquidation Trust, on the sole signature of the Trust Administrator or its authorized officer, to pay routine or ordinary expenses of the Liquidation Trust;
4. obtain and preserve the Liquidation Trust's qualification to do business in any jurisdiction in which such qualification is necessary;

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5. assist the Liquidation Trustee in the routine tasks of the Liquidation Trustee, in its capacity as an officer, director, manager, shareholder or member of any Liquidation Trust Entity or the Debtor, and handle all of the matters described in paragraphs 1 through 4 above, but with respect to the Retained Assets or the Entity Assets, as applicable; and
  6. comply with any written directive of the Liquidation Trustee with respect to administrative matters or the routine operations of the Liquidation Trust.

In no event shall a Trust Administrator have the authority to withdraw funds or assets from any of the Liquidation Trust's deposit, time, investment or securities accounts, other than (i) if necessary to effect transfers among such accounts or (ii) to withdraw funds from any general operating account of the Liquidation Trust to pay routine or ordinary expenses of the Liquidation Trust. All such transfers and withdrawals shall be reflected in the books and records of the Liquidation Trust.

**J. Post Effective Date Management.** As provided in the Plan the Debtor may continue to exist after the Effective Date. Thus, after the establishment of the Liquidation Trust and the appointment of the Liquidation Trustee, the Debtor may continue to act, by and through its directors, officers and managers, to the fullest extent provided under their respective articles, bylaws, limited liability company agreements and other organizational documents, and applicable law.

**K. Compensation.**

1. The Liquidation Trust shall reimburse the Liquidation Trustee for the actual reasonable out-of-pocket expenses incurred by the Liquidation Trustee, including, without limitation, necessary travel, lodging, postage, telephone and facsimile charges upon receipt of periodic billings.
2. Subject to such adjustments as may be agreed to from time to time by the Oversight Board and the Liquidation Trustee, the Liquidation Trustee and employees or agents of the Liquidation Trustee shall be entitled to receive compensation pursuant to that certain engagement letter attached hereto as Exhibit A for services rendered on behalf of the Liquidation Trust. Any change in compensation must be agreed to by the Oversight Board and the Liquidation Trustee, and further Order of the Bankruptcy Court is not required.
3. The Trust Assets shall be subject to the Claims of the Liquidation Trustee and agents that the Liquidation Trustee may engage as described in such engagement letter, and the Liquidation Trustee shall be entitled, out of any Cash in the Liquidation Trust, to pay compensation to itself and such agents, and reimburse itself and such agents for all actual out-of-pocket expenses, and satisfy or recover any and all loss, liability, expense, or damage which the Liquidation Trustee or such agents may incur or sustain in good faith in the exercise and performance of any of the powers and duties of the Liquidation Trustee.

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4. All compensation and other amounts payable to the Liquidation Trustee, for itself or such agents, shall be paid from the Trust Assets. If the Cash in the Liquidation Trust shall be insufficient to compensate and reimburse the Liquidation Trustee and such agents, as the case may be, for any amounts to which the Liquidation Trustee, for itself or its agents, is entitled hereunder, then the Liquidation Trustee is hereby authorized to reduce to Cash in a commercially reasonable manner that portion of the Trust Assets necessary so as to effect such compensation and reimbursement.
  5. The Liquidation Trustee shall not be required to file a fee application to pay any compensation provided for under this Agreement, provided, however, that the Liquidation Trustee shall provide notice of all fees and expenses to the Oversight Board. If the Oversight Board communicates an objection to the Liquidation Trustee within 10 days of said notice, the Liquidation Trustee must obtain approval from the Bankruptcy Court for payment of any compensation for which the Oversight Board has communicated an objection.

**L. Bond.** The Liquidation Trustee shall not be required to post a bond with respect to the performance of the obligations and liabilities of the Liquidation Trustee under the Plan or this Agreement.

**M. Insurance.** The Liquidation Trustee shall obtain insurance with respect to the liabilities and obligations of the Liquidation Trustee and the Oversight Board under this Agreement (in the form of an errors and omissions policy or other appropriate policy), the costs and expenses of which shall be paid by the Liquidation Trust, unless both the Liquidation Trustee and the Oversight Board unanimously agree that such insurance shall not be required.

**N. Confidentiality.** The Liquidation Trustee shall, and shall cause its agents and representatives to, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any Person or matter to which any of the Trust Assets relates or of which the Liquidation Trustee has become aware in its capacity as Liquidation Trustee.

**O. Final Decree.** It shall be the duty of the Liquidation Trustee to seek and obtain a final decree or decrees from the Bankruptcy Court upon full administration of the Liquidation Trust.

**P. Termination.** The duties, responsibilities and powers of the Liquidation Trustee shall terminate on the date the Liquidation Trust is dissolved under applicable law in accordance with the Plan.

#### **SECTION IV BENEFICIARIES**

**A. Maintenance of List of Beneficiaries.** The Beneficiaries of the Liquidation Trust are comprised of all holders of Allowed Equity Interests in the Debtor in Class 3A and 3B of the Plan, whether such Equity Interests are Allowed as of or subsequent to the Effective Date. If a holder's Disputed Equity Interest is resolved and becomes an Allowed Equity Interest, the holder shall receive the same percentage recovery as holders of Allowed Equity Interests in the same Class as if the holder's Allowed Equity Interest was an Allowed Equity Interest as of the Effective Date

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of the Plan; provided, however, that interest shall not be allowed. The Liquidation Trustee shall maintain a register identifying the record holders of Beneficial Interests in the Trust. All references to Beneficiaries shall mean Beneficiaries of record as set forth in the official register maintained by the Liquidation Trustee and the term shall not mean any holder of an Allowed or Disputed Equity Interest that is not recorded as a Beneficiary in such official registry.

**B. Identification of Beneficiaries.** In order to determine the actual names, addresses and tax identification numbers of the Beneficiaries with respect to the Debtor, the Liquidation Trustee shall be entitled to conclusively rely on the names, addresses and tax identification numbers set forth in (1) the list of registered holders maintained by the Debtor's transfer agent, (2) the report issued by the Depository Trust Company, or (3) the Proofs of Interest filed against the Debtor with the Bankruptcy Court. Each Beneficiary's right to any distribution from the Liquidation Trust, which is dependent upon such Beneficiary's classification under the Plan, shall be that accorded to such Beneficiary under the Plan. Each Distribution by the Liquidation Trustee to the Beneficiaries shall be made in accordance with the terms set forth herein. The Liquidation Trustee may establish a record date that it deems practicable for determining the Beneficiaries for a particular purpose.

**C. Withholding.** Unless otherwise permitted to be paid directly to a Beneficiary, the Liquidation Trustee shall withhold from the amounts distributable to the Beneficiaries from the Trust Assets at any time such sum or sums as may be required to be withheld under the income tax laws of the United States or of any state or political subdivision thereof or any other governmental entity.

**D. Tax Identification Numbers.** The Liquidation Trustee shall require any Beneficiary to furnish to the Liquidation Trustee its Employer or Taxpayer Identification Number as assigned by the IRS or any other applicable governmental entity, and the Liquidation Trustee may condition any Distribution to any Beneficiary upon receipt of such identification number. For the avoidance of doubt, the Liquidation Trustee may request Bankruptcy Court authority to release funds set aside for Distribution to Beneficiaries who have not provided proper tax identification numbers and make those funds available to the remaining Beneficiaries.

## SECTION V LIQUIDATION TRUST OVERSIGHT BOARD

**A. Duties and Powers.** The Oversight Board is established pursuant to the terms of the Plan and shall function consistent with the Plan and this Agreement. The Oversight Board shall represent the interests of the holders of Beneficial Interests during the existence of the Liquidation Trust, and shall have the obligation to undertake in good faith each of the acts and responsibilities set forth for the Oversight Board in this Agreement or in the Plan for the benefit of the Beneficiaries. The Oversight Board shall begin to act on the date this Agreement is signed and shall oversee the actions of the Liquidation Trustee in accordance with the terms of this Agreement until further Order of the Bankruptcy Court.

**B. Oversight Board Members.** The Confirmation Order shall confirm the appointment of the initial Oversight Board. The Oversight Board shall consist of three (3) members. The initial three members shall be from the members of the Equity Committee. In the event that less than three (3) of the members of the Equity Committee notify counsel to the Equity

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Committee of their intent to serve on the Oversight Board within fifteen (15) days prior to the Confirmation Hearing, then the Equity Committee will either (i) choose from among the holders of Allowed Class 3A Equity Interests to fill any vacancy until three (3) members of such designation have been selected or (ii) elect not to fill the vacancy. In the event of the resignation of a member of the Oversight Board, the remaining members may, but need not, designate a successor from among the holders of Allowed Class 3A Equity Interests. Unless and until any such vacancy is filled, the Oversight Board shall function with such reduced membership. Notwithstanding any other provision of this Agreement, the Plan, or the Confirmation Order, Peter Yip, Anthony Ip, and Nicola Chu Ming Nga, and anyone acting under the control or direction of any of them, are not eligible to be members of the Oversight Board.

**C. Oversight Board is a Fiduciary.** The fiduciary duties that applied to the Equity Committee prior to the Effective Date, as limited by the exculpations, indemnifications, releases and other protections provided in the Plan, this Agreement, and the Confirmation Order, shall apply to the Oversight Board. The duties, rights and powers of the Oversight Board shall terminate upon the termination of the Liquidation Trust.

**D. Material Decisions.** The Liquidation Trustee must obtain the consent or approval of the Oversight Board before making any of the following decisions (each, a "Material Decision") which may, where indicated below, be obtained by Notice Approval (as defined below):

1. the Liquidation Trustee's commencement of the prosecution of any Cause of Action or the settlement of any Cause of Action where the claim asserted exceeds \$500,000.

Notwithstanding any provision herein to the contrary, the approval of any Material Decision that the Liquidation Trustee may obtain by Notice Approval may be obtained in the following manner (such process being referred to herein as "Notice Approval"): The Liquidation Trustee shall give written notice to the Oversight Board of any request to approve a Material Decision. The Oversight Board shall have two (2) Business Days to deliver a response to such request to the Liquidation Trustee. In the event emergency action is required with respect to any such matter as to which the Liquidation Trustee is seeking Notice Approval and the Liquidation Trustee is unable to provide two (2) Business Days' notice as required herein, then, to avoid injury or harm to the Trust Assets or its Beneficiaries, the Liquidation Trustee may in its written request to approve a Material Decision shorten the notice period (a "Shortened Notice") and shall therein give such notice as may be practicable under the circumstances. If the Liquidation Trustee does not receive a written objection to such request from a member of the Oversight Board within the applicable time period as provided herein or in any Shortened Notice, the Liquidation Trustee shall be deemed to have obtained the approval and consent of such member of the Oversight Board to the Liquidation Trustee's request to approve such Material Decision. All requests to approve a Material Decision, including any Shortened Notice, and all responses, if any, shall be given in accordance with Section XI.H of this Agreement, which allows for notice by electronic mail, among other means. "Business Day" means any day except a Saturday, Sunday or other day on which commercial banks in New York City are authorized by law to close.

In the event that the Liquidation Trust Oversight Board declines to approve a Material Decision, then the dispute shall promptly be brought before the Bankruptcy Court for resolution. After consulting with the Oversight Board, the Liquidation Trustee may also, but is not required to, submit a proposed settlement to the Bankruptcy Court for its approval of any settlement.

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If any decision described in paragraphs 1 above of this Section V.D is to be effectuated by the Debtor after the Effective Date of the Plan, rather than effectuated by the Liquidation Trust or the Liquidation Trustee, then the Debtor shall obtain the consent or approval of the Oversight Board, or follow the requirements applicable to the Liquidation Trustee to obtain Notice Approval, of such decision prior to making such decision, and such decision shall be considered a Material Decision for all purposes under this Agreement.

**E. Unanimous Decisions.** The Oversight Board shall have the absolute right and power to determine the following by the unanimous vote of all the members of the Oversight Board (each, a “Unanimous Decision”):

1. to petition the Bankruptcy Court to remove the Liquidation Trustee for Cause (as such term is defined in Section IX.A below), or to select a successor Liquidation Trustee when a successor is required hereunder.

**F. Conflicts.** If the Liquidation Trustee in good faith perceives a conflict between a provision of this Agreement and a direction by the Oversight Board, the Liquidation Trustee may promptly deliver a notice to the Oversight Board requesting clarification and proposing a course of action to be taken by the Liquidation Trustee. If the Liquidation Trustee does not receive a written response within three (3) Business Days after receipt of such notice by the Oversight Board, the Liquidation Trustee may take such actions as it deems advisable and consistent with the terms of the Plan and this Agreement. In the event a response to such notice is timely received and a disagreement among the parties as to the correct course of action persists, the Liquidation Trustee shall promptly seek resolution of such matter by the Bankruptcy Court. In the event emergency action is required by the Liquidation Trustee, and the Liquidation Trustee is unable to provide three (3) Business Days’ prior written notice of a conflict, the Liquidation Trustee is authorized to act notwithstanding the perceived conflict in order to avoid irreparable injury or harm to the Trust Assets and its Beneficiaries and shall give such notice, if any, as may be practicable under the circumstances.

**G. Bylaws and Voting; Selection of Chair; Execution of Documents.** The members of the Oversight Board may adopt bylaws. A majority of the members of the Oversight Board shall constitute a quorum. Except with regard to a Unanimous Decision, a majority vote is required for the Oversight Board to act on matters before it. In the case of a tie vote, including a tie vote on any Material Decision, the vote of the Liquidation Trustee shall be taken to break the tie. The Oversight Board may meet and vote in person or telephonically, and each member shall be entitled to receive reasonable notice of any such meeting. The members of the Oversight Board shall select a Chair, and the Chair shall be authorized to execute any document and give any notice provided for herein on behalf of the Oversight Board.

**H. Reporting.** The Liquidation Trustee shall consult with the Oversight Board generally and shall report to the Oversight Board on a regular basis. The Liquidation Trustee shall submit such reports as it deems reasonable to the Oversight Board (but at a minimum quarterly), including, without limitation, reports on the commencement and prosecution of Causes of Action

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and the proceeds of liquidation of the Trust Assets. The Liquidation Trustee shall also report to the Oversight Board, at the request of any member of the Oversight Board, on any matter that reasonably relates to the Trust Assets; provided, however, that in providing such reports the Liquidation Trustee shall not take any action that will in any way infringe on the attorney-client privilege or jeopardize the viability of on-going litigation by reporting on Causes of Action directly or indirectly to any interested parties that may be on the Oversight Board.

**I. No Compensation; Reimbursement of Oversight Board Members.** The members of the Oversight Board shall serve without compensation, except for reimbursement of fees and expenses as provided for in the Plan and this Agreement. Oversight Board Members shall be entitled to reimbursement of their actual and reasonable out of pocket expenses as an Oversight Board Member. The Liquidation Trust shall reimburse each member of the Oversight Board for its respective reasonable and documented expenses, including out-of-pocket expenses relating to airfare, hotel, meals and other travel costs, and postage, telephone and facsimile charges, for work performed on behalf of or relating to the administration of the Liquidation Trust or the Oversight Board, and other necessary expenses. The Oversight Board may, in its discretion, retain Professional Persons. The Liquidation Trust shall pay from time to time all reasonable fees and expenses of such Professional Persons and the actual and reasonable out of pocket expenses of Oversight Board Members, with ten days prior notice to the Oversight Board and the Liquidation Trustee, and without approval or order of the Bankruptcy Court, unless the Oversight Board or Liquidation Trustee objects to all or part of the fees and expenses, in which case the allowance of the disputed portion shall be determined by the Bankruptcy Court.

**J. Termination.** The duties, responsibilities and powers of the Oversight Board shall terminate on the date the Liquidation Trust is dissolved under applicable law in accordance with the Plan.

## **SECTION VI DISTRIBUTIONS**

**A. Application of Trust Assets.** The Liquidation Trustee shall apply Trust Assets only in accordance with this Agreement and the Plan.

**B. Distributions.** The Liquidation Trustee shall distribute at least annually to the Beneficiaries all net cash income plus all net cash proceeds from the liquidation of assets; provided, however, that the Liquidation Trust shall retain such amounts (i) as are necessary to maintain the Disputed Equity Interest Reserve, a Reserve for anticipated Liquidation Trust Expenses, and a Reserve for Liabilities in accordance with the Plan, the Confirmation Order, Order Establishing Reserve Amounts for Disputed Claim of Evolution Capital Management, LLC and Related Indemnity Claims, and Order Establishing Reserve Amount for Disputed Claim of Rajan Vaz, (ii) as are reasonably necessary to meet contingent liabilities and to maintain the value of the assets of the Liquidation Trust during liquidation, (iii) a Reserve for anticipated Liquidation Trust Expenses (including the costs and expenses of the Liquidation Trust, the Liquidation Trustee, and the Oversight Board and the fees, costs and expenses of all professionals retained by the Liquidation Trustee or the Oversight Board, and any taxes imposed on the Liquidation Trust or in respect of the assets of the Liquidation Trust), and (iv) to satisfy other liabilities incurred or assumed by the Liquidation Trust (or to which the assets are otherwise subject) in accordance with the Plan, Confirmation Order or this Liquidation Trust Agreement.

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**C. Reserves Established by Liquidation Trustee.** The Liquidation Trustee shall maintain the Disputed Equity Interest Reserve, a Reserve for anticipated Liquidation Trust Expenses, and a Reserve for Liabilities in accordance with the Plan, the Confirmation Order, Order Establishing Reserve Amounts for Disputed Claim of Evolution Capital Management, LLC and Related Indemnity Claims, and Order Establishing Reserve Amount for Disputed Claim of Rajan Vaz.

**D. Priorities.** Cash available for distribution pursuant to Paragraph B of this Section VI with respect to the Debtor's Estate shall be paid in accordance with the priorities provided for in the Plan.

**E. Fractional and *De Minimis* Distributions.** All fractional distributions shall be administered as provided for in Section 8.11 of the Plan. The Liquidation Trustee shall be authorized to satisfy, cancel and extinguish the interests of those Beneficiaries for a Cash payment where the total value of the Beneficiaries' interest is less than \$500 based on the initial valuation of Trust Assets as set forth in Section II.F of this Agreement. No Cash Distributions shall be required to be made to any Beneficiary in an amount less than \$25.

**F. Undeliverable Distributions.** Any undeliverable distributions shall be administered as provided for in Section 7.5 of the Plan.

**G. Compliance with Laws.** Any and all Distributions made by the Liquidation Trustee shall be in compliance with applicable laws, including, but not limited to, applicable tax, federal and state securities laws and the Liquidation Trustee may withhold from amounts distributable to any Person any and all amounts, determined in the Liquidation Trustee's reasonable sole discretion, to be required by any law, regulation, rule, ruling, directive or other governmental requirement.

**H. Repurchase of Beneficial Interests.** The Liquidation Trustee is authorized to repurchase, satisfy, cancel or extinguish for no consideration Beneficial Interests that are owned by the Debtor or that have been otherwise issued but are not rightfully held by a Beneficiary.

## SECTION VII REPORTS, TAX MATTERS, BOOKS AND RECORDS

**A. Initial Valuation.** The Liquidation Trustee shall file with the Bankruptcy Court as soon as practicable after the Effective Date an initial valuation of the Trust Assets, as more particularly described in Section II.F of this Agreement.

**B. Annual Financial Statements and Statement to Beneficiaries.** As soon as practicable after the end of each calendar year and as soon as practicable upon termination of the Liquidation Trust, the Liquidation Trustee shall (i) submit to the Bankruptcy Court and the

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Oversight Board financial statements of the Liquidation Trust at the end of such calendar year or period and the receipts and disbursements of the Liquidation Trust for such period, and (ii) subject to Section VII.D, mail to each Beneficiary a separate statement for each Beneficiary setting forth such Beneficiary's share of items of income, gain, loss, deduction or credit and advise all such Beneficiaries to report such items on their federal and state income tax returns, except as otherwise provided for U.S. federal income tax purposes in the event that the Liquidation Trustee timely elects to treat any portion of the Liquidation Trust as a "disputed ownership fund" pursuant to § 1.468B-9(c)(2)(ii) of the Treasury Regulations.

**C. Quarterly Filings with Bankruptcy Court and U.S. Trustee.** From the Effective Date until a Final Decree is entered, the Liquidation Trustee shall, within 45 days of the end of each calendar quarter, file with the Bankruptcy Court and submit to the U.S. Trustee quarterly reports setting forth all receipts and disbursements of the Liquidation Trust as required by the U.S. Trustee guidelines.

**D. Federal Income Tax.** Except to the extent that any portion of the Liquidation Trust is treated as a "disputed ownership fund" or a "qualified settlement fund" for U.S. federal income tax consequences, the following shall apply:

1. **Tax Reporting.** Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Liquidation Trustee of a private letter ruling if the Liquidation Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidation Trustee), the Liquidation Trustee shall file returns for the Liquidation Trust as a grantor trust pursuant to Treasury Regulation § 1.671-4(a).
2. **Allocations of Liquidation Trust Taxable Income.** Items of income, gain, loss, expense, and other tax items will be allocated to those Beneficiaries that would be entitled to receive such items if they constituted Cash distributions or reductions therefrom, and such Beneficiaries shall be responsible for the payment of taxes on a current basis that result from such allocations.

**E. Other Filings.** The Liquidation Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the Liquidation Trust that are required to be filed under applicable law, guidelines, rules and regulations of any Governmental Authority.

**F. Disputed Ownership Fund–Tax Effect.** Notwithstanding anything in this Agreement to the contrary, in the event that the Liquidation Trustee timely elects to treat any portion of the Liquidation Trust subject to Disputed Claims as a "disputed ownership fund" pursuant to § 1.468B-9(c)(2)(ii) of the Treasury Regulations, any holders of Claims who, as of the Effective Date, are holders of Disputed Claims shall, to the extent of such Disputed Claims, not be treated as having received any portion of the Assets as to which legal or beneficial title is transferred to the Liquidation Trust hereunder and shall not be deemed grantors of the Liquidation Trust to the extent of such Disputed Claims for U.S. federal income tax purposes, but rather shall be subject to U.S. federal income taxation in accordance with rules set forth in Section 468B of the Internal Revenue Code and the Treasury Regulations thereunder.

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**G. Qualified Settlement Fund–Tax Effect.** In the event that any portion of the Pan Trust is treated as a “qualified settlement fund” pursuant to § 1.468B-1 of the Treasury Regulations, the U.S. federal income tax consequences shall be determined in accordance with rules set forth in Section 468B of the Internal Revenue Code and the Treasury Regulations thereunder.

**H. Books and Records.** The Liquidation Trustee shall maintain books and records relating to the Trust Assets, the income of the Liquidation Trust, and the payment of expenses of, the liabilities of or assumed by, and the Claims against the Liquidation Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof in accordance with applicable law. Such books and records shall be maintained on a modified Cash or other comprehensive basis of accounting necessary to facilitate compliance with the tax reporting requirements of the Liquidation Trust. Except for reports required by this Section VII, nothing in this Agreement requires the Liquidation Trustee to file any accounting with respect to Trust Assets. Holders of the Beneficial Interests shall have the right upon thirty (30) days’ prior written notice delivered to the Liquidation Trustee to inspect such books and records (including financial statements), subject, however, to the requesting Person entering into a confidentiality agreement, satisfactory in form and substance to the Liquidation Trustee, prior to such inspection. Nothing in this Agreement provides any Beneficiary with a right to review, inspect, seek discovery of or otherwise obtain any information that is privileged or subject to a third party’ s rights of privacy or confidentiality.

## SECTION VIII LIMITATION OF LIABILITY

**A. Exculpation.** Neither the Liquidation Trustee nor any member of the Oversight Board, nor their respective employees, professionals, agents, representatives or designees, including any Trust Administrator, nor any director, officer or manager of the Debtor or any of its subsidiaries who held such position on or after the Effective Date (each, a “Liquidation Trust Exculpated Party” and collectively, the “Liquidation Trust Exculpated Parties”), shall be liable for any Claims, Equity Interests, causes of action, liabilities, obligations, losses, damages, costs and expenses (including attorneys’ fees and expenses), and other assertions of liability (collectively “Liquidation Trust Released Claims”) arising out of the discharge of the powers and duties conferred upon the Liquidation Trustee or the Oversight Board by this Agreement, the Plan or any Order of the Bankruptcy Court, or requested to be performed by the Liquidation Trustee or any member of the Oversight Board, other than for Liquidation Trust Released Claims determined by a Final Order to have arisen or resulted solely from such Liquidation Trust Exculpated Party’ s gross negligence or willful misconduct. Any action taken or omitted to be taken with the approval of the Bankruptcy Court or the Oversight Board will conclusively be deemed not to constitute gross negligence or willful misconduct. With regard to the investment of Trust Assets, no Liquidation Trust Exculpated Party shall have any liability for any decision regarding the investment of Trust Assets if that investment decision is approved by the Oversight Board or the Bankruptcy Court. No holder of a Claim or other Person will have or be permitted to pursue any Claim or cause of action against any Liquidation Trust Exculpated Party for making or approving, or not making or approving, payments or Distributions in accordance with the Plan or for implementing the provisions of the Plan. The

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Liquidation Trustee and the members of the Oversight Board shall have absolute discretion to pursue or not to pursue any and all Claims, Causes of Action, or other matters, activities or things as it determines is in the best interests of the Beneficiaries using their reasonable business judgment and consistent with the purposes of the Liquidation Trust, and shall have no liability for the outcome of their decisions, except as provided in this paragraph. The Liquidation Trustee shall be entitled to enjoy all of the rights, powers, immunities and privileges applicable to a chapter 7 trustee under the Bankruptcy Code and the Oversight Board shall be entitled to enjoy all of the rights, powers, immunities and privileges of an official committee of equity holders under the Bankruptcy Code. Each of the Liquidation Trustee and the members of the Oversight Board, may, in connection with the performance of its respective functions, and in its sole and absolute discretion, consult with its attorneys, accountants, financial advisors and agents, and shall not be liable for any act taken, not taken, or suffered to be done in accordance with advice or opinions rendered by such persons, regardless of whether such advice or opinions are provided in writing. Notwithstanding such authority, neither the Liquidation Trustee nor any member of the Oversight Board shall be under any obligation to consult with its attorneys, accountants, financial advisors or agents, and their determination not to do so shall not result in the imposition of liability on the Liquidation Trustee or such member or any other Liquidation Trust Exculpated Party, unless such determination is determined by a Final Order to be solely due to such Liquidation Trust Exculpated Party' s gross negligence or willful misconduct.

**B. Indemnification.** To the fullest extent permitted by applicable law, the Liquidation Trust shall indemnify, defend and hold harmless each Liquidation Trust Exculpated Party from and against any and all Liquidation Trust Released Claims arising out of or resulting from such Liquidation Trust Exculpated Party' s acts or omissions, or consequences of such acts or omissions, with respect to the implementation or administration of the Liquidation Trust or the Plan or the discharge of its duties hereunder or thereunder, or at the request of the Liquidation Trustee or any member of the Oversight Board, including without limitation, relating to any action, suit, proceeding or investigation brought by or threatened against such Liquidation Trust Exculpated Party; provided, however, that no such indemnification will be made to such Liquidation Trust Exculpated Party for Liquidation Trust Released Claims determined by a Final Order to have arisen or resulted solely from such Liquidation Trust Exculpated Party' s gross negligence or willful misconduct. All Liquidation Trust Released Claims for which indemnity is provided under this Agreement to any Liquidation Trust Exculpated Party shall be payable on demand from Trust Assets prior to payment to Beneficiaries from Trust Assets. The Liquidation Trustee may commit the Liquidation Trust to indemnify any Liquidation Trust Exculpated Party in accordance with the terms of this Section in any engagement letter or contract that the Liquidation Trustee may enter into in connection with hiring or retaining such third parties pursuant to this Agreement.

## SECTION IX SUCCESSOR LIQUIDATION TRUSTEE

**A. Removal.** A holder of an Allowed Class 3A Equity Interest, including a member of the Oversight Board, upon application, and upon a showing of willful misconduct or gross negligence and upon prior notice to the Liquidation Trustee and the Liquidation Trust Oversight Board, may move the Bankruptcy Court to remove the Liquidation Trustee from its role as Liquidation Trustee. The movant shall have the burden of establishing such cause as aforesaid for such requested removal. The Oversight Board may remove the Liquidation Trustee at any time by written notice to the Liquidation Trustee.

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**B. Resignation; Death.** In the event of the resignation or removal, death, or incapacity of the Liquidation Trustee, the Oversight Board shall designate another Person to become Liquidation Trustee and such successor Liquidation Trustee, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor, under terms to be agreed by the successor Liquidation Trustee and the Oversight Board. In the event of extended delay by the Oversight Board to appoint a successor, the Bankruptcy Court shall appoint a successor. In the event of the resignation of the Liquidation Trustee, the Liquidation Trustee shall remain as the Liquidation Trustee until such time as the Liquidation Trust Oversight Board, or the Bankruptcy Court if the Liquidation Trust Oversight Board fails to act within thirty (30) days of resignation, designates a successor.

**C. Continuation of Liquidation Trust.** The death, resignation or removal of the Liquidation Trustee shall not operate to terminate the Liquidation Trust created by this Agreement or revoke any existing agency created pursuant to the terms of this Agreement or invalidate any action taken by the Liquidation Trustee. The Liquidation Trustee agrees that the provisions of this Agreement shall be binding upon and inure to the benefit of the Liquidation Trustee and the Liquidation Trustee's successors or assigns. In the event of the resignation or removal of the Liquidation Trustee, the Liquidation Trustee shall (if alive and competent) promptly perform each of the following:

1. execute and deliver by the effective date of resignation or removal instruments conveying and transferring to such successor Liquidation Trustee under the Liquidation Trust all the estates, properties, rights, powers, and trusts of such predecessor Liquidation Trustee, and such other documents, instruments and other writings as may be reasonably required by the successor Liquidation Trustee to effect the termination of the resigning or removed Liquidation Trustee's capacity under this Agreement;
2. deliver to the successor Liquidation Trustee all documents, instruments, records and other writings relating to the Liquidation Trust as may be in the possession or under the control of the resigning or removed Liquidation Trustee, and
3. assist and cooperate in effecting the assumption of the resigning or removed Liquidation Trustee's obligations and functions by the successor Liquidation Trustee.

The resigning or removed Liquidation Trustee hereby appoints the successor Liquidation Trustee as its attorney-in-fact and agent with full power of substitution and in its name, place and stead to do any and all such acts that such resigning or removed Liquidation Trustee is obligated to perform under this Section. This power of attorney is coupled with an interest and is irrevocable.

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**SECTION X**  
**EVIDENCE OF AND NON-TRANSFERABILITY OF BENEFICIARY' S INTERESTS**

**A. Beneficial Interests Maintained in Book Entry Form.** All Beneficial Interests shall be uncertificated and deemed issued by book entry only, in the register maintained by the Liquidation Trustee.

**B. Non-Transferability of Beneficial Interests.** Subject to Section X.C below, the Beneficial Interests are non-transferable. Any purported assignment, pledge, mortgage, sale, transfer or other disposition other than as permitted by Section X.C below shall be void and will not be registered on the register maintained by the Liquidation Trustee.

**C. Limited Exception to Non-Transferability of Beneficial Interests.** The Beneficial Interests of any Beneficiary in the Liquidation Trust are not transferable except after written notice to the Liquidation Trustee *only*: (i) pursuant to applicable laws of descent and Distribution (as in the case of a deceased individual Beneficiary); or (ii) by operation of law (as in the case of a merger of a Beneficiary that is an entity or divorce). The Liquidation Trustee shall not be required to record any transfer in favor of any transferee which, in the sole discretion of the Liquidation Trustee, is or might be construed to be ambiguous or to create uncertainty as to the holder of the interest in the Liquidation Trust or constitute a violation of applicable laws or might cause the Liquidation Trust to be required to register the Beneficial Interests in the Liquidation Trust under the Securities Act of 1933, as amended, the Securities Exchange Act of 1934, as amended, and any other applicable federal, state and local laws requiring registration of securities. Until a transfer of a Beneficial Interest is in fact recorded on the books and records maintained by the Liquidation Trustee for the purpose of identifying Beneficiaries, the Liquidation Trustee, whether or not in receipt of documents of transfer or other documents relating to the transfer, may nevertheless make distributions and send communications to Beneficiaries, as though it has no notice of any such transfer, and in so doing the Liquidation Trustee shall be fully protected and incur no liability to any purported transferee or any other Person.

**D. Beneficial Interests in Liquidation Trust Not a Security.** To the extent that the Beneficial Interest (or any underlying economic or other interest or part thereof) are deemed to be "securities", the issuance of Beneficial Interests under the Plan shall be exempt, pursuant to § 1145 of the Bankruptcy Code, from registration under any applicable federal, state and local laws requiring registration of securities. If the Liquidation Trustee determines, with the advice of counsel, that the Liquidation Trust is required to comply with registration and reporting requirements of the Securities Exchange Act of 1934, as amended (the "Exchange Act"), or the Investment Company Act of 1940, as amended (the "Investment Company Act"), then the Liquidation Trustee shall take any and all actions to comply with such registration and reporting requirements, if any, and file periodic reports with the Securities and Exchange Commission (the "SEC") after the filing of a motion with the Bankruptcy Court seeking approval to do so, and the entry of a Final Order of the Bankruptcy Court so directing, Notwithstanding the foregoing procedure, if the Liquidation Trustee determines, with the advice of counsel, that the Liquidation Trust is required to comply with the registration and reporting requirements of the Exchange Act or the Investment Company Act, then prior to the registration of the Liquidation Trust under the Exchange Act or the Investment Company Act, the Liquidation Trustee in consultation with the Oversight Board shall seek to amend this Agreement to make such changes as are deemed

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necessary or appropriate to ensure that neither the Liquidation Trust nor the Beneficial Interests (or any underlying economic or other interest or part thereof) is subject to registration or reporting requirements of the Exchange Act, or the Investment Company Act, and this Agreement, as so amended, shall be effective after notice and opportunity for and the entry of a Final Order of the Bankruptcy Court. If the Agreement, as amended, is not approved by Final Order of the Bankruptcy Court or the Bankruptcy Court otherwise determines in a Final Order that registration under one or both of the Exchange Act or Investment Company Act is required, then the Liquidation Trustee shall take such actions as may be required to satisfy the registration and reporting requirements of the Exchange Act and/or the Investment Company Act, as applicable.

## SECTION XI MISCELLANEOUS

**A. Amendment; Waiver.** This Agreement cannot be amended or waived without the majority vote of the Oversight Board (or, in the event that there are less than three (3) members then serving, the unanimous vote of the Oversight Board) and the consent of the Liquidation Trustee; provided, however, that no change shall be made to this Agreement that would adversely affect the federal income tax status of the Liquidation Trust as a “grantor trust” in accordance with Section VII.D. All amendments to this Agreement shall be in writing and signed by the Liquidation Trustee and the Chair of the Oversight Board.

**B. Intention of Parties to Establish Grantor Trust.** This Agreement is intended to create a grantor trust for United States federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as a grantor trust.

**C. Successor; Preservation of Privilege.** The Liquidation Trust shall be the successor to the Debtor and/or the Equity Committee for the purposes of §§ 1123, 1129, 1142 and 1145 of the Bankruptcy Code and with respect to all Causes of Action and other litigation-related matters. In connection with the rights, Claims, and Causes of Action that constitute the Trust Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written, or oral) transferred to the Liquidation Trust shall vest in the Liquidation Trust and its representatives, and the Debtor, the members of the Equity Committee, and the Liquidation Trustee are authorized and directed to take all necessary actions to effectuate the transfer of such privileges. The Liquidation Trustee and the Oversight Board shall be deemed to have a joint and common interest and, as such, communications among the Liquidation Trustee and the Oversight Board shall be protected from disclosure. The Liquidation Trustee may waive its attorney-client privilege with respect to any Cause of Action or other litigation-related matter, or portion thereof, in the Liquidation Trustee’s discretion, subject to the approval of the Oversight Board.

**D. Bankruptcy Court Jurisdiction.** As provided in Article 12 of the Plan, the Bankruptcy Court has and shall retain post-Confirmation jurisdiction over all controversies, suits and disputes that may arise under this Agreement, including, without limitation, the interpretation or enforcement of this Agreement, the distribution of Trust Assets (including without limitation the

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Persons entitled to receive any distribution and jurisdiction over any interpleader action that the Liquidation Trustee may file in the Bankruptcy Court to determine the identity of such Persons), the maintenance or liquidation of any Entity Assets by any Liquidation Trust Entity, the maintenance or liquidation of any Retained Assets by any Debtor, any petition to remove the Liquidation Trustee, and any disputes between the Liquidation Trustee, the Liquidation Trust, the Oversight Board, and holders of Claims or Interests. The Liquidation Trustee shall also have standing in any such proceeding to represent and enforce the rights of the Liquidation Trust and the Beneficiaries arising under this Agreement or the Plan, and the Oversight Board shall have standing in any such proceeding to appear. Any and all Claims against or disputes to which the Liquidation Trustee or the Oversight Board is a party regarding this Agreement, the amount of distributions to be made hereunder or under the Plan, or the Persons to whom such distributions should be remitted, are subject to the exclusive jurisdiction of the Bankruptcy Court, to the extent the Bankruptcy Court has retained post-Confirmation jurisdiction over such matter.

**E. Books and Records.** On the first Business Day following the formation of the Liquidation Trust, or as soon as practicable thereafter, the Debtor shall provide and the Liquidation Trust shall take possession, custody, and control of all books and records of Debtor, including, without limitation, all books and records necessary to the making of distributions, prosecution of objections to Equity Interests, prosecution of Causes of Action, and the analysis, recovery and disposition of the Trust Assets. All such books and records shall be preserved for so long as may be necessary for the prosecution or defense of any Causes of Action, or any Equity Interest objection filed by the Liquidation Trust, after which the Liquidation Trust shall be authorized and empowered to abandon and/or destroy said books and records, in the Liquidation Trustee's discretion, after providing a notice of abandonment pursuant to the Bankruptcy Code and Bankruptcy Rules which shall only be served on the Liquidation Trust Oversight Board and the SEC.

**F. Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Georgia, without giving effect to rules governing the conflict of law.

**G. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall be determined by a Final Order of a court of competent jurisdiction to be invalid or unenforceable to any extent, then (a) such provision shall be deemed enforceable only to the extent necessary to comply with applicable law, as applied to any Persons or circumstances as to which it is held invalid or unenforceable, and shall be enforced as so modified to the fullest extent permitted by law, and (b) the remainder of this Agreement, and the application of such provision to Persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby and shall be valid and enforced to the fullest extent permitted by law.

**H. Notices.** All notices, demands, consents, requests and other communications required or permitted to be given or made hereunder (collectively, "Notices"), except as otherwise specifically provided in this Agreement, shall be in writing, addressed to such party at its address as set forth below, and either (a) delivered in person, (b) mailed, by certified, registered or express mail, postage prepaid, (c) sent in a prepaid overnight delivery envelope via a nationally-recognized courier service (such as Federal Express), (d) faxed, or (e) sent by e-mail; provided that any party may change its address for notice by designating such party's new address, facsimile number or e-mail address in a Notice to the sending party given at least five (5) Business Days before it shall

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become effective. All Notices shall be conclusively deemed to have been properly given when received or, if addressed in accordance with this Section and (1) if delivered in person, upon receipt, (2) if mailed by certified, registered or express mail, postage prepaid, on the third (3rd) Business Day after being deposited in the mails, (3) if sent by nationally-recognized courier service, on the next Business Day, (4) if faxed, when sent if confirmation of the transmission is shown on the sending machine, and (5) if e-mailed, when sent if no delivery failure message is received.

**If to the Debtor:**

CDC Corporation  
c/o Marcus A. Watson  
Finley, Colmer and Company  
5565 Glenridge Connector, Ste. 200  
Atlanta, GA 30342  
Facsimile: (678) 579-5808  
E-mail: [marc@finleycolmer.net](mailto:marc@finleycolmer.net)

With a copy to:  
Lamberth, Cifelli, Stokes, Ellis & Nason, P.A.  
3343 Peachtree Road, N.E  
East Tower, Suite 550  
Atlanta, GA 30326  
Attn: Gregory D. Ellis  
Facsimile: (404) 262-9911  
E-mail: [gellis@lcsenlaw.com](mailto:gellis@lcsenlaw.com)

**If to the Liquidation Trustee:**

Marcus A. Watson  
Finley, Colmer and Company  
5565 Glenridge Connector, Ste. 200  
Atlanta, GA 30342  
Facsimile: (678) 579-5808  
E-mail: [marc@finleycolmer.net](mailto:marc@finleycolmer.net)

With a copy to:  
Troutman Sanders LLP  
600 Peachtree Street  
Suite 5200  
Atlanta, GA 30308  
Attn: Jeffrey W. Kelley  
Facsimile: (404) 962-6847  
E-mail: [jeff.kelley@troutmansanders.com](mailto:jeff.kelley@troutmansanders.com)

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And also a copy to:  
Lamberth, Cifelli, Stokes, Ellis & Nason, P.A.  
3343 Peachtree Road, N.E  
East Tower, Suite 550  
Atlanta, GA 30326  
Attn: Gregory D. Ellis  
Facsimile: (404) 262-9911  
E-mail: [gellis@lcsenlaw.com](mailto:gellis@lcsenlaw.com)

**If to members of the Oversight Board:**

Jeffery P. Minor  
5848 Mitchaw Rd.  
Sylvania, OH 43650  
Email: [jsjmm@yahoo.com](mailto:jsjmm@yahoo.com)

Henderson Construction Co., Inc.  
c/o Greg Henderson  
6 Power Way  
Stafford, VA 22554  
Fax: 540-374-3463  
Email: [lnkstr30@comcast.net](mailto:lnkstr30@comcast.net)

Diane R. Antasek  
c/o Ron Antasek  
4093 SW 98 St.  
Ocala Fl. 34476  
Email: [rja4dra4@yahoo.com](mailto:rja4dra4@yahoo.com)

**I. Notices if to a Beneficiary.** Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if given by means reasonably calculated to apprise the Beneficiary.

**J. Third-Party Beneficiary.** There shall be no third-party beneficiaries of the Liquidation Trust; provided, however, that the Oversight Board shall be an express third-party beneficiary hereof.

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

**L. Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument. A facsimile copy of a signature page is the equivalent of an original signature page.

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**M. Definitions; Rules of Construction.** Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in the Plan. References to a “Section” or “§” shall be to a Section to this Agreement unless otherwise specifically provided. Any term defined therein may be used in the singular or plural. The terms “include,” “includes” and “including” shall be deemed to be followed by “without limitation.” All pronouns used therein shall be deemed to cover all genders. Except as otherwise specified or limited therein, references to any Person include the successors and assigns of such Person. References “from” or “through” any date mean, unless otherwise specified, “from and including” or “through and including,” respectively. Unless otherwise specified therein, all payments described or references to “\$” therein shall refer to United States Dollars. References to any agreement, instrument or document shall include all schedules, exhibits, annexes and other attachments thereto.

[Signatures on following page]

- 30 -

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

SIGNED, SEALED AND )  
DELIVERED by the **DEBTOR**, )  
**CDC CORPORATION**, )  
) /s/ Marcus A. Watson  
) **Marcus A. Watson**, in his capacity as  
) Director of CDC Corporation and  
) Chief Restructuring Officer of the Debtor

**LIQUIDATION TRUSTEE:** )  
) /s/ Marcus A. Watson  
) **Marcus A. Watson**, in his personal capacity

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Exhibit A

Engagement Letter

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Exhibit B

Retained Assets

The Effective Date Available Cash, as defined in the Plan and in the amount approved by the Bankruptcy Court.

Dated: 19 December, 2012

**CDC CORPORATION**

**and**

**MARCUS A. WATSON, as the trustee of the  
CDC LIQUIDATION TRUST**

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**DEED OF ASSIGNMENT**

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SOLOMON HARRIS

Attorneys-at-Law

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FirstCaribbean House  
PO Box 1990 GT  
Grand Cayman, Cayman Islands

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Tel: 345-949-0488 Fax: 345-949-0364

[www.solomonharris.com](http://www.solomonharris.com)

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**THIS DEED OF ASSIGNMENT** is made on the \_\_\_ day of December, 2012

**BETWEEN:**

**CDC CORPORATION**, a company formed under the laws of the Cayman Islands, having a registered office situate at the offices of Offshore Incorporations (Cayman) Limited, Scotia Centre, 4<sup>th</sup> Floor, P.O. Box 2804, George Town, Grand Cayman, Cayman Islands (the “Assignor”); and

**MARCUS A. WATSON**, as the initial Liquidation Trustee of the CDC Liquidation Trust, a trust created under or pursuant to the Laws of the State of Georgia, in the United States of America (the “Assignee”)

**WHEREAS:**

1. The Assignor filed a petition for relief under chapter 11 of the Bankruptcy Code in the Bankruptcy Court.
2. The Assignor is a debtor and a debtor in possession for the purposes of the Bankruptcy Code.
3. The Assignor proposes to satisfy various claims made against in accordance with the terms of the Plan.
4. In accordance with the Plan, a liquidation trust, known as the CDC Liquidation Trust, shall be established on behalf of, and for the benefit of, holders of common shares, equity rights, restricted stock awards and option interests of the Assignor (collectively, the “Equity Interests”).
5. In order to satisfy certain claims made by holders of Equity Interests, the Assignor has agreed to transfer certain assets to the CDC Liquidation Trust.
6. The assets of the Assignor include cash and the Shares.

**NOW THIS DEED WITNESSETH** as follows:

1. **INTERPRETATION**

Words and expressions used in this Deed shall have the following meanings.

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“**Allowed Equity Interest**” has the meaning set out in the Plan.

“**Assets**” has the meaning set out in the Plan.

“**Assignee**” means Marcus A. Watson, as the Initial Liquidation Trustee.

“**Assignor**” means CDC Corporation.

“**Bankruptcy Code**” means Title 11 of the United States Code, 11 U.s.c. §§ 101, *et seq.*, and as such title has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Chapter 11 Case.

“**Bankruptcy Court**” means the United States Bankruptcy Court for the Northern District of Georgia, or such other court having jurisdiction over the Chapter 11 Case or any proceeding within, or appeal of an order entered in, the Chapter 11 Case.

“**CDC Liquidation Trust**” means the liquidation trust established pursuant to Section 7.8 of the Plan in accordance with the Liquidation Trust Agreement.

“**Chapter 11 Case**” means the bankruptcy case of CDC Corporation pending before the Bankruptcy Court, and bearing case number 11-79079 (PWB).

“**Completion**” has the meaning described in Clause [ ] of this Deed.

“**Consideration**” means the consideration described in Clause [ ] of this Deed.

“**Debtor**” means CDC Corporation, a company formed under the laws of the Cayman Islands, having a registered office situate at the offices of Offshore Incorporations (Cayman) Limited, Scotia Centre, 4<sup>th</sup> Floor, P.O. Box 2804, George Town, Grand Cayman, Cayman Islands, as debtor and debtor in possession in the Chapter 11 case.

“**Effective Date**” means the 19<sup>th</sup> day of December, 2012.

“**Equity Committee**” has the meaning set out in the Plan

“**Equity Interests**” has the meaning set out in the Plan.

“**Liquidation Trust Agreement**” means the agreement to be executed between the initial Liquidation Trustee and the Debtor establishing CDC Liquidation Trust under or pursuant to the Laws of the State of Georgia, in the United States of America.

“**Liquidation Trust Interests**” means that number of beneficial interests in the Liquidation Trust equal to aggregate number of Allowed Equity Interests as at the Effective Date.

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“**Liquidation Trustee**” means the person and any successor thereto, which shall be appointed as the trustee of the CDC Liquidation Trust (or any successor trust) in accordance with the Confirmation Order and Plan, and “**Initial Liquidation Trustee**” means Marcus A. Watson.

“**Plan**” means the First and Second Amended Joint Plan of Reorganization for CDC Corporation, together with any exhibits, the Plan Supplement and any amendments or modifications as the Proponents may file hereafter in accordance with the terms of the Plan.

“**Plan Supplement**” has the meaning set out in the Plan.

“**Proponents**” means CDC Corporation, as the Debtor, and the Equity Committee.

“**Retained Assets**” means those assets set out in Exhibit B to the Liquidation Trust Agreement, including, without limitation, the urls legally or beneficially owned or held by the Debtor or both, whether registered or unregistered, and including applications or rights to apply for them and together with all extensions and renewals of them, and in each and every case, all rights or forms of protection applicable to ownership of such urls effective anywhere in the world.

“**Shares**” means all of the shares of the Subsidiaries and the shares of E2-Capital (Holdings) Limited, Mgame Corp. and China.com Inc. held by CDC Corporation as at the Effective Date.

“**Subsidiaries**” means the corporations and companies that are wholly owned directly by CDC Corporation as at the Effective Date, including, without limitation, CDC Software International Corporation, Lucky Victoria Limited, CDC Delaware Corp., china.dom Investment Holdings Limited, china.com Strategic, Inc., china.com Studios Inc., CDC Cloud, Inc., chinadotcom IP Limited, CCC Nominees Limited, CDC Mobile Corporation, CDC Acquisition Corporation, CDC Asia Acquisition Corporation, chinadotcom Finance Corporation Limited, chinadotcom Secretarial Services Limited, CDC Multimedia Group Limited, CDC Games International Corporation, and chinadotcom Mobile Interactive Corporation.

“**Transferred Assets**” means all Assets other than the Retained Assets, including, without limitation, the Shares.

## 2. ASSIGNMENT

The Assignor hereby assigns, transfers, conveys and sets over unto the Assignee all of the Assignor’ s legal and beneficial ownership, right, title and interest in and to the Transferred Assets, TO HOLD for the sole benefit of the Assignee absolutely.

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The Assignee hereby accepts the assignment, transfer and conveyance of the entire interest of the Assignor in and to the Transferred Assets, from and after the Effective Date.

**3. CONSIDERATION**

As Consideration for the assignment by the Assignor to the Assignee of the Transferred Assets, the Assignee hereby agrees to issue, and the Assignor agrees to accept as payment in full, that number of Liquidation Trust Interests equal to the number of Allowed Equity Interests as sole Consideration for the assignment of the Transferred Assets.

**4. ENTIRE AGREEMENT**

This Deed contains the entire agreement between the parties hereto pertaining to the subject matter hereof and fully supersedes all prior written or oral agreements and understandings between the parties pertaining to such subject matter.

**5. CONFIDENTIALITY**

No Party shall disclose any information relating to the Intellectual Property or any information provided by a Party to the other Party without the prior written consent from the appropriate Party unless:

- (a) it is commercially customary to do so and such disclosure would not breach any applicable laws;
- (b) such disclosure is necessary for the performance of this Deed, including, without limitation, the Completion of this Deed;
- (c) if such disclosure is required by any applicable law or in connection with any litigation pertaining to the Intellectual Property or this Deed; or
- (d) such information is known to the recipient to whom the disclosure is made, is in the public domain or is generally known at the time of disclosure.

**6. COMPLETION**

This Deed shall not be considered to be completed and fully performed until such time as all indicia of ownership of the Transferred Assets are in the name of the Assignee. From and after the Effective Date, the Assignor shall take all steps and do all things necessary or desirable to ensure or procure that all indicia of

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ownership of the Transferred Assets, including, without limitation, the Shares, are transferred into the name of the Assignee. For greater certainty, commencing on and after the Effective Date, the Assignor shall act as a bare trustee of the Transferred Assets and as the agent of the Assignee, whether or not such agency is disclosed to a third party, with respect to such Transferred Assets until such time as all indicia of ownership of the Transferred Assets are in the name of the Assignee.

**7. FURTHER ASSURANCES**

Each party agrees that it will execute and deliver such other documents and take such other action, whether prior or subsequent to the date hereof, as may be reasonably requested by the other party to consummate the transaction contemplated by this Deed. The provisions of this Clause 7 shall survive Completion.

**8. COUNTERPARTS**

This Deed may be executed in counterparts, all such executed counterparts shall constitute the same agreement, and the signature of any party to any counterpart shall be deemed a signature to, and may be appended to, any other counterpart.

**9. NOTICES**

Any demand, notice or other communication in connection with this Deed will be in writing and will be deemed to have been duly delivered if given or made as follows:-

- (a) if sent by domestic post, on the fourth Business Day after the date of posting;
- (b) if sent by international post, on the tenth Business Day after the date of posting;
- (c) if delivered by hand, upon delivery at the address provided for in this Deed; or
- (d) if sent by facsimile or other means of electronic transmission, on the day of successful transmission.

provided that, if it is delivered by hand or sent by facsimile or other electronic transmission on a day which is not a Business Day or after 4 p.m. on a Business Day, it will be deemed to have been given or made on the next Business Day.

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**10. SEVERABILITY**

If any provision of this Deed is determined by a court of competent jurisdiction to be invalid or unenforceable, the remainder of this Deed shall nonetheless remain in full force and effect, provided that the invalidity or unenforceability of such provision does not materially adversely affect the benefits accruing to any party hereunder.

**11. GOVERNING LAW AND JURISDICTION**

This Deed is governed by Cayman Islands law and the Assignor and the Assignee hereby submit to the non-exclusive jurisdiction of the courts of the Cayman Islands in respect of any dispute which might arise under or in relation to this Deed.

**12. THIRD PARTIES**

The provisions of this Deed and of the documents to be executed and delivered pursuant to the Deed are and will be for the benefit of the Assignor and Assignee only and are not for the benefit of any third party, and accordingly, no third party shall have the right to enforce the provisions of this Deed or of the documents to be executed and delivered at Completion.

**13. CAPTIONS**

The section headings appearing in this Deed are for convenience of reference only and are not intended, to any extent and for any purpose, to limit or define the text of any section or any subsection hereof.

**14. CONSTRUCTION**

The parties acknowledge that the parties and their counsel have reviewed and revised this Deed and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Deed or any exhibits or amendments hereto.

**15. ASSIGNMENT**

This Deed shall not be assignable by a party except with the prior written consent of the other party, which consent will not be unreasonably withheld. This Deed shall be binding upon the successors and permitted assigns of both parties hereto.

16. **DEFAULT**

In the event of any dispute and/or default between the Assignor and Assignee arising under this Deed, the non-prevailing party shall pay to the prevailing party all fees (including reasonable attorneys' fees) costs, and charges arising as a result of such dispute.

**IN WITNESS WHEREOF** the parties hereto have caused this Deed to be duly executed the day first hereinbefore written.

EXECUTED as a DEED by )  
**CDC CORPORATION** )  
 )  
 ) /s/ Marcus A. Watson  
 ) \_\_\_\_\_  
 ) Marcus A. Watson  
 ) Director

EXECUTED as a DEED by )  
**MARCUS A. WATSON**, as the trustee )  
CDC Liquidation Trust )  
in the presence of:- )  
 )  
 ) /s/ Marcus A. Watson  
 ) \_\_\_\_\_  
 ) Marcus A. Watson  
 ) Initial Liquidation Trustee

/s/ Debbie Cruz  
\_\_\_\_\_  
Witness

Name of Witness: Debbie Cruz

**CDC CORPORATION****DISTRIBUTION CALCULATION SCHEDULE FOR EQUITY–WITH EVOLUTION SETTLEMENT**

Sale Proceeds from CDC Software Shares Available for Distribution after Reserves (as of 10/31/12)	\$ 88,146,778.99
Additional Funds from Evolution Settlement	\$ 32,644,005.05
Deemed Exercise from APOL of \$2.61 Options	\$ 5,163,446.52
<b>Gross-up Distribution for Calculation</b>	<b>\$ 125,954,230.56</b>

**Share Calculation**

Book Shares Cusip G22022L11	45,458,419
Certificated Shares Cusip G2022L10	54,047
<b>Shares Per Position List</b>	<b>45,512,466</b>

Excluded Treasury, out of money options and Repricings Excluding APOL	9,355,399
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OUTSTANDING SHARES BEFORE APOL ADJUSTMENT	36,157,067
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Included APOL \$2.61 Options per APOL Settlement Agreement	1,978,332
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<b>Equity Positions in Distribution Pool with APOL</b>	<b>38,135,399</b>
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<b>APOL' s Equity Position</b>			
APOL \$2.61 OPTIONS-COMPUTERSHARE	1,978,332		
APOL CLASS A COMMON-COMPUTERSHARE	996,293		
APOL RESTRICTED STOCK AWARDS-COMPUTERSHARE	908,411	3,883,036	TOTAL COMPUTERSHARE
APOL CLASS A COMMON-BARCLAYS	1,282,135		
APOL CLASS A COMMON-UBS	1,666,666		
APOL CLASS A COMMON-DB	50,656	2,999,457	TOTAL NOMINAL
APOL' s Total Equity Position	6,882,493		

<b>Equity Positions in Distribution Pool without APOL</b>	<b>31,252,906</b>
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**Distribution Calculation–Assuming Suppression Letters for APOL Shares in Nominal Name**

Distribution Calculation (incl. APOL) prior to effecting APOL Settlement	\$3.30
Exercise Cost for APOL \$2.61 Options	\$5,163,446.52
APOL Distribution after Exercise Cost for \$2.61 Options	\$17,568,166.11
Less Amount due from APOL under APOL Settlement	<u>\$(9,000,000.00 )</u>
<b>Net Distribution to APOL</b>	<b><u>\$8,568,166.11</u></b>
First Distribution excluding APOL	\$103,222,617.93
Secondary Distribution excluding APOL	\$9,000,000.00
Secondary Distribution on \$9 million	\$0.29
<b>Total Distribution except for APOL</b>	<b><u>\$112,222,617.93</u></b>

**Total per Beneficial Interest distribution excluding**

APOL

\$3.59

Total Distribution including APOL

\$120,790,784.04

**Distribution Calculation for APOL-Assuming No Suppression Letters for APOL Shares in****Nominal Name****Distribution to APOL on Nominal Shares****\$9,906,656.59**

Distribution withheld from APOL on Book Shares

(Computershare)

\$12,824,956.04

Exercise Cost for APOL \$2.61 Options

\$5,163,446.52

Amount due from APOL under APOL Settlement

\$9,000,000.00**EXCESS DISTRIBUTION TO APOL****\$(1,338,490.48 )**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

IN RE: ) CHAPTER 11  
)  
CDC CORPORATION ) CASE NO. 11-79079-PWB  
)  
\_\_\_\_\_)

**SECOND AMENDED JOINT PLAN OF REORGANIZATION  
FOR CDC CORPORATION**

Dated: August 29, 2012

Filed by: CDC Corporation, Debtor and Debtor in Possession, and Official  
Committee of Equity Security Holders of CDC Corporation

Attorneys for the Debtor:

Gregory D. Ellis

James C. Cifelli

Sharon K. Kacmarcik

Lamberth, Cifelli, Stokes, Ellis & Nason, P.A.

3343 Peachtree Road, N.E., Suite 550

Atlanta, GA 30326

(404) 262-7373

Attorneys for the Committee

Jeffrey W. Kelley

Stephen S. Roach

Troutman Sanders, LLP

Bank of America Plaza

600 Peachtree Street, N.E., Suite 5200

Atlanta, Georgia 30308-2216

(404) 885-3000

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## TABLE OF CONTENTS

<b>PLAN INTRODUCTION</b>	<b>1</b>
<b>ARTICLE I: DEFINITIONS AND GENERAL PROVISIONS</b>	<b>1</b>
Section 1.1    Definitions	1
Section 1.2    Rules of Interpretation	14
Section 1.3    Time	14
<b>ARTICLE II: METHOD OF CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS; GENERAL PROVISIONS</b>	<b>15</b>
Section 2.1    General Rules of Classification	15
Section 2.2    Holders of Claims and Equity Interests Entitled to Vote	15
Section 2.3    Acceptances by Impaired Classes	15
Section 2.4    Non-Consensual Confirmation	15
Section 2.5    Administrative Claims, Priority Tax Claims, Fee Claims, and Intercompany Obligations	15
<b>ARTICLE III: TREATMENT OF UNCLASSIFIED CLAIMS</b>	<b>15</b>
Section 3.1    Administrative Claims	15
Section 3.2    Priority Tax Claims	16
Section 3.3    Fee Claims	16
Section 3.4    Intercompany Obligations	17
<b>ARTICLE IV: DESIGNATION OF CLASSES OF CLAIMS AND EQUITY INTERESTS</b>	<b>17</b>
Section 4.1    Summary	17
<b>ARTICLE V: TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS</b>	<b>17</b>
Section 5.1    Class 1 - Priority Claims	17
Section 5.2    Class 2 - General Unsecured Claims	18
Section 5.3    Class 3A - Equity Interests	18
Section 5.4    Class 3B - Limited Equity Interests	19
Section 5.5    Class 3C - Subordinated Equity Interests	20
<b>ARTICLE VI: CONDITIONS PRECEDENT</b>	<b>20</b>
Section 6.1    Conditions to Confirmation	20
Section 6.2    Conditions to the Effective Date	20
Section 6.3    Waiver of Conditions	21
<b>ARTICLE VII: MEANS FOR IMPLEMENTATION</b>	<b>21</b>
Section 7.1    Disposition of Trust Assets	21
Section 7.2    No Continued Corporate Existence; Termination of Ownership Rights; Termination of Reporting Requirements	21
Section 7.3    Corporate Action	22

Section 7.4	Disbursing Agent	22
Section 7.5	Undeliverable Distributions	23
Section 7.6	Compensation of the Disbursing Agent	23
Section 7.7	Discharge of Disbursing Agent	24
Section 7.8	Creation and Purpose of the Liquidation Trust	24
Section 7.9	Liquidation Trust and Liquidation Trustee	24
Section 7.10	Transfer of Property to Liquidation Trust	25
Section 7.11	Powers of the Liquidation Trustee	25
Section 7.12	Settlement	27
Section 7.13	Investments	27
Section 7.14	Tax Treatment of Liquidation Trust	27
Section 7.15	Withholding and Reporting Requirements	28
Section 7.16	Debtor' s Books and Records	28
Section 7.17	Limitation of Liability of Liquidation Trustee	28
Section 7.18	Resignation, Death, or Removal of Liquidation Trustee	28
Section 7.19	Termination of Liquidation Trust	29
Section 7.20	Liquidation Trust Oversight Board	29
Section 7.21	Compensation and Expenses of the Liquidation Trustee	30
Section 7.22	Reserve for Payment of Claims	30
<b>ARTICLE VIII: PROVISIONS GOVERNING DISTRIBUTIONS</b>		<b>31</b>
Section 8.1	Distributions of Available Cash	31
Section 8.2	Provisions Concerning Disputed Claims Reserves	31
Section 8.3	Provisions Concerning Disputed Equity Interests Reserves	32
Section 8.4	Transmittal of Distributions and Notices	33
Section 8.5	Setoffs	33
Section 8.6	Withholding of Distributions to Equity Interests	33
Section 8.7	Withholding Taxes and Expenses of Distribution	34
Section 8.8	Disputed Identity of Holder	34
Section 8.9	Restriction on Transfers of Claims and Equity Interests, and Distribution Record Date	34
Section 8.10	Method of Cash Distributions	34
Section 8.11	Fractional and De Minimis Distributions	34
Section 8.12	Exemption from Certain Transfer Taxes	34
Section 8.13	Striking of Provisions and Confirmation of Plan, as Modified	34
<b>ARTICLE IX: EXECUTORY CONTRACTS AND LEASES</b>		<b>35</b>
Section 9.1	Assumption of Insurance Policies; Assignment of Rights	35
Section 9.2	Assumption of Contracts and Leases	35
Section 9.3	Rejection of Indemnification Obligations	36
<b>ARTICLE X: DISPUTED, CONTINGENT AND UNLIQUIDATED CLAIMS AND EQUITY INTERESTS</b>		<b>36</b>
Section 10.1	Objections to Claims and Equity Interests	36
Section 10.2	Estimation of Claims and Equity Interests	37
Section 10.3	Amendments to Claims or Equity Interests	37
Section 10.4	Authority To Settle Disputed Claims and Disputed Equity Interests	37

Section 10.5	No Recourse	38
<b>ARTICLE XI: EFFECTS OF CONFIRMATION</b>		<b>38</b>
Section 11.1	Retention of Estate Causes of Action/Reservation of Rights	38
Section 11.2	Compromise of Controversies	38
Section 11.3	Preservation of Insurance	38
Section 11.4	Term of Injunctions or Stays	39
Section 11.5	Permanent Injunction	39
Section 11.6	Exculpation	39
Section 11.7	Releases by Debtor, Estate, and Related Persons	40
Section 11.8	Injunction Against Interference with the Plan	40
Section 11.9	Effect of APOL Settlement Agreement and Release of APOL Releasees therein	40
Section 11.10	Deemed Consent	41
Section 11.11	No Waiver	41
Section 11.12	Satisfaction of Claims and Interests and Binding Effect	41
Section 11.13	SEC Reservation of Rights	41
<b>ARTICLE XII: RETENTION OF JURISDICTION</b>		<b>42</b>
Section 12.1	Retention of Exclusive Jurisdiction by the Bankruptcy Court	42
Section 12.2	Retention of Non-Exclusive Jurisdiction by the Bankruptcy Court	44
<b>ARTICLE XIII: MISCELLANEOUS PROVISIONS</b>		<b>44</b>
Section 13.1	Amendments	44
Section 13.2	Severability	44
Section 13.3	Successors and Assigns	45
Section 13.4	Governing Law	45
Section 13.5	Effectuating Documents and Further Transactions	45
Section 13.6	Extinguishment of Liens	45
Section 13.7	Saturday, Sunday or Legal Holiday	45
Section 13.8	Confirmation Order and Plan Control	45
Section 13.9	Payment of Statutory Fees	45
Section 13.10	Joint and Unilateral Withdrawal of Plan	46
Section 13.11	Payment Dates	46
Section 13.12	Notices	46
Section 13.13	Cancellation of Documents	47
Section 13.14	Termination of Equity Committee	47
Section 13.15	Post-Confirmation Reporting	47

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## PLAN INTRODUCTION

COME NOW CDC Corporation, debtor and debtor in possession in the above-captioned case, and the Official Committee of Equity Security Holders of CDC Corporation and propose this First Amended Joint Plan of Reorganization for the resolution of the outstanding Claims against, and Equity Interests in, the Debtor. Capitalized terms used herein shall have the meanings ascribed to such terms in Article 1.1 of this Plan. The Debtor and Equity Committee are the proponents of this Plan within the meaning of Section 1129 of the Bankruptcy Code.

## ARTICLE I

### DEFINITIONS AND GENERAL PROVISIONS

**Section 1.1 Definitions.** For purposes of this Plan, except as expressly provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings ascribed to them in this Article 1.1 of this Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules.

**“Acceptance” or “Accept”** means acceptance of the Plan by a Class of holders of Claims or Equity Interests pursuant to Bankruptcy Code Section 1126(c) or (d).

**“Administrative Claim”** means a Claim against Debtor for costs and expenses of administration under Bankruptcy Code Section 503(b) entitled to priority in payment under Bankruptcy Code Section 507(a), including but not limited to: (a) the actual and necessary costs and expenses incurred after the Petition Date for preserving the Estate and/or operating Debtor’s businesses; (b) cure costs associated with the assumption or assumption and assignment of contracts and unexpired leases pursuant to Bankruptcy Code Section 365; and (c) all fees and charges assessed against the Estate under Section 1930 of Title 28 of the United States Code. The term “Administrative Claim” as used herein shall exclude all Fee Claims.

**“Administrative Claims Bar Date”** means, with respect to creditors who assert a Claim arising between the Petition Date and the Confirmation Date against Debtor, the first Business Day after the date that is sixty (60) days after the Confirmation Date.

**“Affiliate”** has the meaning set forth in Bankruptcy Code Section 101(2). For purposes of the Plan and the definition of Related Persons, an Affiliate of a Person shall also include another Person controlling, controlled by or under common control with such first Person. For purposes of this definition, “control” means, when used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management and policies of such Person, whether through the ownership of voting securities, by contract, or otherwise, and the terms “controlling” and “controlled” have correlative meanings.

**“Allowed” or “Allowed Claim”** means a Claim that is not a Disputed Claim and is allowed under the Plan and, therefore, is not subject to disallowance, defense, reduction, avoidance, setoff, or subordination of any kind. The term “Allowed” or “Allowed Claim” also

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means any Claim to the extent: (a) such Claim is scheduled by Debtor pursuant to the Bankruptcy 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 with the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules and/or any applicable Final Order, or late filed, but with leave of the Bankruptcy Court, deemed timely, and, in either case, (i) is not objected to within the period fixed by the Bankruptcy Code, the Bankruptcy Rules and/or applicable orders of the Bankruptcy Court or (ii) has otherwise been allowed by a Final Order. An Allowed Claim includes a previously Disputed Claim to the extent such Disputed Claim becomes Allowed when the context so requires.

“**Allowed Equity Interest**” means a Common Share, a Restricted Stock Award, an Equity Right, or an Option Interest that is not a Disputed Equity Interest or a Subordinated Equity Interest and that is not subject to, among other things, reduction, offset or disallowance on account of any counterclaims, Avoidance Actions, or Subordination Actions.

“**APOL**” means Asia Pacific On-line Limited (a/k/a Asia Pacific On-Line Limited), a Cayman Islands exempted company.

“**APOL Releasees**” shall have the meaning ascribed to such term in Section 11.9 of the Plan.

“**APOL Settlement Agreement**” means that certain Settlement Agreement dated as of July 13, 2012, and entered into by and among the Debtor, the Equity Committee, APOL, Nicola Chu Ming Nga, and Anthony Ip.

“**APOL Settlement Agreement Affiliates**” means the following: Graceful Winners Trust; IP Ren Haw, Antony; IP Ren Yi, Melissa; IP Ren Huey, Laura; IP Ren San, Kelly; IP Ren Jun, Ethan; Nicola Investments Holdings Limited; and US Asian Investments Corporation.

“**Assets**” means (a) all assets, properties and rights of every kind, nature, character and description (whether real, personal, or mixed, whether tangible or intangible, contract rights, wherever situated and by whomever possessed, including the goodwill related thereto), of or owned by Debtor or the Estate, including all property that constitutes property of the Estate within the meaning of Bankruptcy Code Section 541, including, without limitation, any and all Estate Causes of Action or rights of Debtor under federal, state, or foreign law; and (b) the proceeds, products, rents and profits of any of the foregoing.

“**Available Cash**” means all Cash held by the Liquidation Trust after funding of Effective Date Available Cash and such additional Cash that is available from time to time to the Liquidation Trust from the disposition, sale or other proceeds of the Trust Assets, for payment of Liquidation Trust Expenses and/or for distribution to Beneficiaries after payment of Liquidation Trust Expenses, and net of Reserves for Disputed Equity Interests and for anticipated Liquidation Trust Expenses, all as determined by the Liquidation Trustee in accordance with the Plan.

“**Avoidance Actions**” means any claims, rights, defenses, or other causes of action arising under Chapter 5 of the Bankruptcy Code, including without limitation, Bankruptcy Code

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Sections 502, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551 and 553, or under similar state or federal statutes and common law, including state fraudulent transfer or preference laws, whether or not prosecution of such actions has commenced as of the Confirmation Date or the Effective Date.

“**Ballot**” means the ballot to be used by holders of Equity Interests to vote to accept or reject the Plan.

“**Bankruptcy Code**” means Title 11 of the United States Code, 11 U.S.C. §§ 101, *et seq.*, and as such title has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Chapter 11 Case.

“**Bankruptcy Court**” means the United States Bankruptcy Court for the Northern District of Georgia, or such other court having jurisdiction over the Chapter 11 Case or any proceeding within, or appeal of an order entered in, the Chapter 11 Case.

“**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure, the Official Bankruptcy Forms and the local rules and general orders of the Bankruptcy Court, and as each has been, or may be, amended from time to time, to the extent that any such amendment is applicable to the Chapter 11 Case.

“**Beneficial Interest**” shall have the meaning ascribed to such term in Section 5.3(b) of the Plan.

“**Beneficiary**” and “**Beneficiaries**” mean the holders of Allowed Equity Interests in Class 3A and Class 3B.

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

“**Cash**” means money that is legal tender of the United States of America or the indubitable equivalent thereof.

“**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 Entity or Person, whether arising under the Bankruptcy 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 but not limited to: (a) all Avoidance Actions; (b) all other claims in avoidance, recovery, or subordination; and (c) all other actions described in the Disclosure Statement, any of the Schedules, or the Plan, including, without limitation, any Subordination Action.

“**CDC Software**” means CDC Software Corporation, a Cayman Islands exempted company.

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“**CDC Software Claim**” means the proof of claim filed by CDC Software on May 2, 2012, Claim No. 32, in the Chapter 11 Case.

“**CDC Software Shares**” means the 23,789,362 Class B Ordinary Shares previously owned by Software International of the capital stock of CDC Software.

“**Chapter 11 Case**” means the bankruptcy case of CDC Corporation, pending before the Bankruptcy Court, and bearing case number 11-79079 (PWB).

“**China.com**” means China.com, Inc., a Cayman Islands exempted company.

“**China.com Board Members**” means Wong Kwong Chi (Simon Wong), Dr Cheng Loi (Sammy Cheng), Dr Ch' ien Kuo Fung (Raymond Ch' ien), Mao Hongcheng, Chen Mouhua, Wang Cheung Yue (Fred Wang), Anson Wang, and Li On-kwok (Victor Li), in their capacity as members of the board of directors of China.com and only in such capacity.

“**Claim**” has the meaning ascribed to such term in Bankruptcy Code Section 101(5).

“**Claims Objection Deadline**” means the last day for filing objections to Claims as provided in **Article X** of the Plan.

“**Class**” means a category of holders of Claims or Equity Interests, as described in **Article IV** of the Plan.

“**Common Share**” means the 35,634,820 shares of Class A common shares of the Debtor issued and outstanding as of the Petition Date as adjusted for splits, excluding those Class A common shares that were issued, vested or otherwise converted as a result of any Restricted Stock Awards or Option Interests listed on Exhibit 1.

“**Confirmation**” means confirmation of the Plan pursuant to the Bankruptcy Code Section 1129.

“**Confirmation Date**” means the date upon which the Confirmation Order is entered on the docket maintained by the Bankruptcy Court pursuant to Bankruptcy Rule 5003.

“**Confirmation Hearing**” means the hearing before the Bankruptcy Court at which the Plan is confirmed.

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

“**Creditor**” has the meaning ascribed to such term in Bankruptcy Code Section 101(10).

“**CRO**” means Finley, Colmer and Company and its designee, Marcus A. Watson, appointed by the Bankruptcy Court as the Chief Restructuring Officer in the Chapter 11 Case.

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**“Debtor”** means CDC Corporation, a Cayman Islands exempted company, as debtor and debtor in possession in the Chapter 11 Case.

**“Disallowed”** means a Claim or any portion thereof that: (a) has been disallowed or expunged by a Final Order; (b) has been withdrawn, in whole or in part, by the holder thereof or by agreement with Debtor, the Disbursing Agent, or the Liquidation Trustee; (c) is scheduled in the Schedules 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 Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order; or (d) is not scheduled 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 Bankruptcy Court pursuant to either the Bankruptcy Code or any Final Order

**“Disbursing Agent”** means Marcus A. Watson, in his capacity as a disbursing agent. In his role as Disbursing Agent, the Disbursing Agent shall hold Cash as agent only, and shall not have any ownership interest in such cash, stock or interests, nor shall the Disbursing Agent be acting in any way on behalf of the Debtor.

**“Disbursing Agent Expenses”** means all expenses, costs, fees, debts, charges, taxes, liabilities and obligations incurred by the Disbursing Agent (and any Professional Persons retained) including, without limitation, the compensation, and professional fees and expenses, payable to the Disbursing Agent and/or to those Professional Persons retained or engaged by the Disbursing Agent to assist in the implementation and/or consummation of the terms of, and/or the activities and/or transactions contemplated by the Plan, and/or any and all professional fees, costs, expenses of or related to taking possession of, holding, maintaining, transferring, or distributing Assets to holders of Claims or the Liquidation Trust.

**“Disclosure Statement”** means the disclosure statement with respect to the Plan, including all exhibits, appendices, schedules and annexes attached thereto, approved by the Bankruptcy Court pursuant to Bankruptcy Code Section 1125, as it may be altered, amended, supplemented or modified from time to time, and distributed in accordance with Bankruptcy Code Sections 1125 and 1126 and Bankruptcy Rule 3018.

**“Disputed”** or **“Disputed Claim”** means any Claim that: (a) is objected to in whole or in part on or before any applicable deadline or for which a request for estimation has been timely filed in accordance with the Plan or the Bankruptcy Code and as to which no Final Order Allowing such Claim has been entered; or (b) is held by an Entity or Person that, as of the Effective Date, is adverse to the Estate in any litigation or contested matter pending or which the Disbursing Agent or Liquidation Trustee believes at the time of a distribution in good faith is reasonably likely to be asserted at the time of a distribution and as to which no Final Order resolving such litigation or contested matter, or potential litigation or contested matter, has been entered. To the extent an objection relates to the Allowance of a portion of a Claim, such Claim shall be a Disputed Claim only to the extent of the portion which is subject to the objection.

**“Disputed Amount”** means an amount equal to the total of that portion (including, when appropriate, the whole) of a Claim that is a Disputed Claim.

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**“Disputed Claims Reserve”** shall have the meaning ascribed to such term in Section 8.2 of the Plan.

**“Disputed Equity Interest”** means an Equity Interest against the Debtor, including, without limitation: (i) any Restricted Stock Award; (ii) any Option Interest; (iii) Equity Right; and (iv) any Equity Interest; the allowance of which is the subject of a timely objection in accordance with the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Confirmation Order, or as otherwise disputed by the Debtor, Equity Committee, or Liquidation Trustee in accordance with applicable law, and which objection or dispute has not been withdrawn, with prejudice, or determined by a Final Order. At such time as the objection or dispute has been withdrawn with prejudice or such Disputed Equity Interest is determined as being Allowed, the Disputed Equity Interest shall become an Allowed Equity Interest.

**“Disputed Equity Interest Reserve”** means the Reserves established pursuant to Section 8.3 of the Plan to hold Beneficial Interests allocable to any Disputed Equity Interest.

**“Disputed Provisions”** shall have the meaning ascribed to such term in Section 8.13 of the Plan.

**“Distribution Address”** means (a) with respect to a Claim: (i) the address indicated on any notice of appearance filed by an Entity or Person, or the authorized agent therefor prior to the Effective Date; or (ii) if no notice of appearance has been filed, the address indicated on a properly filed proof of claim; or (iii) absent such notice of appearance or proof of claim, the address set forth in the Schedules; and (b) with respect to a Common Share: (i) the address maintained by the Debtor’s transfer agent; or (ii) the address listed on the Debtor’s company registry; or (c) with respect to an Option Interest, Equity Right and Restricted Stock Award, the address listed on a proof of interest filed by the Proof of Interest Bar Date for Option Interests, Equity Rights and Restricted Stock Awards provided, however, that any Entity or Person may select an alternative Distribution Address by filing a notice with the Bankruptcy Court (copy served on the Disbursing Agent and the Liquidation Trustee and counsel thereto) in accordance with Section 8.4 of the Plan identifying such alternative Distribution Address.

**“Distribution Check”** means the check mailed to a holder of an Allowed Equity Interest or Allowed Claim representing a distribution made by the Liquidation Trustee pursuant to the Plan.

**“Distribution Date(s)”** means the date or dates on which the Liquidation Trust makes a distribution pursuant to the Plan.

**“Distribution Record Date”** means the Effective Date.

**“Effective Date”** means: (a) if no stay of the Confirmation Order is in effect, the first Business Day after the date all of the conditions set forth in Section 6.2 of the Plan have been satisfied or waived in accordance with that Section; or (b) if a stay of the Confirmation Order is in effect, on the first Business Day (or such later day as may be reasonably determined by the Proponents) after the later of: (i) the date such stay is vacated; and (ii) the date each condition set forth in the Plan has been satisfied or waived as set forth in the Plan.

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**“Effective Date Available Cash”** means Cash used or Reserves to pay on the Initial Claims Distribution Date (or as soon as reasonably practicable thereafter), pursuant to the Plan, Allowed Claims of holders of: (i) unclassified Claims; (ii) Fee Claims; (iii) Class 1 Priority Claims; (iv) Class 2 General Unsecured Claims; and (v) the Disbursing Agent Expenses.

**“Eligible Equity Interest Holder”** means a holder of Equity Interests in the Debtor that holds one-hundred (100) or less Common Shares of the Debtor.

**“Entity”** has the meaning ascribed to such term in Section 101(15) of the Bankruptcy Code.

**“Equity Committee”** means the Official Committee of Equity Security Holders appointed in the Chapter 11 Case.

**“Equity Interest”** means a Common Share, Equity Right, Restricted Stock Award, or an Option Interest.

**“Equity Right”** means any right to a class A common share of Debtor that is not a Common Share, a Restricted Stock Award, or Option Interest, and for which a proof of interest has been filed in the Chapter 11 Case on or before the Proof of Interest Bar Date for Option Interests, Equity Rights, and Restricted Stock Awards, and that is not subject to, among other things, reduction, offset or disallowance on account of any counterclaims, Avoidance Actions and Subordination Actions. To the extent an Equity Right has not been adjusted for splits, such interest will be adjusted as required to be equivalent to a common share.

**“Estate”** means the Chapter 11 estate of Debtor created by Bankruptcy Code Section 541.

**“Estate Causes of Action”** means Causes of Action of or owned by or assigned to the Estate including Avoidance Actions and including, but not limited to, those Causes of Action set forth on Exhibit B to the Disclosure Statement and any Subordination Action.

**“Estate Releasers”** shall have the meaning ascribed to such term in Section 11.9 of the Plan.

**“Estimation Order”** means a Final Order pursuant to Section 502(c) of the Bankruptcy Code estimating the amount of a Claim.

**“Exchange Act”** means the Securities and Exchange Act of 1934.

**“Exculpated Parties”** means: (i) the Proponents; (ii) the members of the Equity Committee acting directly or indirectly in, relating to, or arising out of, their capacities as members of the Equity Committee; (iii) the Proponents’ respective Professional Persons acting

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directly or indirectly in, relating to, or arising out of, their capacities as such; (iv) Joseph D. Stutz, Marcus A. Watson, and Finley, Colmer and Company acting directly or indirectly in, relating to, or arising out of, their capacities as an officer, director, employee, or agent of the Debtor and Debtor's Subsidiaries; and (v) the China.com Board Members acting directly or indirectly in, relating to, or arising out of, their capacities as a director of China.com.

**“Executory Contract Claims Bar Date”** means the first Business Day after the date that is sixty (60) days after the Confirmation Date; or with respect to Claims arising from a breach of an assumed executory contract, the date that is the later of the first Business Day after the date that is (i) thirty (30) days after the breach, or (ii) sixty (60) days after the Confirmation Date.

**“Face Amount”** means, at any time, with respect to a particular Claim: (a) if the holder of such Claim has not filed a proof of claim within the applicable period of limitation fixed by the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, the amount of such Claim that is listed in the Schedules as noncontingent, undisputed and liquidated; (b) if the holder of such Claim has filed a proof of claim within the applicable period of limitation fixed by the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, and such Claim has not become an Allowed Claim or been estimated by Final Order of the Bankruptcy Court, the amount stated in such proof of claim; or (c) in all other cases, zero (\$0) or such amount as shall be fixed or estimated by a Final Order of the Bankruptcy Court.

**“Fee Claim”** means the Claim: (a) of any Professional Person retained by order of the Bankruptcy Court for compensation and/or reimbursement of expenses pursuant to Bankruptcy Code Sections 327, 328, 330, or 331; (b) fees and expenses of the Equity Committee; and (c) of any professional or other party-in-interest seeking compensation or reimbursement of expenses in connection with the Chapter 11 Case pursuant to Bankruptcy Code Section 503(b).

**“Fee Claims Bar Date”** means the first Business Day after the date that is sixty (60) days after the Confirmation Date.

**“Final Order”** means an order or judgment of the Bankruptcy Court (or other court with jurisdiction), as entered on the docket of the Bankruptcy Court (or other court with jurisdiction), that has not been reversed, stayed, modified or amended, and as to which: (a) the time to appeal or seek review has expired and no timely filed appeal or petition for review, rehearing, remand or certiorari is pending; or (b) any appeal taken or petition for review, rehearing, remand or certiorari filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought; provided, however, that the possibility that a motion under Federal Rule of Bankruptcy Procedure 9024, Rules 59 or 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules or other rules or law governing procedure in cases before the Bankruptcy Court, may be filed with respect to such order shall not cause such order not to be a Final Order.

**“General Unsecured Claim”** means a Claim that is not an Administrative Claim, a Fee Claim, a Priority Tax Claim, a Priority Claim, or an Intercompany Obligation..

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“**Governmental Unit**” has the meaning ascribed to such term in Bankruptcy Code Section 101(27).

“**Impaired**” has the meaning ascribed to such term in Bankruptcy Code Section 1124.

“**Indemnification Obligations**” has the meaning ascribed to such term in Section 9.3 of the Plan.

“**Initial Claims Distribution Date**” means, with respect to each Claim or Class of Claims, the date as soon as reasonably practicable after the Confirmation Date but in no event later than thirty (30) days after the Confirmation Date for making the initial distribution under the Plan to holders of Allowed Claims.

“**Initial Equity Distribution Date**” means, with respect to each Equity Interest or Class of Equity Interests, the date as soon as reasonably practicable after the Effective Date as determined by the Liquidation Trustee in the exercise of the Liquidation Trustee’s business judgment for making the initial distribution under the Plan to Beneficiaries.

“**Intercompany Obligation**” means all amounts due to or from Debtor or Software International on the one hand and any of the Subsidiaries on the other hand arising on or before the Effective Date other than those addressed in the Sale Documents or the Sale Order.

“**Insider**” has the meaning ascribed to such term in Bankruptcy Code Section 101(31).

“**Insurance Policies**” has the meaning ascribed to such term in Section 9.1 of the Plan.

“**Lien**” shall have the meaning ascribed to such term in Bankruptcy Code Section 101(37).

“**Limited Equity Interest**” means the Equity Interest classified in Class 3B pursuant to Section 5.4 of the Plan.

“**Limited Equity Interest Class Election**” means the election to be made by a holder of an Allowed Equity Interest pursuant to Section 5.4.

“**Liquidation Trust**” means the trust established pursuant to Section 7.8 of the Plan.

“**Liquidation Trust Agreement**” means the agreement to be executed between the Liquidation Trustee and the Debtor establishing the Liquidation Trust, a form of which will be filed with the Plan Supplement.

“**Liquidation Trust Expenses**” means all expenses, costs, fees, debts, charges, taxes, liabilities and obligations related to the formation, management, activities and/or administration of the Liquidation Trust and/or the implementation of the Plan, including, without limitation, the fees and expenses of the Liquidation Trust Oversight Board (and any Professional Persons retained) to the extent such fees and expenses are provided for in Section 7.20 of the Plan, the

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compensation, and professional fees and expenses, payable to the Liquidation Trustee and/or to those Professional Persons retained or engaged by or for the Liquidation Trust or the Liquidation Trustee to assist in the implementation and/or consummation of the terms of, and/or the activities and/or transactions contemplated by the Plan, and/or any and all professional fees, costs, expenses of or related to (a) taking possession of, holding, maintaining, liquidating or distributing assets, properties or rights that have been or shall be transferred to or vested in the Liquidation Trust, and/or (b) prosecuting, defending, settling or otherwise resolving any disputes regarding any such assets, properties or rights, any Claim(s) or any of the Estate Causes of Action and/or the making of distributions from the Liquidation Trust.

“**Liquidation Trust Interests**” shall have the meaning ascribed to such term in Section 5.3(b) of the Plan.

“**Liquidation Trustee**” means the Person and any successor thereto, which shall be appointed as the trustee of the Liquidation Trust (or any successor trust) in accordance with the Confirmation Order and Plan.

“**Liquidation Trust Oversight Board**” has the meaning ascribed to such term in Section 7.20 of the Plan.

“**Liquidation Trust Oversight Board Member**” means a member of the Liquidation Trust Oversight Board as permitted under Section 7.20 of the Plan.

“**Master Ballot**” means the ballot used by a broker, bank, commercial bank, trust company, dealer, or other agent or nominee to record the Ballots of those entities who vote to accept or reject the Plan through such broker, bank, commercial bank, trust company, dealer, or other agent or nominee.

“**Option Consideration**” shall equal the number of options under an Option Interest multiplied by the exercise price for such options.

“**Option Interest**” means any option convertible into common shares of the Debtor as set forth on Exhibit L, for which a proof of interest has been filed in the Chapter 11 Case on or before the Proof of Interest Bar Date for Option Interests, Equity Rights, and Restricted Stock Awards, and that is not subject to, among other things, reduction, offset or disallowance on account of any counterclaims, Avoidance Actions and Subordination Actions. To the extent an Option Interest has not been adjusted for splits, such interest will be adjusted as required to be equivalent to a common share.

“**Payment Order**” means that certain order of the Bankruptcy Court dated April 11, 2012, establishing a procedure for the payment of Allowed General Unsecured Claims (Docket No. 312).

“**Periodic Distribution Date**” means each Distribution Date made from time to time following the Initial Equity Distribution Date, at the discretion of the Liquidation Trustee.

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“**Person**” has the meaning ascribed to such term in Bankruptcy Code Section 101(41).

“**Petition Date**” means October 4, 2011, the date the Debtor commenced the Chapter 11 Case.

“**Plan**” means this First Amended Joint Plan of Reorganization, dated as of the date set forth on the first page hereof, together with any exhibits, the Plan Supplement and any amendments or modifications hereto as the Proponents may file hereafter in accordance with the terms of the Plan.

“**Plan Supplement**” means any ancillary documents to the Plan, including, without limitation, the form of the Liquidation Trust Agreement and Confirmation Order, filed by Proponents with the Bankruptcy Court before the Confirmation Hearing.

“**Plan Voting Deadline**” means 4:00 p.m., prevailing Eastern Time, on August 20, 2012, by which Ballots and Master Ballots must be received by GCG, Inc., the balloting agent for the Debtor, in accordance with the instructions for returning Ballots and Master Ballots.

“**Postpetition Interest**” means interest accrued pursuant to applicable non-bankruptcy law in respect of an outstanding obligation or liability that is the subject of an Allowed Claim during the period from the Petition Date up to and including the date of final payment in full of such Allowed Claim.

“**Priority Claim**” means a Claim or a portion of a Claim for which priority is asserted under Bankruptcy Code Sections 507(a)(3), (4), (5), (6) or (7), and excludes Priority Tax Claims.

“**Priority Tax Claim**” means a Claim or a portion of a Claim for which priority is asserted under Bankruptcy Code Section 507(a)(8).

“**Professional Persons**” means attorneys, accountants, consultants, experts, financial advisors, investment bankers, and other professionals retained in connection with the bankruptcy case or in the implementation of the Plan at any time provided that (i) such retention has been approved after the Petition Date by order of the Bankruptcy Court pursuant to the Bankruptcy Code, or (ii) such retention by the Disbursing Agent, the Liquidation Trust, Liquidation Trustee, or the Liquidation Trust Oversight Board, is in accordance with the Plan. For avoidance of doubt, APOL is not a Professional Person.

“**Proof of Interest Bar Date for Option Interests, Equity Rights and Restricted Stock Awards**” means the date established by order of the Bankruptcy Court as the final date to file a proof of interest in the Chapter 11 Case with respect to any Equity Right, any Option Interest, and any Restricted Stock Award.

“**Proponents**” means Debtor and the Equity Committee.

“**Purchaser**” means Archipelago Holdings, a Cayman Islands exempted company, the purchaser under the Share Purchase Agreement.

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**“Rejection Claim”** means any Claim for amounts payable as a result of the rejection of an executory contract or unexpired lease in accordance with Bankruptcy Code Section 365.

**“Related Persons”** means, with respect to any Person, such Person’s predecessors, successors and assigns (whether by operation of law or otherwise) and their respective present and former Affiliates (including, without limitation, the Subsidiaries) and each of their respective current and former members, partners, officers, directors, employees, managers, partners, financial advisors, attorneys, accountants, investment bankers, consultants, agents and professionals, each acting in such capacity, and any Person claiming by or through any of them (including their respective officers, directors, managers, partners, employees, members and professionals).

**“Released Parties”** means the Exculpated Parties, exclusive of the China.com Board Members.

**“Repurchased Notes”** means those certain 3.75% Senior Exchangeable Convertible Notes issued by the Debtor in November 2006 and due November 2011, which were held by CDC Delaware Corporation in the aggregate principal issued amount of \$124.8 million.

**“Reserves”** shall mean any reserve established by the Disbursing Agent or Liquidation Trustee in accordance with the Plan or the Confirmation Order to provide for anticipated or contingent expenses or liabilities, including, without limitation, any Fee Claim, Disbursing Agent Expenses, Disputed Equity Interest Reserve, Disputed Claims Reserve and any reserve established by the Liquidation Trustee for anticipated Liquidation Trust Expenses.

**“Restricted Stock Awards”** means the grant to receive the common stock of the Debtor given to those Persons listed on Exhibit 1 in the amounts set forth on such exhibit that is validly issued pursuant to the applicable issuing documents and to applicable law, for which a proof of interest has been filed in the Chapter 11 Case on or before the Proof of Interest Bar Date for Option Interests, Equity Rights and Restricted Stock Awards, and that is not subject to, among other things, restrictions prohibiting the issuance of the common stock under the terms of the issuing documents, any reduction, offset or disallowance on account of any counterclaims, Avoidance Actions, and Subordination Actions. To the extent necessary, any grant that is not convertible or issued on a one for one basis to a class A common share shall be adjusted as necessary so that the award is adjusted to an equivalent number of shares.

**“Sale”** means the sale of the CDC Software Shares pursuant to the Share Purchase Agreement.

**“Sale Documents”** means the Share Purchase Agreement, and any schedules, exhibits or other documents attached thereto or contemplated thereby, in each case as amended from time to time in accordance with their terms.

**“Sale Motion”** means the Debtor’s motion filed with the Bankruptcy Court on February 6, 2012, Docket No. 152, seeking approval of, among other things, the Sale.

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“**Sale Order**” means the order of the Bankruptcy Court authorizing consummation of the Sale dated March 20, 2012, Docket No. 295 in the Chapter 11 Case.

“**Sale Proceeds**” means the net proceeds of the Sale.

“**SEC**” means the United States Securities and Exchange Commission.

“**Schedules**” means, collectively, the (a) schedules of assets, liabilities and executory contracts, and (b) statements of financial affairs, as each has been or may be amended and supplemented from time to time, filed by Debtor pursuant to Bankruptcy Code Section 521.

“**Share Purchase Agreement**” means that certain Share Purchase Agreement dated as of February 1, 2012, by and among the Debtor and Software International, as sellers, and the Purchaser, as buyer, which provides for the sale of CDC Software Shares and was approved by the Sale Order.

“**Software International**” means CDC Software International Corporation, a Cayman Islands exempted company.

“**Solicitation Procedures Order**” means the Order entered by the Bankruptcy Court dated July 13, 2012, in the Chapter 11 Case establishing procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan (Docket No. 489).

“**Stale Date**” means the date one hundred eighty (180) days after the mailing date of any Distribution Check issued with respect to any distribution to the holder of an Allowed Equity Interest or Allowed Claim pursuant to the Plan.

“**Subordination Action**” means any proceeding commenced to subordinate or equitably disallow an Equity Interest pursuant to the provisions of Section 510 of the Bankruptcy Code, the terms of this Plan, or other applicable law, and classify such interest as a Subordinated Equity Interest in Class 3C.

“**Subordinated Equity Interest**” means any Equity Interest that is subordinated in priority to Allowed Equity Interests or equitably disallowed pursuant to the provisions of Section 510 of the Bankruptcy Code, the terms of this Plan, or other applicable law, and classified in Class 3C of the Plan.

“**Subsidiaries**” means all direct and indirect interest of the Debtor in the Entities reflected on the Debtor’s corporate structure set forth on Debtor’s Statement of Financial Affairs, dated November 7, 2011 (Docket No. 52; Response to Question #18) filed in the Chapter 11 Case.

“**Tax**” or “**Taxes**” means all income, gross receipts, sales, use, transfer, payroll, employment, franchise, profits, property, excise or other similar taxes, estimated import duties, fees, stamp taxes and duties, value added taxes, assessments or charges of any kind whatsoever (whether payable directly or by withholding), together with any interest and any penalties, additions to tax or additional amounts imposed by any taxing authority of a Governmental Unit with respect thereto.

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“**Tax Code**” means the United States Internal Revenue Code of 1986, as amended, modified or supplemented from time to time, and the rules and regulations promulgated thereunder.

“**Trust Assets**” shall have the meaning ascribed to such term in Section 7.10 of the Plan.

“**Unimpaired**” has the meaning ascribed to such term in Bankruptcy Code Section 1124.

**Section 1.2 Rules of Interpretation.** For purposes of the Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural; (b) pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter genders; (c) 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; (d) any reference in the Plan to an existing document or an exhibit filed or to be filed means such document or exhibit, as it may have been or may be amended, modified or supplemented; (e) if the Plan’s description of the terms of an exhibit directly conflicts with the terms of such exhibit, the terms of the Plan shall control; (f) 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; (g) the words “herein” and “hereto,” and other words of similar import, refer to the Plan in its entirety rather than to a particular portion of the Plan; (h) 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; (i) any reference to an Entity or Person as a holder of a Claim or Equity Interest includes that Entity or Person’s successors, assigns and Affiliates; (j) the rules of construction set forth in Bankruptcy Code Section 102 shall apply to the extent such rules are not inconsistent with any other provision in this Section; (k) any reference in the Plan to a dollar amount is to such dollar amount in United States of America currency; and (l) any term used herein that is not defined herein shall have the meaning ascribed thereto in the Bankruptcy Code and/or the Bankruptcy Rules, if used therein.

**Section 1.3 Time.** Whenever the time for the occurrence or happening of an event as set forth in this Plan falls on a day which is a Saturday, Sunday, or legal holiday under the laws of the United States of America or the State of Georgia, then the time for the next occurrence or happening of said event shall be extended to the next day following which is not a Saturday, Sunday, or legal holiday.

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**ARTICLE II**

**METHOD OF CLASSIFICATION OF  
CLAIMS AND EQUITY INTERESTS; GENERAL PROVISIONS**

**Section 2.1 General Rules of Classification.** A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim is in a particular Class only to the extent that such Claim is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

**Section 2.2 Holders of Claims and Equity Interests Entitled to Vote.** Each holder of an Allowed Claim or Allowed Equity Interest, and each holder of a Claim or Equity Interest that has been temporarily allowed for voting purposes by order of the Bankruptcy Court under Bankruptcy Rule 3018(a), which Claim or Equity Interest is in an Impaired Class, shall be entitled to vote separately to accept or reject the Plan as provided by the Solicitation Procedures Order. Any Unimpaired Class of Claims shall be deemed to have accepted the Plan.

**Section 2.3 Acceptances by Impaired Classes.** An Impaired Class of Claims or Equity Interests shall have Accepted the Plan if all of the necessary conditions of the Bankruptcy Code and the Bankruptcy Rules have been satisfied.

**Section 2.4 Non-Consensual Confirmation.** To the extent necessary, Proponents hereby request that the Bankruptcy Court confirm the Plan in accordance with Bankruptcy Code Section 1129(b). Subject to Bankruptcy Code Section 1127, Proponents reserve the right to modify the Plan to the extent that confirmation pursuant to Bankruptcy Code Section 1129(b) requires modification, provided such modifications are consistent with Section 13.1 of the Plan.

**Section 2.5 Administrative Claims, Priority Tax Claims, Fee Claims, and Intercompany Obligations.** Administrative Claims, Priority Tax Claims, Fee Claims, and Intercompany Obligations have not been classified and are excluded from the Classes set forth in Article IV in accordance with Bankruptcy Code Section 1123(a)(1).

**ARTICLE III**

**TREATMENT OF UNCLASSIFIED CLAIMS**

**Section 3.1 Administrative Claims.**

(a) **Administrative Claims Bar Date.** To be eligible to receive distributions under the Plan on account of an Administrative Claim that is not otherwise Allowed by the Plan, a request for allowance of Administrative Claim must be filed with the Bankruptcy Court, and served so as to be received, on or before the Administrative Claims Bar Date. Any holder of an Administrative Claim that does not assert such Administrative Claim in accordance with this Section 3.1 shall have its Claim deemed Disallowed under the Plan and be forever barred from

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asserting such Claim against the Estate, the Liquidation Trust, or any of their respective property, the Assets, or the Trust Assets. Any such Claim shall be Disallowed and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset, recoup or recover such Claim.

(b) **Treatment.** Subject to the terms herein, and unless the holder of an Allowed Administrative Claim agrees to receive other less favorable treatment, each holder of an Allowed Administrative Claim shall be paid, by the Disbursing Agent or the Liquidation Trustee, as applicable, 100% of the unpaid amount of such Allowed Administrative Claim in Cash on the date that is the later of (i) the Effective Date, and (ii) the date such Claims become Allowed Claims or otherwise become payable under the Plan, or as soon thereafter as is reasonably practicable.

### **Section 3.2 Priority Tax Claims.**

(a) **Treatment.** Subject to the terms herein, and unless the holder of an Allowed Priority Tax Claim agrees to receive other less favorable treatment, each holder of an Allowed Priority Tax Claim shall be paid, by the Disbursing Agent or the Liquidation Trust, as applicable, 100% of the unpaid amount of such Allowed Priority Tax Claim in Cash on the date that is the later of (i) the Effective Date, and (ii) the date such Claims become Allowed Claims or otherwise become payable under the Plan, or as soon thereafter as is reasonably practicable. Any Claim or demand for penalty relating to any Priority Tax Claim (other than a penalty of the type specified in Bankruptcy Code Section 507(a)(8)(G)) shall be Disallowed, and the holder of an Allowed Priority Tax Claim shall not assess or attempt to collect such penalty from the Estate, the Liquidation Trust, or any of their respective property, the Assets, or the Trust Assets.

### **Section 3.3 Fee Claims.**

(a) **Fee Claims Bar Date.** Subject to Section 9.2, all final applications for payment of Fee Claims shall be filed with the Bankruptcy Court, and served so as to be received, on or before the Fee Claims Bar Date, or such later date as may be agreed to by the Disbursing Agent. Subject to Section 9.2, any holder of a Fee Claim that does not assert such Claim in accordance with this Section 3.3 shall have its Claim be deemed Disallowed under the Plan and be forever barred from asserting such Claim against the Estate, the Liquidation Trust, or any of their respective property, the Assets, or the Trust Assets. Any such Claim shall be Disallowed and the holder thereof shall be enjoined from commencing or continuing any action, employment of process or act to collect, offset, recoup or recover such Claim.

(b) **Treatment.** Subject to the terms herein, and unless the holder of an Allowed Fee Claim agrees to receive other less favorable treatment, each holder of an Allowed Fee Claim shall be paid, by the Disbursing Agent or the Liquidation Trust, as applicable, 100% of the unpaid amount of such Allowed Fee Claim in Cash on the date that such Claim (i) is Allowed by Final Order, or (ii) becomes Allowed after the Effective Date, or as soon thereafter as is reasonably practicable.

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**Section 3.4 Intercompany Obligations.**

(a) **Treatment.** Except for the CDC Software Claim, all other Intercompany Obligations between Debtor and its Subsidiaries shall be extinguished and terminated as of the Effective Date. For avoidance of doubt, to the extent not already extinguished or retired, the Repurchased Notes shall be considered an Intercompany Obligation extinguished, and null and void pursuant to this Plan. To the extent Intercompany Obligations are required to be treated as a classified class of Claims under the Bankruptcy Code, Intercompany Obligations shall be considered an Unimpaired Class under the Plan and shall be deemed to vote in favor of the Plan. Notwithstanding any contrary provision in the Plan, Plan Supplement, or Confirmation Order, CDC Software's rights to assert any Claims set forth in the CDC Software Claim shall remain unaffected by the Plan, Plan Supplement, and Confirmation Order, along with any defenses, or grounds for objection, to the CDC Software Claim of the Debtor or any successor in interest thereto.

**ARTICLE IV**

**DESIGNATION OF CLASSES OF  
CLAIMS AND EQUITY INTERESTS**

**Section 4.1 Summary.** The treatment with respect to each Class of Claims and Equity Interests provided for in this Article IV shall be in full and complete satisfaction, release and discharge of such Claims and Equity Interests.

The classification of Claims and Equity Interests under this Plan is as follows:

<u>Class</u>	<u>Designation</u>	<u>Impairment</u>	<u>Entitled to Vote</u>
1	Priority Claims	Unimpaired	No
2	General Unsecured Claims	Unimpaired	No
3A	Equity Interests	Impaired	Yes
3B	Limited Equity Interests	Impaired	Yes
3C	Subordinated Equity Interests	Impaired	No

**ARTICLE V**

**TREATMENT OF CLASSIFIED CLAIMS AND INTERESTS**

**Section 5.1 Class 1 - Priority Claims.**

(a) **Classification.** Class 1 consists of all Priority Claims other than Priority Tax Claims.

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(b) **Treatment.** The legal, equitable and contractual rights of the holders of Class 1 Priority Claims are unaltered by the Plan. Subject to the terms herein and unless the holder of an Allowed Priority Claim agrees to receive other less favorable treatment, each holder of an Allowed Priority Claim shall be paid, by the Disbursing Agent or Liquidation Trustee, as applicable, 100% of the unpaid amount of such Allowed Priority Claim in Cash on the date that is the later of (i) the Effective Date, and (ii) the date such Claim becomes an Allowed Claim or otherwise becomes payable under the Plan, or as soon thereafter as is reasonably practicable.

(c) **Voting.** Class 1 is an Unimpaired Class, and the holders of Class 1 Priority Claims are conclusively deemed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code. Therefore, the holders of Claims in Class 1 are not entitled to vote to accept or reject the Plan.

#### **Section 5.2 Class 2 - General Unsecured Claims.**

(a) **Classification.** Class 2 consists of all General Unsecured Claims.

(b) **Treatment of General Unsecured Claims.** Each holder of an Allowed General Unsecured Claim shall be paid, in full satisfaction, release and exchange of such holder's Allowed General Unsecured Claim, an amount equal to such holder's Allowed General Unsecured Claim, plus Postpetition Interest, by the Disbursing Agent or the Liquidation Trustee, as the case may be, in Cash in accordance with the procedure for payment of Allowed General Unsecured Claims set forth in the Payment Order; provided, however, that such claims shall be subject to, among other things, reduction, offset or disallowance on account of any counterclaims, to the extent applicable, under applicable non-bankruptcy law.

(c) **Voting.** Class 2 is an Unimpaired Class, and the Holders of Class 2 General Unsecured Claims are conclusively deemed to have accepted the Plan pursuant to Section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Claims in Class 2 are not entitled to vote to accept or reject the Plan.

#### **Section 5.3 Class 3A - Equity Interests.**

(a) **Classification.** Class 3A consists of all Equity Interests in Debtor; except for (i) the Equity Interests of Eligible Equity Interest Holders that elect to be classified in Class 3B pursuant to Section 5.4 of the Plan, and (ii) Subordinated Equity Interests classified in Class 3C pursuant to Section 5.5 of the Plan.

(b) **Treatment.** Each holder of an Allowed Equity Interest in Class 3A shall receive, in full satisfaction, release and exchange of such holder's Allowed Equity Interest, a beneficial interest in the Liquidation Trust in an amount equal to such holder's "Liquidation Trust Interest" multiplied by the Available Cash to be distributed at any given time pursuant to the terms of the Plan and Liquidation Trust Agreement (a "Beneficial Interest"). A holder's "Liquidation Trust Interest" shall be a fraction, the numerator of which equals the total Allowed Equity Interests held by such holder on the Distribution Record Date, and the denominator of which equals all Allowed and Disputed Equity Interests on the Distribution Record Date minus the sum of (i)

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Limited Equity Interests in Class 3B; and (ii) Subordinated Equity Interests in Class 3C; provided, however, that any distribution on account of a holder' s Liquidation Trust Interest shall be subject to (x) reduction pursuant to Section 5.3(c) of the Plan, (y) reduction by the Option Consideration applicable to the holder' s Option Interests to the extent the holder' s Liquidation Trust Interest arose from Option Interests, and (z) reduction, offset or disallowance on account of any counterclaims, Avoidance Actions, or Subordination Actions. All Equity Interests classified and treated as Equity Interests pursuant to this Section 5.3 will be cancelled and fully extinguished pursuant to, and on the Effective Date of, the Plan, in exchange for the Beneficial Interests.

(c) **APOL Distributions.** Distributions to which APOL would otherwise be entitled on account of its Allowed Equity Interests in accordance with Section 5.3(b) of the Plan shall be withheld pursuant to the APOL Settlement Agreement up to \$9,000,000.00, and such distributions shall be distributed to other holders of Allowed Equity Interests in Class 3A.

(d) **Option Deemed Exercised.** Each Option Interest that is an Allowed Equity Interest shall be deemed to have been exercised on the later of the Effective Date or the date it is Allowed.

(e) **Voting.** With respect to Debtor, Class 3A is an Impaired Class. Therefore, Holders of Equity Interests in Class 3A that are not Disputed Equity Interests are entitled to vote to accept or reject the Plan.

#### **Section 5.4 Class 3B - Limited Equity Interests.**

(a) **Classification.** Class 3B consists of all Eligible Equity Interest Holders that elect to be classified in Class 3B pursuant to Section 5.4(b).

(b) **Election to be Classified as Limited Equity Interest.** Any Eligible Equity Interest Holder may elect to have such holder' s Equity Interests classified in Class 3B. Such election must be made on the Ballot and be received by the Debtor on or prior to the Plan Voting Deadline, in accordance with the instructions for returning the Ballot; provided however, that, after the Plan Voting Deadline, the Debtor or the Liquidation Trustee, as applicable, in consultation with the Equity Committee or Liquidation Trust Oversight Board, as applicable, may establish a procedure for any Eligible Equity Interest Holder who has not already made the election in accordance with this Section 5.4(b) to elect to have such holder' s Equity Interests classified in Class 3B . Any election made after the Plan Voting Deadline shall not be binding upon the Debtor unless the Plan Voting Deadline is expressly waived, in writing, by the Debtor.

(c) **Treatment.** Notwithstanding the provisions of Section 5.3(b) of the Plan, each holder of a Limited Equity Interest shall receive from the Trust Assets \$5.05 for each Common Share, not to exceed 100 in number, in full satisfaction, settlement, release, and discharge of, and in exchange for such Common Share and such holder' s rights as a Beneficiary, in Cash on the Initial Equity Distribution Date; provided however, that treatment as a holder of Class 3B Equity Interests is subject to the determination by the Liquidation Trustee, in the Liquidation Trustee' s sole judgment, that such treatment is feasible and practicable, and at any time prior to the Initial

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Equity Distribution Date applicable to Class 3A, the Liquidation Trustee may elect to treat all Equity Interests in Class 3B as Class 3A Equity Interests and, in such event, the election by any holder of Equity Interests to be treated in Class 3B shall be null and void and of no force and effect and such holder's Equity Interests shall be treated as Class 3A Equity Interests. All Equity Interests classified and treated as Limited Equity Interests pursuant to this Section 5.4 will be cancelled and fully extinguished on the Effective Date of the Plan in exchange for the payment described in this Section 5.4(c).

(d) **Voting.** With respect to Debtor, Class 3B is an Impaired Class. Therefore, holders of Equity Interests in Class 3B are entitled to vote to accept or reject the Plan.

**Section 5.5 Class 3C - Subordinated Equity Interests.**

(a) **Classification.** Class 3C consists of those Equity Interests subordinated to all other Equity Interests or equitably disallowed, as a matter of law and/or equity pursuant to Final Order of the Court in any Subordination Action. Any Subordination Action may be sought by the Debtor, Equity Committee or Liquidation Trustee, or any successors and assigns thereto.

(b) **Treatment.** The holders of Class 3C Subordinated Equity Interests in Debtor will neither retain any property, nor receive any distributions on account of such Equity Interests and such Equity Interests will be cancelled and fully extinguished pursuant to, and on the Effective Date of, the Plan.

(c) **Voting.** With respect to Debtor, Class 3C is an Impaired Class. Pursuant to Section 1126(g) of the Bankruptcy Code, holders of Class 3C Equity Interests in Debtor are deemed to reject the Plan and are not entitled to vote to accept or reject the Plan.

**ARTICLE VI**

**CONDITIONS PRECEDENT**

**Section 6.1 Conditions to Confirmation.** The following conditions are conditions precedent to Confirmation of the Plan, except to the extent waived in whole or in part by the Proponents:

- (a) The Confirmation Order shall be substantially in the form as proposed by the Proponents; and
- (b) The order approving the APOL Settlement Agreement is a Final Order, not subject to appeal; and
- (c) The Confirmation Order is a Final Order, not subject to appeal.

**Section 6.2 Conditions to the Effective Date.** Proponents reserve the right to request that the Confirmation Order include a finding by the Bankruptcy Court that, notwithstanding Bankruptcy Rule 3020(e), the Confirmation Order shall take effect immediately upon its entry

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and shall be a Final Order. Notwithstanding the foregoing, the Plan may not be consummated, and the Effective Date shall not occur, unless and until each of the conditions set forth below is satisfied, to the extent not waived in whole or in part by the Proponents:

(a) The Bankruptcy Court shall have entered the Confirmation Order in form and substance satisfactory to Proponents and such Confirmation Order shall not be the subject of any stay;

(b) All statutory fees and amounts then due and payable to the United States Trustee shall have been paid or reserved for in full;

(c) The Reserve for the Effective Date Available Cash has been fully funded;

(d) Such documents as Proponents shall deem necessary to the consummation of the Plan shall be executed, delivered, or filed pursuant to the Plan, as the case may be; and

(e) Such actions, authorizations, filings, consents and regulatory approvals (if any) as Proponents shall deem necessary to the consummation of the Plan shall have been obtained, effected or executed in a manner acceptable to Proponents, and shall then remain in full force and effect.

**Section 6.3 Waiver of Conditions.** The waiver, in whole or in part, of any condition set forth in this Article VI, other than Section 6.2(c), may be made by Proponents, in their sole and absolute discretion, without further notice or order of the Bankruptcy Court.

## ARTICLE VII

### MEANS FOR IMPLEMENTATION

**Section 7.1 Disposition of Trust Assets.** This Plan contemplates the disposition of Trust Assets with the Sale Proceeds and proceeds from the Trust Assets being distributed pursuant to the Plan. Distributions of such proceeds shall be in accordance with the priorities set forth in the provisions of this Plan, as well as any subsequent Final Order(s) of the Bankruptcy Court with respect to the distribution of such amounts.

**Section 7.2 No Continued Corporate Existence; Termination of Ownership Rights; Termination of Reporting Requirements.** As soon as practicable after the Effective Date, the Debtor will cease to exist as a separate corporate entity, unless the Liquidation Trustee, in the exercise of the Liquidation Trustee's business judgment, determines the corporate entity should continue for purposes consistent with the objectives of the Liquidation Trust and the Plan and, in such event, the Liquidation Trustee shall have the authority to issue such shares in the Debtor as are necessary to continue the existence of the Debtor's corporate entity. All voting or putative voting rights for all Equity Interests, and any other rights of ownership, other than the right to receive Beneficial Interests under the Plan, shall be terminated and extinguished on the Effective Date and all such rights shall vest in the Liquidation Trustee, and the sole right of the holder of an Equity Interest will be to receive distributions from the Liquidation Trust as a Beneficiary

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pursuant to the terms of the Plan. After the Effective Date, the Liquidation Trustee will not take any action to (i) merge the Debtor into any other entity for the purposes of allowing the acquiring entity to be a public company, or (ii) sell any equity interests in the Debtor or the Debtor's corporate shell. Additionally, after the Effective Date, if eligible, the Liquidation Trustee or Debtor, as applicable, will file the appropriate documentation with the SEC to terminate the registration of the Debtor's common stock under the Exchange Act and the reporting requirement associated therewith under the Exchange Act. If eligibility does not exist, the Liquidation Trustee or Debtor, as applicable, will consent to any non-pecuniary action commenced by the SEC to terminate such requirements.

**Section 7.3 Corporate Action.** The entry of the Confirmation Order shall constitute authorization for the Debtor to take or to cause to be taken all corporate actions necessary or appropriate to consummate and implement the provisions of the Plan prior to, on and after the Effective Date, and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court, including, without limitation, the formation of the Liquidation Trust and the transfer of Assets to the Liquidation Trust, and the CRO is authorized and directed to execute and deliver the agreements, documents and instruments contemplated by the Plan in the name and on behalf of the Debtor, without any requirement of further action by the stockholders or directors of the Debtor.

**Section 7.4 Disbursing Agent.**

(a) The Disbursing Agent shall pay Allowed Administrative Claims, Allowed Priority Tax Claims, Allowed Fee Claims, Allowed Priority Claims and Allowed General Unsecured Claims out of the Effective Date Available Cash with payment as set forth in the Plan. The Disbursing Agent is further authorized to pay Disputed Claims that become Allowed Claims out of the Disputed Claims Reserve with payment as set forth in the Plan.

(b) The Disbursing Agent may retain such counsel and other Professional Persons (and all on such terms) as the Disbursing Agent deems appropriate to assist in performing the duties and obligations and exercising the rights, powers and authority of the Disbursing Agent under the Plan, and shall be entitled to pay from time to time all reasonable fees and expenses of such Professional Persons out of the Effective Date Available Cash, with ten days prior notice to the Equity Committee or Liquidation Trust Oversight Board, as applicable, and without approval or order of the Bankruptcy Court, unless the Equity Committee, Liquidation Trustee or Liquidation Trust Oversight Board objects to all or part of the fees and expenses of such Professional Person, in which case the allowance of the disputed portion shall be determined by the Bankruptcy Court.

(c) The Disbursing Agent shall maintain a Disputed Claims Reserve in accordance with Section 8.2 of the Plan, and shall be entitled to pay ongoing expenses associated therewith, all without any order or approval of the Bankruptcy Court, but only after approval by the Equity Committee or Liquidation Trust Oversight Board, as applicable. Should the Equity Committee or Liquidation Trust Oversight Board object to any expenses that the Disbursing Agent seeks to pay, then the Bankruptcy Court shall resolve the dispute. The Disbursing Agent shall maintain the Effective Date Available Cash and Disputed Claims Reserve until such time as all Disputed Claims have been indefeasibly resolved by settlement or Final Order and thereafter shall transfer any remaining funds to the Liquidation Trust, and the Liquidation Trustee shall thereafter be responsible for administering the Disputed Claims Reserve.

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(d) The Disbursing Agent shall be permitted to establish a separate legal entity to hold the Reserves.

**Section 7.5 Undeliverable Distributions**

(a) In the event that a Distribution Check is mailed to the Distribution Address of an Allowed Claim holder or Allowed Equity Interest holder and is returned undeliverable with no forwarding address and the Distribution Check exceeds \$100, the Liquidation Trustee, Disbursing Agent, or Debtor, as applicable, shall undertake good faith efforts before the Stale Date to locate an updated address for such holder and/or to contact such holder to ensure that the intended recipient has a reasonable opportunity to participate in the distribution. The Liquidation Trustee, Disbursing Agent, or Debtor, as applicable, shall be found to have undertaken good faith efforts if the Liquidation Trustee, Disbursing Agent, or Debtor, as applicable, conducts searches on two electronic databases, if available, to locate such holder' s address or contact such holder.

(b) Distribution Checks that (i) are undeliverable despite the efforts of the Liquidation Trustee, Disbursing Agent, or Debtor, as applicable, described in Section 7.5(a) of the Plan, (ii) are not negotiated by the Stale Date, or (iii) are returned undeliverable and do not exceed \$100, shall be void and the Liquidation Trustee, Disbursing Agent, or Debtor, as applicable, shall instruct the issuing financial institution to stop payment on such checks; provided however, with respect to any Distribution Check that is undeliverable despite the efforts described in Section 7.5(a) of the Plan and that is the result of the initial distribution under the Plan to Beneficiaries on the Initial Equity Distribution Date, such check shall not be void until the later of (i) the Stale Date, or (ii) ninety (90) days after the Liquidation Trustee, Disbursing Agent, or Debtor, as applicable, files a notice with the Bankruptcy Court enumerating the undeliverable distribution represented by the Distribution Check and such distribution has not been claimed by the rightful Beneficiary. If a Distribution Check is deemed void in accordance with this Section 7.5(b), the funds represented by the Distribution Check will be considered abandoned and deemed Trust Assets not subject to any escheat laws and the holder of the Equity Interest or Claim giving rise to the Distribution Check shall have no further claim to such funds or to any subsequent or further distributions under the Plan, with such holder' s Claim or Beneficial Interest, as applicable, being deemed canceled, void and satisfied.

**Section 7.6 Compensation of the Disbursing Agent.** The Disbursing Agent shall be compensated at the Disbursing Agent' s standard hourly rates as in effect from time to time for the Disbursing Agent' s reasonable fees and expenses with prior notice to the Equity Committee or Liquidation Trust Oversight Board, as applicable, but without any requirement of approval by the Bankruptcy Court, unless the Equity Committee or Liquidation Trust Oversight Board, as applicable, communicates its objection to the Disbursing Agent within 10 days of said notice, in which case only following Bankruptcy Court approval. The Disbursing Agent Expenses shall be paid from the Effective Date Available Cash and/or the Disputed Claims Reserve or the Trust Assets, as applicable.

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**Section 7.7 Discharge of Disbursing Agent.** The Disbursing Agent shall be discharged of the Disbursing Agent's duties under the Plan on the earlier of (i) ninety (90) days after Initial Claims Distribution Date with respect to each Claim or a Class of Claim, and (ii) the payment and resolution of all Disputed Claims, and the transfer of any excess balance in the Disputed Claims Reserve to the Liquidation Trust pursuant to Section 7.22 of the Plan, and the payment in full of all Allowed Administrative Claims, Allowed Fee Claims, Allowed Priority Claims and Allowed General Unsecured Claims.

**Section 7.8 Creation and Purpose of the Liquidation Trust.**

(a) As soon as practicable after the first Business Day following the Effective Date, the Liquidation Trust shall be established through the execution of the Liquidation Trust Agreement without any further approval of the Bankruptcy Court.

(b) The Liquidation Trust shall be created for the primary purpose of liquidating and distributing the Trust Assets to the Beneficiaries and payment of Liquidation Trust Expenses in accordance with the Plan and the Confirmation Order, and in an expeditious but orderly manner, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to and consistent with the liquidating purpose of the Liquidation Trust and the Plan.

(c) With respect to the Liquidation Trust, a Liquidation Trust Agreement may be filed by the Proponents with the Bankruptcy Court as a Plan Supplement no later than the Confirmation Hearing.

(d) The term of the Liquidation Trust shall not exceed five years from the date of creation of the Liquidation Trust. If warranted, and subject to the approval of the Bankruptcy Court, the term of the Liquidation Trust may be extended for a finite term. Each extension shall be approved by the Bankruptcy Court within six months of the extended term.

**Section 7.9 Liquidation Trust and Liquidation Trustee.**

(a) Upon the establishment of the Liquidation Trust, and without further action, the Person designated by the Proponents before the Confirmation Hearing or by the Court at the Confirmation Hearing shall become the Liquidation Trustee, which shall become, and thereupon shall be, the representative of the Estate in accordance with Section 1123(b) of the Bankruptcy Code.

(b) The Liquidation Trust and the Liquidation Trustee may retain such counsel and other Professional Persons (and all on such terms) as the Liquidation Trustee deems appropriate to assist the Liquidation Trustee in performing its duties and obligations and exercising its rights, powers and authority under the Plan, and shall be entitled to cause the Liquidation Trust to pay from time to time all reasonable fees and expenses of such Professional Persons, with ten days prior notice to the Liquidation Trust Oversight Board and the Liquidation Trustee, and without approval or order of the Bankruptcy Court, unless the Liquidation Trustee or Liquidation Trust Oversight Board objects to all or part of the fees and expenses of such Professional Person, in

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which case the allowance of the disputed portion shall be determined by the Bankruptcy Court. For avoidance of doubt, following the Effective Date, and subject to the terms and conditions of an applicable, assumed executory contract, the Liquidation Trustee may terminate any retention agreement of the Debtor or the Equity Committee for the retention of any Professional Person.

(c) The Liquidation Trust shall hold and disburse the Trust Assets in accordance with the Plan, and, in this regard, shall maintain a Disputed Equity Interest Reserve in accordance with Section 8.3 of the Plan, and shall be entitled to pay ongoing Liquidation Trust Expenses, all without any order or approval of the Bankruptcy Court, but only after approval by the Liquidation Trust Oversight Board. Should the Liquidation Trust Oversight Board object to any expenses that the Liquidation Trustee seeks to pay, then the Bankruptcy Court shall resolve the dispute.

**Section 7.10 Transfer of Property to Liquidation Trust.**

(a) Subject to retention of the Reserve for Effective Date Available Cash provided for in Section 7.22 of the Plan by the Disbursing Agent, as soon as practicable after the Effective Date, and without further action by any party, all other property of the Estate as defined by Section 541 of the Bankruptcy Code, including but not limited to: (i) the Assets, free and clear of all Liens, Claims, and encumbrances, including, but not limited to, Estate Causes of Action; (ii) all of the rights and defenses of the Estate, including, without limitation, setoff rights, arising out of or directly related to any executory contract or unexpired lease assumed or rejected by the Debtor or by the terms of the Plan, against the other party to such contract or lease; (iii) all sums in the future received by or recovered by or for the Liquidation Trust from any source including, without limitation, any excess funds held by the Disbursing Agent after payment of Allowed Claims; and (iv) any defenses and counterclaims of any of the Estate to any Claim filed or asserted against the Estate (collectively, the “Trust Assets”), shall be deemed transferred to the Liquidation Trust. Upon the filing of a notice by the Debtor with the Bankruptcy Court, the Trust Assets shall vest in the Liquidation Trust.

(b) Notwithstanding anything to the contrary in Section 7.10(a), the Liquidation Trust may, in the sole and absolute discretion of the Liquidation Trustee, after consultation with the Liquidation Trust Oversight Board, abandon or otherwise not accept any Trust Assets that the Liquidation Trustee believes, in good faith, have no value to the Liquidation Trust or that in the interests of the Liquidation Trust should otherwise be abandoned or rejected.

(c) All Claims and Causes of Action of or owned by the Equity Committee are, without the need for any act or document, assigned to and vested in the Liquidation Trust as of the Effective Date.

**Section 7.11 Powers of the Liquidation Trustee.** Except as otherwise provided in the Plan or the Confirmation Order, the Liquidation Trustee shall have all authority to take all steps deemed by the Liquidation Trustee to be necessary or appropriate to administer and/or otherwise control or exercise authority over the Trust Assets, including without limitation, over the acquisition, management and disposition thereof, and over the management and conduct of the administration of the Liquidation Trust, including, without limitation, to cause or authorize

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distributions to the Beneficiaries (and other distributions as allowed pursuant to the Plan), to review and maintain objections to or compromise Claims, and to pursue and/or compromise Causes of Action after consultation with the Liquidation Trust Oversight Board. The Liquidation Trustee shall have all authority, power, responsibilities and rights set forth in or contemplated by the Plan and Confirmation Order.

(a) Without limiting the foregoing, but subject to the Confirmation Order, and without the necessity of Bankruptcy Court approval (except as otherwise specified herein), and in every case subject to the restrictions imposed herein, the Liquidation Trustee shall have the following powers and authority with respect to the Liquidation Trust and the Trust Assets:

(i) the power and authority to deposit and invest funds in, and withdraw funds from the Reserves, provided that such funds are maintained in Cash;

(ii) the power and authority to open and maintain bank, investment or other accounts with one or more banks and/or other financial institutions;

(iii) the power and authority to pay Liquidation Trust Expenses, make distributions, pay taxes and pay other obligations owed by Debtor, the Estate, or the Liquidation Trust from the Trust Assets;

(iv) the power and authority to engage the Liquidation Trust's Professional Persons;

(v) the power and authority to take all actions, including the power to initiate, commence, prosecute, litigate, defend, compromise, collect, settle and/or otherwise administer Equity Interests and Causes of Action, where appropriate, and in consultation with the Liquidation Trust Oversight Board as required by Section 7.20 hereof, and in connection therewith to participate in or initiate any proceeding before the Bankruptcy Court or any other court of competent jurisdiction and voluntarily participate as a party in any administrative proceeding, arbitration, mediation or other non-judicial proceeding;

(vi) the power and authority to liquidate any and all of the Trust Assets and provide for distribution of the proceeds, and any other funds as provided for by the Plan;

(vii) the power and authority to administer the Disputed Claims Reserve as provided for in the Plan,

(viii) the power and authority to seek ruling(s) or other guidance from the Internal Revenue Service, state tax authorities or other governmental entities as to the status of the Liquidation Trust for tax purposes and the correct tax treatment of any income, payment or asset or the correct tax filing requirements relating to the same, all as the Liquidation Trustee shall deem necessary and appropriate; and

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(ix) such other powers and authority as may be vested in or assumed by the Liquidation Trustee pursuant to the Plan or a Bankruptcy Court order or as may be necessary or appropriate to carry out the provisions of the Plan.

(b) The Liquidation Trustee is the appropriate party in interest in any action brought by or on behalf of the Liquidation Trust.

**Section 7.12 Settlement.** From and after the first Business Day following the Effective Date, the Liquidation Trustee shall be authorized to enter into settlements of Causes of Action, where the asserted claim amount is less than \$500,000 with approval of the Liquidation Trust Oversight Board without Bankruptcy Court approval notwithstanding any prior order of the Bankruptcy Court or the provisions of Bankruptcy Rule 9019. The Liquidation Trustee may settle or compromise any of the Causes of Action where the claim asserted exceeds \$500,000, or claims asserted for less than \$500,000 where consent of the Liquidation Trust Oversight Board has not been obtained, only with approval of the Bankruptcy Court.

**Section 7.13 Investments.** Cash shall be maintained by or for the Liquidation Trust in such bank and other financial institution accounts as the Liquidation Trustee shall establish from time to time in its discretion. Cash held by or for the Liquidation Trust in any accounts or otherwise shall be invested in accordance with Section 345 of the Bankruptcy Code or as otherwise permitted by an order of the Bankruptcy Court. The Liquidation Trustee shall have no responsibility or liability for or by reason of or in connection with the financial performance of, or any diminution in value or losses suffered or incurred in connection with, any of such accounts, or the solvency of any bank or other financial institution.

**Section 7.14 Tax Treatment of Liquidation Trust.** It is intended that the Liquidation Trust will be treated as a “liquidation trust” within the meaning of Treasury Regulation §301.770 1-4(d) and as a grantor trust pursuant to IRC Sections 671-677. The primary purpose of the Liquidation Trust is the liquidation and distribution of the Trust Assets, with no objective to continue or engage in the conduct of a trade or business, except to the extent reasonably necessary to, and consistent with, the liquidation purpose of the Liquidation Trust. Accordingly, for federal income tax purposes, the transfer of Trust Assets, subject to the assumption of liabilities on a non-recourse basis to the Beneficiaries, to the Liquidation Trust shall be treated by the Estate and the Liquidation Trustee as a deemed transfer of such Trust Assets, subject to the assumption of liabilities, by Debtor and the Estate to holders of Allowed Equity Interests in Class 3A, and a deemed further transfer by such holders, subject to the assumption of liabilities, to the Liquidation Trust in exchange for Beneficial Interests therein. The Liquidation Trustee shall, in consultation with the Liquidation Trust Oversight Board, make a good faith determination of the fair market value of the Trust Assets transferred to the Liquidation Trust as of the Effective Date. The Liquidation Trustee and all holders of Allowed Equity Interests in Class 3A shall use these values for the Trust Assets transferred to the Liquidation Trust consistently for all federal income tax purposes. For federal income tax purposes, the holders of Allowed Equity Interests in Class 3A shall be treated by the Estate and the Liquidation Trustee as the grantors of the Liquidation Trust and as the deemed owners of the assets of the Liquidation Trust, and the Liquidation Trust shall not be treated as a successor of Debtor. Notwithstanding anything to the contrary contained in the Plan, the failure of the Liquidation

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Trust to be treated for tax purposes in the manner and/or with the effects contemplated by this Section 7.14 shall not limit or affect the validity or formation of the Liquidation Trust or the effectiveness of the Plan or the power or authority of the Liquidation Trustee, and the Liquidation Trustee shall be entitled to take such steps or actions as the Liquidation Trustee deems appropriate or advisable, in order to further or support the tax treatment and effects contemplated by this Section 7.14.

**Section 7.15 Withholding and Reporting Requirements.** In connection with the administration of the Plan, and the making of distributions under the Plan, the Liquidation Trust will endeavor to comply in all material respects with all applicable withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority.

**Section 7.16 Debtor's Books and Records.** On the first Business Day following the formation of the Liquidation Trust, or as soon as practicable thereafter, the Liquidation Trust shall take possession, custody, and control of all books and records of Debtor, including, without limitation, all books and records necessary to the making of distributions, prosecution of objections to Equity Interests, prosecution of Causes of Action, and the analysis, recovery and disposition of the Trust Assets. All such books and records shall be preserved for so long as may be necessary for the prosecution or defense of any Causes of Action, or any Equity Interest objection filed by the Liquidation Trust, after which the Liquidation Trust shall be authorized and empowered to abandon and/or destroy said books and records, in the Liquidation Trustee's discretion, after providing a notice of abandonment pursuant to the Bankruptcy Code and Bankruptcy Rules which shall only be served on the Liquidation Trust Oversight Board and the SEC.

**Section 7.17 Limitation of Liability of Liquidation Trustee.** The Liquidation Trustee will be released and indemnified by the Liquidation Trust for all obligations and liabilities of the Liquidation Trust, save and except those duties and obligations of the Liquidation Trustee set forth in the Plan and in the Liquidation Trust Agreement and those attributable to the gross negligence, fraud or willful misconduct of the Liquidation Trustee. The Liquidation Trustee (a) shall only be obligated to perform those duties and obligations that are specifically set forth in this Plan and in the Liquidation Trust Agreement, and no implied covenants or obligations shall be read into this Plan against the Liquidation Trustee, and (b) shall not be liable for any action taken in good faith or in reliance upon the advice of professionals. The Liquidation Trustee shall exercise such of the rights and powers vested in it by this Plan and the Liquidation Trust Agreement, and use the same degree of care and skill in its exercise, as a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs. The Liquidation Trustee shall not be required to post a bond with respect to the performance of the obligations and liabilities of the Liquidation Trustee under the Plan or the Liquidation Trust Agreement.

**Section 7.18 Resignation, Death, or Removal of Liquidation Trustee.** A holder of an Allowed Class 3A Equity Interest, including a member of the Liquidation Trust Oversight Board, upon application, and upon a showing of willful misconduct or gross negligence and upon prior notice to the Liquidation Trustee and the Liquidation Trust Oversight Board, may move the Bankruptcy Court to remove the Liquidation Trustee from its role as Liquidation Trustee. The movant shall have the burden of establishing such cause as aforesaid for such requested removal.

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The Liquidation Trust Oversight Board may remove the Liquidation Trustee at any time by written notice to the Liquidation Trustee. In the event of the resignation or removal, death, or incapacity of the Liquidation Trustee, the Liquidation Trust Oversight Board shall designate another Person to become Liquidation Trustee and such successor Liquidation Trustee, without any further act, shall become fully vested with all of the rights, powers, duties, and obligations of its predecessor, under terms to be agreed by the successor Liquidation Trustee and the Liquidation Trust Oversight Board. In the event of the resignation of the Liquidation Trustee, the Liquidation Trustee shall remain as the Liquidation Trustee until such time as the Liquidation Trust Oversight Board, or the Bankruptcy Court if the Liquidation Trust Oversight Board fails to act within thirty (30) days of resignation, designates a successor.

**Section 7.19 Termination of Liquidation Trust.** The Liquidation Trustee shall be discharged and the Liquidation Trust shall be terminated, at such time as (i) all Disputed Equity Interests have been resolved, (ii) all of the Trust Assets have been liquidated, (iii) all duties and obligations of the Liquidation Trustee hereunder have been fulfilled, (iv) all distributions required to be made by the Liquidation Trustee under the Plan and the Liquidation Trust Agreement have been made, and (v) the Chapter 11 Case has been closed; provided, that in no event shall the Liquidation Trust be terminated later than the term of the Liquidation Trust under the Plan, as such term may be extended pursuant hereto. As soon as practicable after the final Distribution Date, if any, or such other time as the Liquidation Trustee deems appropriate after consultation with the Liquidation Trust Oversight Board, the Liquidation Trustee may seek entry of a Final Order closing the Chapter 11 Case pursuant to Bankruptcy Code Section 350.

**Section 7.20 Liquidation Trust Oversight Board.**

(a) The Liquidation Trust Oversight Board shall be formed and constituted upon execution of the Liquidation Trust Agreement. The Liquidation Trust Oversight Board shall consist of three (3) members, to be initially comprised of members of the Equity Committee. The Liquidation Trust Oversight Board shall have the right, but shall not be required, to fill any vacancy that arises for any reason with another holder of an Allowed Class 3A Equity Interest; provided however, that Peter Yip, Anthony Ip, APOL, and Nicola Chu Ming Nga, and any one acting under the control or direction of any of them, are not eligible to be members of the Liquidation Trust Oversight Board. The Liquidation Trust Oversight Board may, in its discretion, retain Professional Persons. Liquidation Trust Oversight Board Members shall be entitled to reimbursement of their actual and reasonable out of pocket expenses as a Liquidation Trust Oversight Board Member. The Liquidation Trust shall pay from time to time all reasonable fees and expenses of such Professional Persons and the actual and reasonable out of pocket expenses of Liquidation Trust Oversight Board Members, with ten days prior notice to the Liquidation Trust Oversight Board and the Liquidation Trustee, and without approval or order of the Bankruptcy Court, unless the Liquidation Trust Oversight Board or Liquidation Trustee objects to all or part of the fees and expenses, in which case the allowance of the disputed portion shall be determined by the Bankruptcy Court. The Liquidation Trust Oversight Board Members shall have no liability for any action taken in good faith or in reliance on the advice of professionals with regard to their obligations and duties under the Plan.

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(b) The Liquidation Trustee shall regularly consult with the Liquidation Trust Oversight Board regarding the prosecution and/or settlement of Causes of Action. The Liquidation Trustee shall report to the Liquidation Trust Oversight Board on a regular basis. The Liquidation Trustee shall seek approval from the Liquidation Trust Oversight Board regarding the prosecution and/or settlement of each Cause of Action. In the event that the Liquidation Trust Oversight Board declines to approve a settlement proposed by the Liquidation Trustee involving an asserted claim of less than \$500,000, then the dispute shall promptly be brought before the Bankruptcy Court for resolution.

(c) A Liquidation Trust Oversight Board Member shall recuse him/herself from participation in decision-making by the Liquidation Trust Oversight Board on matters in which such member has a conflict of interest.

**Section 7.21 Compensation and Expenses of the Liquidation Trustee.** The Liquidation Trustee shall be compensated at its standard hourly rates as in effect from time to time for its reasonable fees and expenses by the Liquidation Trust with prior notice to the Liquidation Trust Oversight Board, but without any requirement of approval by the Bankruptcy Court, unless the Liquidation Trust Oversight Board communicates its objection to the Liquidation Trustee within 10 days of said notice, in which case only following Bankruptcy Court approval.

**Section 7.22 Reserve for Payment of Claims.** From the Assets, the Debtor or the Disbursing Agent, as the case may be, shall reserve the Effective Date Available Cash pursuant to the terms of the Plan. Such reserve shall be free and clear of all Liens, Claims, and encumbrances. To the extent that the Effective Date Available Cash is insufficient to pay all Allowed Administrative Claims, Allowed Fee Claims, Allowed Priority Tax Claims, Allowed Priority Claims and Allowed General Unsecured Claims and Disbursing Agent Expenses in full, the Liquidation Trustee shall pay such additional amounts from the Trust Assets, either directly or to the Disbursing Agent, as are necessary to pay all Allowed Administrative Claims, Allowed Fee Claims, Allowed Priority Claims, Allowed Priority Tax Claims, Allowed General Unsecured Claims, and Disbursing Agent Expenses in full and all such Allowed Claims and such amounts, if any, shall be a Liquidation Trust Expense. After payment in full of all Allowed Claims, any Cash remaining in the Reserve will be transferred to the Liquidation Trust.

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## ARTICLE VIII

### PROVISIONS GOVERNING DISTRIBUTIONS

#### **Section 8.1 Distributions of Available Cash.**

(a) All payments to be made by the Disbursing Agent or the Liquidation Trust to any Beneficiary, and/or any other holder of any Allowed Claim, shall be made only in accordance with the Plan and the Confirmation Order and only to the extent that the Liquidation Trust or Estate has sufficient assets (or income and proceeds realized from the assets) to make such payments in accordance with and to the extent provided for in the Plan and the Confirmation Order.

(b) Available Cash shall be distributed by the Liquidation Trustee to Beneficiaries on the Initial Equity Distribution Date and each Periodic Distribution Date, or as soon thereafter as reasonably practicable, in accordance with the provisions of the Plan.

(c) Cash shall be maintained by or for the Liquidation Trust in such bank and other financial institution accounts as the Liquidation Trustee shall establish from time to time in its discretion, subject to Section 7.13.

#### **Section 8.2 Provisions Concerning Disputed Claims Reserves.**

(a) **Establishment of Disputed Claims Reserve.** In connection with the Initial Claims Distribution Date (or any other date on which distributions for any particular Class of Claims are made pursuant to the Plan by the Liquidation Trust), and in connection with making all distributions required to be made on any such date under the Plan, and to pay the Disbursing Agent Expenses, the Disbursing Agent shall establish, for record keeping purposes only (and not as a separate or distinct fund or account and without interest), a Disputed Claims Reserve for holders of Disputed Claims as necessary pursuant to the Plan.

(b) **Amounts to Be Reserved.** The Liquidation Trustee or Disbursing Agent, as the case may be, shall reserve Cash allocated for distribution on account of each Disputed Claim based upon the Face Amount of each such Disputed Claim, plus 36% of the Face Amount on account of the Postpetition Interest attributable to any such General Unsecured Claim, or such lesser or greater amount as may be agreed to by the holder of the Claim on one hand and the Liquidation Trustee or Disbursing Agent, as the case may be, after consultation with the Liquidation Trust Oversight Board or Equity Committee on the other hand, as applicable, or as may otherwise be determined by Final Order of the Bankruptcy Court (the "Disputed Claims Reserve"). All Cash or other property allocable to the relevant Class hereunder with respect to Disputed Claims shall be allocated for record keeping purposes only (and not as a separate or distinct fund or account and without interest), to the Disputed Claims Reserve with respect to the Initial Claims Distribution Date (or such other date on which distributions for any particular Class of Claims are made pursuant to the Plan).

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(c) **Distributions.** Payments on any Disputed Claim that becomes an Allowed Claim shall be distributed as soon as practicable after the Claim is Allowed. Distributions shall be made only to the extent of the aggregate distributions that the holder of any such Allowed Claim would have received had such Claim been Allowed as of the Effective Date (less any taxes paid with respect to amounts held in the Disputed Claims Reserve). Distributions to each holder of a Disputed Claim that has become an Allowed Claim (and to the extent that the holder of the Disputed Claim has not received prior distributions on account of that Claim) shall be made in accordance with the provisions of the Plan governing the Class of Claims in which the Claim is classified.

(d) **Termination of Disputed Claims Reserve.** The Disputed Claims Reserve shall no longer be necessary at the earlier of (i) when all Disputed Claims have been resolved, or (ii) when all distributions and other dispositions of Cash or other property required to be made therefrom under the Plan have been made. Thereafter, all Cash and other property deemed allocated to the Disputed Claims Reserve shall be transferred to the Liquidation Trust, if not previously transferred thereto.

(e) **No Liability for Funding the Disputed Claims Reserve.** Neither the Disbursing Agent nor the Liquidation Trustee shall have any duty to fund, or to set aside, any separate account for the Disputed Claims Reserve.

### **Section 8.3 Provisions Concerning Disputed Equity Interests Reserves.**

(a) **Establishment of Disputed Equity Interest Reserve.** The Liquidation Trustee shall establish, for record keeping purposes only (and not as a separate or distinct fund or account and without interest), a Disputed Equity Interest Reserve for holders of Disputed Equity Interests as necessary pursuant to the Plan.

(b) **Amounts to Be Reserved.** The Liquidation Trustee shall reserve Cash allocated for distribution on account of each Disputed Equity Interest based upon the total number of common shares, assuming exercise of Option Interests and validity of Restricted Stock Awards, and any Equity Rights as applicable, allocable to the Disputed Equity Interests (the “Disputed Equity Interest Reserve”). All Cash or other property allocable to the relevant Class hereunder with respect to Disputed Equity Interest shall be allocated for record keeping purposes only (and not as a separate or distinct fund or account and without interest) to the Disputed Equity Interest Reserve with respect to the Initial Equity Distribution Date (or such other date on which distributions for any particular Class of Equity Interest are made pursuant to the Plan).

(c) **Distributions.** Payments on any Disputed Equity Interest that becomes an Allowed Equity Interest shall be distributed no later than the first Periodic Distribution Date after the Equity Interest is Allowed. Distributions shall be made only to the extent of the aggregate distributions that the holder of any such Allowed Equity Interest would have received had such Equity Interest been Allowed as of the Effective Date, without interest. Distributions to each holder of a Disputed Equity Interest that has become an Allowed Equity Interest (and to the extent that the holder of the Disputed Equity Interest has not received prior distributions on account of that Equity Interest) shall be made in accordance with the provisions of the Plan governing the Class of Equity Interest in which the Equity Interest is classified.

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(d) **Termination of Disputed Equity Interest Reserve.** The Disputed Equity Interest Reserve shall no longer be necessary at the earlier of (i) when all Disputed Equity Interests have been resolved, or (ii) when all distributions and other dispositions of Cash or other property required to be made therefrom under the Plan have been made.

(e) **No Liability for Funding the Disputed Equity Interest Reserve.** Neither the Disbursing Agent nor the Liquidation Trustee shall have any duty to fund, or to set aside any separate account for, the Disputed Equity Interest Reserve.

**Section 8.4 Transmittal of Distributions and Notices.**

(a) **Notices to Claims and Equity Interests.** Notices to holders of Claims and Equity Interests and notice that an Entity or Person is or becomes entitled to receive pursuant to the Plan may be delivered by regular mail, postage prepaid, in an envelope addressed to the holder' s Distribution Address.

(b) **Distributions to Claims and Equity Interests.** Distributions to holders of Allowed Claims pursuant to the Plan may be delivered by regular mail, postage prepaid, in an envelope addressed to the holder' s Distribution Address. Distributions to holders of Allowed Equity Interests may be delivered by (i) regular mail, postage prepaid, in an envelope addressed to the holder' s Distribution Address, or (ii) by electronic delivery. Distributions made in accordance with this Plan shall be deemed delivered regardless of whether such distribution is actually received by the Entity or Person to whom it is directed. The Distribution Address shall be binding on all holders of Claims, Equity Interests and other parties-in-interest, and the Liquidation Trustee and Disbursing Agent shall be entitled to rely upon the Distribution Address, and shall have no duty or responsibility to independently seek or verify any address other than as specifically set forth in Section 7.5 of this Plan. A holder of a Claim may designate a different Distribution Address by notifying, after the Effective Date, the Liquidation Trust of that address in writing. Such notification shall be effective only upon receipt.

**Section 8.5 Setoffs.** The Liquidation Trustee and Disbursing Agent may, but shall not be required to, setoff or recoup against any Claim (for purposes of determining the allowed amount of such Claim on which distribution shall be made), any claims of any nature whatsoever that the Estate or the Liquidation Trust may have against the claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Liquidation Trust or Disbursing Agent of any such claim it may have against such claimant.

**Section 8.6 Withholding of Distributions to Equity Interests.** To extent there exists a Cause of Action against a holder of an Equity Interest, the Liquidation Trustee may, but shall not be required to, withhold any distribution from the Liquidation Trust on account of such holder' s Beneficial Interest, and to the extent any judgment is entered against such holder in favor of the Debtor, to recoup or offset on account of such judgment against any such distribution.

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**Section 8.7 Withholding Taxes and Expenses of Distribution.** Any federal, state or local withholding taxes or other amounts required to be withheld under applicable law shall be deducted from distributions hereunder. All holders of Allowed Claims shall be required to provide any information necessary to effect the withholding of such taxes.

**Section 8.8 Disputed Identity of Holder.** If any dispute arises as to the identity of a holder of an Allowed Claim or Allowed Equity Interest who is to receive any distribution, the Liquidation Trustee or Disbursing Agent may, in lieu of making such distribution to such Entity or Person, make such distribution into an escrow account until the disposition thereof shall be determined by the Bankruptcy Court or by written agreement among the interested parties to such dispute.

**Section 8.9 Restriction on Transfers of Claims and Equity Interests, and Distribution Record Date.** Subsequent to the Effective Date, no party can transfer a Claim, an Equity Interest, or a Beneficial Interest. Distributions on account of Beneficial Interests from the Liquidation Trust shall be made to holders of Equity Interests as reflected on the stock shares of the company on the Distribution Record Date. Property may be distributed under the Liquidation Trust on account of Beneficial Interests in lieu of cash.

**Section 8.10 Method of Cash Distributions.** Any Cash payment to be made by the Liquidation Trust or the Estate pursuant to the Plan may be made, at the sole discretion of the Liquidation Trustee or Disbursing Agent, by draft, check, wire transfer, or as otherwise required or provided in any relevant agreement or applicable law.

**Section 8.11 Fractional and De Minimis Distributions.** Whenever any payment of a fraction of a dollar under this Plan would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole dollar or share (up or down), with half dollars and fractions less than  $\frac{1}{2}$  being rounded down.

**Section 8.12 Exemption from Certain Transfer Taxes.** Pursuant to Section 1146(c) of the Bankruptcy Code: (a) the issuance, transfer or exchange of any securities, instruments or documents; (b) the creation or release of any other Lien, mortgage, deed of trust or other security interest; (c) the transfer of Assets to the Liquidation Trust or the transfer of Trust Assets from the Liquidation Trust, or (d) the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, pursuant to, in furtherance of or in connection with the Plan or the sale of any assets of the Estate, or any deeds, releases, bills of sale or assignments executed in connection with the Plan or the Confirmation Order, shall not be subject to any stamp tax, transfer tax, intangible tax, recording fee, or similar tax, charge or expense to the fullest extent provided for under Section 1146(a) of the Bankruptcy Code.

**Section 8.13 Striking of Provisions and Confirmation of Plan, as Modified.** In the event the Bankruptcy Court determines that the Plan cannot be confirmed because of one or both of the Disputed Provisions, one or both of the provisions, as the case may be, shall be deemed stricken from the Plan and the Plan shall be modified to exclude such provision(s). “Disputed Provisions” means: (1) the provision in the Plan permitting the subordination or equitable disallowance of an Equity Interest; and (2) the provision in the Plan providing for the establishment of a Disputed Equity Interest Reserve for Disputed Equity Interests.

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## ARTICLE IX

### EXECUTORY CONTRACTS AND LEASES

**Section 9.1 Assumption of Insurance Policies; Assignment of Rights.** Each of the Debtor's insurance policies and any agreements, documents or instruments relating thereto (the "Insurance Policies"), unless previously cancelled, shall be treated as executory contracts under the Plan, and the Plan shall constitute a motion to assume the Insurance Policies and to assign all of the Estate's rights under such Insurance Policies to the Liquidation Trust. Subject to the occurrence of the Effective Date, the entry of the Confirmation Order by the Clerk of the Bankruptcy Court shall constitute approval of such assumption pursuant to Bankruptcy Code Sections 365(a) and 1123(b)(2) and a finding by the Bankruptcy Court that such assumption is in the best interests of the Debtor, its Estate, and all parties in interest in the Chapter 11 Case. Unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed by the parties thereto prior to the Effective Date, no payments are required to cure any defaults of Debtor existing as of the Confirmation Date. To the extent the Bankruptcy Court or Proponents determine otherwise as to any of the Insurance Policies, Debtor and/or Liquidation Trustee reserve the right to seek rejection of such Insurance Policy or other available relief.

**Section 9.2 Assumption of Contracts and Leases.** Each executory contract or unexpired lease (except as provided in Section 9.1 above in the case of the Insurance Policies and 9.3 below in the case of Indemnification Obligations) of Debtor, including executory contracts or unexpired leases entered into after the Petition Date, that has not expired by its own terms prior to the Confirmation Date, and that has not been assumed or rejected during the Chapter 11 Case prior to the Confirmation Date shall be deemed assumed pursuant to Bankruptcy Code Section 365 as of the Confirmation Date. Each such executory contract or unexpired lease shall be assigned to the Liquidation Trust on the Effective Date and shall constitute a Trust Asset. If there is a breach of any assumed executory contract or unexpired lease for which Cash is due a Claim for any damages must be filed on or before the Executory Contract Claims Bar Date. Notwithstanding the payment of Allowed Fee Claims, any indemnity obligation of (including any claim of contribution, reimbursement, or subrogation against) the Debtor to (or by) any Professional Person, and any claim of a Professional Person pursuant to an agreement entered into by the Debtor or the Equity Committee pursuant to an order of the Bankruptcy Court that is first due and payable after the Effective Date, shall not be discharged by the allowance and payment of such Professional Person's Fee Claim or the occurrence of the Effective Date, but shall remain outstanding from and after the Effective Date and, notwithstanding any provision of this Plan to the contrary, can be asserted against, and shall be claims against, the Liquidation Trust and the Trust Assets as Liquidation Trust Expenses.

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**Section 9.3 Rejection of Indemnification Obligations.**

(a) Except as otherwise provided in the Plan or any contract, instrument, release or other agreement or document entered into in connection with the Plan and approved by the Bankruptcy Court, on the Confirmation Date, all obligations related to any contract, instrument, limited liability company agreement, articles of incorporation, bylaws, other comparable organizational document or any other document or applicable law shall be deemed rejected as of the Confirmation Date as they relate to any rights to indemnification, contribution and/or advancement of expenses claimed by any former member, manager, officer or employee of Debtor (the “Indemnification Obligations”). For avoidance of doubt, any rights to indemnification, contribution and/or advancement of expenses of Joseph D. Stutz and Marcus A. Watson shall not be rejected and shall survive confirmation of this Plan

(b) Indemnification Obligations (whether arising by contract, operation of law, statute or otherwise) owed to any present or former professionals of Debtor arising out of acts or omissions that occurred prior to the Petition Date, including without limitation, accountants, auditors, financial consultants, underwriters or attorneys, shall be deemed to be, and shall be treated as though they are, executory contracts that are rejected pursuant to Bankruptcy Code Section 365 under the Plan as of the Confirmation Date.

(c) A Rejection Claim for Indemnification Obligations must be filed by the Executory Contract Claims Bar Date. If the rejection of any executory contract or unexpired lease under the Plan gives rise to a Claim by the non-Debtor party or parties to such contract or lease, such Claim, to the extent that it is timely filed and is an Allowed Claim, shall be classified in Class 2.

**ARTICLE X**

**DISPUTED, CONTINGENT AND  
UNLIQUIDATED CLAIMS AND EQUITY INTERESTS**

**Section 10.1 Objections to Claims and Equity Interests.**

(a) The Claims Objection Deadline shall be six months after the Effective Date; provided, however, that the last date for filing Avoidance Actions against a holder of a Claim shall be the date established by Bankruptcy Code Section 546(a) and the last day for asserting any other Cause of Action shall be the last day of the applicable statute of limitations therefor provided under applicable non-bankruptcy law as such period may have been extended by Bankruptcy Code Section 108 or any other section of the Bankruptcy Code. Notwithstanding any of the foregoing, the Liquidation Trust may request from the Bankruptcy Court one or more extensions of the Claims Objection Deadline, which such extended date shall become the new Claims Objection Deadline.

(b) From and after the formation of the Liquidation Trust, the Liquidation Trustee, in consultation with the Liquidation Trust Oversight Board, shall have the exclusive authority for reviewing, negotiating, and, if deemed appropriate, objecting to the allowance of any Claim filed

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or asserted in the Chapter 11 Case or any Equity Interest. All objections shall be litigated to a Final Order; provided, however, that the Liquidation Trustee may compromise and settle any objections to Claims and Equity Interests, in consultation with the Liquidation Trust Oversight Board, subject to the provisions of this Article X without order of the Bankruptcy Court; provided further, however, that distributions may be made to a holder of a Claim prior to the expiration of the Claims Objection Deadline applicable thereto if the Liquidation Trustee believes that objection to such holder's Claim is not appropriate under the circumstances.

(c) Objections to Claims or Equity Interests shall not be subject to any defense because of confirmation of the Plan, including, without limitation, res judicata, or estoppel.

**Section 10.2 Estimation of Claims and Equity Interests.** Through the Claims Objection Deadline applicable to Claims, and at any time for Equity Interests, the Disbursing Agent or the Liquidation Trustee may request that the Bankruptcy Court enter an Estimation Order(s) fixing, pursuant to Bankruptcy Code Section 502(c), the amount of any Disputed Claim or Disputed Equity Interest, regardless of whether Debtor has previously objected to such Claim or Equity Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Disputed Claim or Disputed Equity Interest, including during the pendency of any appeal relating to any objection to any Disputed Claim or Disputed Equity Interest. In the event that the Bankruptcy Court enters an Estimation Order estimating any Disputed Claim or Disputed Equity Interest, the amount of such estimation will constitute either the Allowed amount of such Claim or Disputed Equity Interest or a maximum limitation on such Claim or Equity Interest, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim or Equity Interest, the Disbursing Agent or Liquidation Trust may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim or Equity Interest. All of the aforementioned Claims' objection, Equity Interest's objection, estimation and resolution procedures are cumulative and are not necessarily exclusive of one another. Claims or Equity Interests may be estimated and thereafter resolved by any mechanism permitted under the Bankruptcy Code or the Plan. Proponents reserve all rights to seek estimation of any Administrative Claim and Fee Claim as part of the Plan confirmation process.

**Section 10.3 Amendments to Claims or Equity Interests.** After the Confirmation Date, except as provided in Sections 3.1(a) and 3.3(a) of the Plan, a Claim or Equity Interest may not be filed or amended without the authorization of the Bankruptcy Court and, even with such Bankruptcy Court authorization, may be amended by the holder of such Claim or Equity Interest solely to decrease, but not to increase, unless otherwise authorized by the Bankruptcy Court, the amount, number or priority.

**Section 10.4 Authority To Settle Disputed Claims and Disputed Equity Interests.** From and after the formation of the Liquidation Trust, the Liquidation Trustee shall be authorized to compromise and settle Disputed Claims, with a Disputed Amount less than \$500,000 with approval of the Liquidation Trust Oversight Board without Bankruptcy Court approval notwithstanding any prior order of the Bankruptcy Court or the provisions of Bankruptcy Rule 9019. From and after the formation of the Liquidation Trust, the Liquidation Trustee shall be authorized to compromise and settle Disputed Equity Interest with cash

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allocated to the Disputed Equity Interest pursuant to Section 8.3(b) of the Plan of less than \$500,000. The Liquidation Trustee may settle or compromise any Disputed Claim with a Disputed Amount in excess of \$500,000 or a Disputed Equity Interest with cash allocated to the Disputed Equity Interest pursuant to Section 8.3(b) of the Plan in excess of \$500,000 only with approval of the Bankruptcy Court.

**Section 10.5 No Recourse.** Notwithstanding that the Allowed amount or estimated amount of any particular Disputed Claim or Disputed Equity Interest is reconsidered under the applicable provisions of the Bankruptcy Code and Bankruptcy Rules and, as a result of such reconsideration is Allowed in an amount for which there is insufficient value in the relevant fund or reserve to provide a recovery equal to that received by other holders of Allowed Claims or Equity Interests in the relevant Class, no such Claim or Equity Interest holder shall have recourse to the Liquidation Trust, Debtor, the Liquidation Trustee, the Liquidation Trust Oversight Board Members, the Estate, Proponents, any member or manager thereof, any of the respective Professional Persons of any of them, the holder of any other Claim or Equity Interest, or any of the respective property of any of the foregoing. However, nothing in the Plan shall modify any right of a holder of a Claim under Section 502(j) of the Bankruptcy Code.

## ARTICLE XI

### EFFECTS OF CONFIRMATION

**Section 11.1 Retention of Estate Causes of Action/Reservation of Rights.** On and after the formation of the Liquidation Trust, the Liquidation Trust shall have, retain, reserve and be entitled to assert, prosecute, (subject to Section 7.20(b) hereof) settle, or abandon, any and all Estate Causes of Action.

**Section 11.2 Compromise of Controversies.** Pursuant to Bankruptcy Rule 9019, and in consideration for the classification, distribution and other benefits provided under the Plan, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and controversies resolved pursuant to the Plan. The entry of the Confirmation Order shall constitute the Bankruptcy Court' s approval of all other compromises and settlements provided for in the Plan, and the Bankruptcy Court' s findings shall constitute its determination that such compromises and settlements are in the best interests of Debtor, its Estate, creditors, holders of Equity Interests, and other parties-in-interest, and are fair, equitable and within the range of reasonableness.

**Section 11.3 Preservation of Insurance.** Notwithstanding any contrary provision in the Plan, Plan Supplement, or Confirmation Order (including the rejection of any Indemnification Obligations pursuant to the Plan), the Plan shall not diminish or impair the enforceability of Insurance Policies that may cover Claims against Debtor, its Estate, or its Assets or any other Person or Entity. Nothing contained in the Plan, Plan Supplement, or Confirmation Order shall be construed to alter any existing obligation of Debtor to indemnify, to the extent necessary to insure, any Person or Entity, including without limitation, any former officers and/or directors of Debtor or its Subsidiaries, entitled to indemnification pursuant to any Insurance Policies under applicable law.

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**Section 11.4 Term of Injunctions or Stays.** Until the Effective Date, all injunctions or stays provided for in the Chapter 11 Case under Bankruptcy Code Sections 105(a) or 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect. After the Effective Date, all injunctions or stays provided for in the Chapter 11 Case under Bankruptcy Code Sections 105(a) or 362, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the later of the final Distribution Date or the Debtor's Chapter 11 Case is closed.

**Section 11.5 Permanent Injunction.**

**(a) Terms of Injunction.** *Except as otherwise expressly provided in the Plan, the Sale Documents, the Sale Order, or the Confirmation Order, all Persons who have held, hold or may hold Claims against, or Equity Interests in, the Debtor are permanently enjoined, on and after the Effective Date, to the fullest extent permissible under applicable law, as such law may be extended or integrated after the Effective Date, from taking any of the following actions against the Estate, the Debtor's property or the Released Parties on account of, in connection with, or related to, in any manner whatsoever, whether directly or indirectly, such Claims or Equity Interests: (a) commencing or continuing in any manner any action or other proceeding of any kind; (b) the enforcement, attachment, collection, or recovery by any manner or means of judgment, award, decree or order; (c) creating, perfecting, or enforcing any encumbrance of any kind; (d) asserting any right of setoff, recoupment or subrogation of any kind; and (e) commencing or continuing in any manner or in any place any suit, action or other proceeding that does not comply with or is inconsistent with the provisions of the Plan. The foregoing injunction will extend to successors of the Released Parties.*

**(b) Relief from Injunction.** *Any Person asserting a claim against one or more of the Released Parties that is enjoined under Section 11.5(a) of the Plan and that is not otherwise released or exculpated under the Plan may seek relief from the injunction contained in Section 11.5(a) of the Plan by filing with the Bankruptcy Court an explanation of the claim against the Released Party, the basis for the assertion that the claim was not released or exculpated under the terms of the Plan, and a description of the action(s) the holder desires to take on account of such claim and by thereafter obtaining an order of the Bankruptcy Court allowing the holder to assert the claim. The Bankruptcy Court may enter such order upon the finding, among other things, that (i) the claim is for gross negligence, willful misconduct, or breach of fiduciary duty, (ii) facts sufficient to state a claim that is plausible on its face have been plead, (iii) the provisions of this Section 11.5(b) have been complied with, (iv) the claim the holder desires to assert was not released or exculpated under the terms of the Plan, and (v) the holder is acting in good faith in pursuit of such claim.*

**Section 11.6 Exculpation.** *None of Exculpated Parties or of the APOL Releasees shall have or incur any liability whatsoever, in any form, to the Estate, the Liquidation Trust, the Disbursing Agent, the Debtor, any holder of a Claim or Equity Interest in the Debtor, or any other party in interest for any act or omission in connection with or arising out of the Chapter 11 Case, the involvement of any of them in the filing and/or conduct of the Chapter 11 Case, including the type or value of distributions, if any, reserved under the Plan for holders of*

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*Claims or Equity Interests, the pursuit of consummation of the sale of the CDC Software Shares, the solicitation of votes for acceptance or rejection of the Plan, the pursuit of confirmation and consummation of the Plan, the administration of the Plan and/or the Liquidation Trust or the property to be distributed under the Plan, other than acts or omissions found in a final judgment by a court of competent jurisdiction (not subject to further appeal) to constitute willful misconduct, gross negligence, or breach of fiduciary duty by such person or entity; provided however, that nothing in this Section 11.6 is intended to exculpate any of the Exculpated Parties from any liability for any acts or omissions of the Exculpated Parties taken prior to September 30, 2011.*

**Section 11.7 Releases by Debtor, Estate, and Related Persons.** *Except as otherwise expressly provided in the Plan, the Sale Documents, Sale Order, or the Confirmation Order, on the Effective Date, for good and valuable consideration, to the fullest extent permissible under applicable law, the Debtor, on its own behalf and as representative of the Estate and each of its respective Related Persons, shall, and shall be deemed to, completely and forever release, waive, void, extinguish and discharge unconditionally, each and all of the Released Parties, of and from any and all Claims, Causes of Action (including any Avoidance Actions), any and all other obligations, suits, judgments, damages, debts, rights, remedies, causes of action and liabilities of any nature whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are or may be based in whole or part on any act, omission, transaction, event or other circumstance taking place or existing on or prior to the Effective Date (including prior to the Petition Date) in connection with or related to the Debtor, or its assets, property and Estate, the Chapter 11 Case or the Plan, the Share Purchase Agreement, and the Disclosure Statement.*

**Section 11.8 Injunction Against Interference with the Plan.** *Upon entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present employees, agents, officers, directors or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan, except with respect to actions such entity may take in connection with the pursuit of appellate rights with respect to the Confirmation Order.*

**Section 11.9 Effect of APOL Settlement Agreement and Release of APOL Releasees therein.**

(a) Confirmation of the Plan shall not affect the APOL Settlement Agreement, which to the extent approved by Final Order will be enforceable pursuant to its terms after confirmation of the Plan.

(b) *To the extent provided for in the APOL Settlement Agreement, the Debtor and the Estate, their respective successors, assigns and affiliates, a liquidating trust, and any other person that claims or might claim through, on behalf of, or for the benefit of any of the foregoing, whether directly or derivatively, and the Equity Committee (the "Estate Releasors"), irrevocably and unconditionally, fully, finally, and forever waive, release, acquit, and discharge APOL, Nicola Chu Ming Nga, and Anthony Ip, along with their attorneys, and their*

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*respective directors, officers, parents, subsidiaries, and the APOL Settlement Agreement Affiliates (collectively, the “APOL Releasees”) from any and all claims, demands, rights, liabilities, or causes of action of any and every kind, character, or nature whatsoever, in law or in equity, known or unknown, whether asserted or unasserted, which the Estate Releasers, or any of them, or anyone claiming through them, on their behalf or for their benefit, have or may have or claim to have, now or in the future, against any of the APOL Releasees for, upon, or by reason of any manner, cause or thing whatsoever from the beginning of the world to the date of the APOL Settlement Agreement, including but not limited to any claims that have been or could be brought by the Estate of the Debtor in connection with its bankruptcy proceeding, or any trust or entity charged with recovering assets of the Estate, or any constituency of the Estate, whether such claims have been, could have been or could be brought in the bankruptcy itself or as part of a plan of reorganization or liquidation, including but not limited to claims for damages, costs or fees incurred by the Estate Releasers.*

**Section 11.10 Deemed Consent.** *By submitting a Ballot, each holder of a Claim or Equity Interest shall be deemed, to the fullest extent permitted by applicable law, to have specifically consented to the injunctions, exculpations and releases set forth in Plan Sections 11.5, 11.6, 11.7, and 11.8.*

**Section 11.11 No Waiver.** Notwithstanding anything to the contrary contained in Plan, the injunctions set forth in the Plan shall not, and shall not be deemed to, limit, abridge or otherwise affect the rights of the Liquidation Trustee to enforce, sue on, settle or compromise the rights, claims and other matters expressly retained by the Liquidation Trust or the Purchaser pursuant to the Plan, the Liquidation Trust or the Share Purchase Agreement.

**Section 11.12 Satisfaction of Claims and Interests and Binding Effect.** The rights afforded in the Plan and the treatment of all Claims and Equity Interests herein shall be in exchange for and in complete satisfaction, and release of all Claims and Equity Interests of any nature whatsoever against the Debtor or its Estate, assets, properties, or interests in property. The Plan shall be binding upon and inure to the benefit of the Debtor, all present and former holders of Claims against and Equity Interests in the Debtor, its respective successors and assigns, including, but not limited to, the Debtor, and all other parties-in-interest in the Chapter 11 Case.

**Section 11.13 SEC Reservation of Rights.** Nothing in this Plan or the Confirmation Order is intended to, or shall be construed to, restrict or otherwise limit the ability of the SEC to perform its statutory duties with respect to any Person in any nonbankruptcy forum, pursuant to otherwise applicable law; provided however, that nothing in this Section 11.13 is intended to grant the SEC any rights to challenge the Sale Order (or any actions taken in connection with the Sale Order) or any sale approved by order of the Bankruptcy Court in the Chapter 11 Case under Section 363 of the Bankruptcy Code (or any actions taken prior to the Effective Date in connection with such sale).

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## ARTICLE XII

### RETENTION OF JURISDICTION

**Section 12.1 Retention of Exclusive Jurisdiction by the Bankruptcy Court.** Notwithstanding confirmation of the Plan or occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of or related to the Chapter 11 Case and the Plan to the fullest extent legally permissible, including, without limitation, for the following purposes:

- (a) to the extent not otherwise determined by the Plan, to (i) determine the allowance, classification, or priority of Claims upon objection by any party-in-interest entitled to file an objection, or (ii) the validity, extent, priority and nonavoidability of consensual and nonconsensual Liens or other encumbrances against any of the Trust Assets, Estate Causes of Action, or property of the Estate, or the Liquidation Trust;
- (b) to issue injunctions or take such other actions or make such other orders as may be necessary or appropriate to restrain interference with the Plan or its execution or implementation by any Entity or Person, to construe and to take any other action to enforce and execute the Plan, the Confirmation Order, or any other order of the Bankruptcy Court, to issue such orders as may be necessary for the implementation, execution, performance and consummation of the Plan and all matters referred to herein, and to determine all matters that may be pending before the Bankruptcy Court in the Chapter 11 Case on or before the Effective Date with respect to any Entity or Person;
- (c) to protect the Trust Assets or property of the Estate and/or the Liquidation Trust including without limitation Estate Causes of Action from claims against, or interference with, such assets or property, including actions to quiet or otherwise clear title to such property or to resolve any dispute concerning Liens, security interests or encumbrances on any Trust Assets;
- (d) to determine any and all applications for allowance of Fee Claims;
- (e) to determine any Priority Tax Claims, Priority Claims, Administrative Claims, or any other request for payment of Claims, including both fees and expenses, entitled to priority under Section 507(a) of the Bankruptcy Code;
- (f) to resolve any dispute arising under or related to the implementation, execution, consummation or interpretation of the Plan or the making of distributions hereunder;
- (g) to determine any and all motions related to the rejection, assumption or assignment of executory contracts or unexpired leases, or to determine any motion to reject any executory contract or unexpired lease pursuant to Article IX of the Plan;
- (h) except as otherwise provided herein, to determine all applications, motions, adversary proceedings, contested matters, actions, and any other litigated matters instituted in and prior to the closing of the Chapter 11 Case, including any remands;

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- (i) to enter a Final Order closing the Chapter 11 Case;
  - (j) to modify the Plan under Bankruptcy Code Section 1127, remedy any defect, cure any omission, or reconcile any inconsistency in the Plan or the Confirmation Order so as to carry out its intent and purposes;
  - (k) to issue such orders in aid of consummation of the Plan or the Confirmation Order notwithstanding any otherwise applicable non-bankruptcy law, with respect to any Entity or Person, to the full extent authorized by the Bankruptcy Code;
  - (l) to determine any tax liability pursuant to Bankruptcy Code Section 505;
  - (m) 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;
  - (n) to resolve any disputes concerning whether an Entity or Person had sufficient notice of the Chapter 11 Case, the applicable Claims or Equity Interest bar date, the hearing to consider approval of the Disclosure Statement or the Confirmation Hearing or for any other purpose;
  - (o) to resolve any dispute or matter arising under or in connection with any order of the Bankruptcy Court entered in the Chapter 11 Case;
  - (p) to authorize, as may be necessary or appropriate, sales of assets as necessary or desirable and resolve objections, if any, to such sales;
  - (q) to resolve any disputes concerning any release, discharge, injunction, exculpation or other waivers and protections provided in the Plan;
  - (r) to approve, if necessary, any distributions, or objections thereto, under the Plan;
  - (s) to approve, as may be necessary or appropriate under the Plan, any Claims settlement entered into, or offset exercised by, the Liquidation Trust;
  - (t) to resolve any dispute or matter arising under or in connection with the Liquidation Trust;
  - (u) to order the production of documents, disclosures, or information, or to appear for deposition demanded pursuant to Bankruptcy Rule 2004; and
  - (v) to determine such other matters, and for such other purposes, as may be provided in the Confirmation Order or as may be authorized under provisions of the Bankruptcy Code.

The preceding list is non-exhaustive, it being the intent of the Proponents, as set forth in the Plan, that the Bankruptcy Court retain subject-matter jurisdiction to the maximum extent permitted by

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applicable law, which will maximize the Liquidation Trustee's flexibility when choosing the forum for the liquidation of Trust Assets. Retention of jurisdiction by the Bankruptcy Court will benefit all holders of Equity Interests as to those Trust Assets for which the Bankruptcy Court proves to be the most economical and/or efficient forum. In addition, with respect to controversies asserting common questions of law on which the Bankruptcy Court has already promulgated the law of the case and/or the United States District Court for the Northern District of Georgia or the Eleventh Circuit Court of Appeals has provided (or will provide) definitive guidance, prosecution of Causes of Action in the Bankruptcy Court may provide certainty of outcome (and resulting reduction in litigation expenses) not attainable outside of the Bankruptcy Court in a jurisdiction that will consider previously settled questions of law anew.

**Section 12.2 Retention of Non-Exclusive Jurisdiction by the Bankruptcy Court.** Notwithstanding anything else in the Plan, the Bankruptcy Court shall retain non-exclusive jurisdiction over all Estate Causes of Action.

## ARTICLE XIII

### MISCELLANEOUS PROVISIONS

#### **Section 13.1 Amendments.**

(a) **Pre-Confirmation Amendments.** Proponents may modify the Plan at any time prior to the entry of the Confirmation Order, provided that the Plan, as modified, and the Disclosure Statement pertaining thereto meet applicable Bankruptcy Code requirements.

(b) **Post-Confirmation Immaterial Modification.** With the approval of the Bankruptcy Court and on notice to and an opportunity to be heard by the United States Trustee, the Equity Committee or the Liquidation Trust Oversight Board, as applicable, and without notice to all holders of Claims and Equity Interests, Proponents or the Liquidation Trustee, as applicable, may, insofar as it does not materially and adversely affect the interest of holders of Claims, correct any defect, omission or inconsistency in the Plan in such manner and to such extent as may be necessary to expedite consummation of the Plan.

(c) **Post-Confirmation Material Modification.** On notice to and with an opportunity to be heard by the United States Trustee and the Equity Committee or the Liquidation Trust Oversight Board, as applicable, the Plan may be altered or amended after the Confirmation Date by the Liquidation Trustee in a manner which, in the opinion of the Bankruptcy Court, materially and adversely affects holders of Claims, provided that such alteration or modification is made after a hearing and otherwise meets the requirements of Section 1127 of the Bankruptcy Code.

**Section 13.2 Severability.** If, prior to the Confirmation Date, any term or provision of the Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court will have the power to alter and interpret such term or provision and make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or

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interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired or invalidated by such holding, alteration or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**Section 13.3 Successors and Assigns.** The rights, benefits and obligations of any Entity or Person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such Entity or Person. For avoidance of doubt, the Liquidation Trustee and the Equity Committee shall be entitled to substitute or succeed the Debtor, as the case may, be in any action, including, but not limited to, any Avoidance Actions or Estate Causes of Action that have been brought or could have been brought by the Debtor.

**Section 13.4 Governing Law.** Except to the extent that the Bankruptcy Code or Bankruptcy Rules or other federal laws are applicable, and subject to the provisions of any contract, instrument, release, or other agreement or document entered into in connection with the Plan, the construction, implementation and enforcement of the Plan and all rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Georgia without giving effect to conflicts of law principles which would apply the law of a jurisdiction other than the State of Georgia.

**Section 13.5 Effectuating Documents and Further Transactions.** The Liquidation Trust through the Liquidation Trustee shall be authorized to execute, deliver, file, or record such documents, contracts, instruments, and other agreements and take such other actions as may be reasonably necessary to effectuate and further evidence the terms and conditions of the Plan.

**Section 13.6 Extinguishment of Liens.** On the Effective Date, all Liens against any property of Debtor, except to the extent provided in the Plan or the Confirmation Order, shall be deemed forever extinguished and discharged.

**Section 13.7 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 13.8 Confirmation Order and Plan Control.** If, but only to the extent that, the Confirmation Order and/or the Plan shall be directly in conflict with the Disclosure Statement or any agreement entered into by the Liquidation Trust, the Plan shall control the Disclosure Statement and any such agreement, and the Confirmation Order shall control the Plan, the Disclosure Statement and any such agreement.

**Section 13.9 Payment of Statutory Fees.** All fees due and then payable pursuant to Section 1930 of Title 28 of the United States Code and Section 3717 of Title 31 of the United States Code shall be paid in Cash on the Effective Date. With respect to the post-Confirmation period, the Liquidation Trust shall pay all fees and amounts payable pursuant to the foregoing

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statutes with respect to the Chapter 11 Case until the earlier of the date of entry of an order dismissing, converting to Chapter 7 of the Bankruptcy Code, or decreeing as final the Chapter 11 Case, as applicable.

**Section 13.10 Joint and Unilateral Withdrawal of Plan.** Proponents reserve the right, in the exercise of their discretion, to revoke and withdraw or to modify the Plan at any time prior to the Confirmation Date or, if Proponents are for any reason unable to consummate the Plan after the Confirmation Date, at any time up to the Effective Date. If Proponents revoke or withdraw the Plan, (a) nothing contained in the Plan shall be deemed to constitute a waiver or release of any claims by or against the Estate or to prejudice in any manner the rights of the Estate or any Entity or Person in any further proceeding involving Debtor, and (b) the result shall be the same as if the Confirmation Order were not entered, the Plan was not filed, and the Effective Date did not occur. Additionally, each Proponent reserves the right, in the exercise of its fiduciary duty, to withdraw as a proponent of the Plan at any time prior to the Confirmation Date, with the remaining proponent retaining the right to seek confirmation of the Plan.

**Section 13.11 Payment Dates.** Whenever any payment to be made under the Plan is due on a day other than a Business Day, such payment will instead be made, without additional interest accruing, on the next Business Day or as soon thereafter as practicable.

**Section 13.12 Notices.** Any notice, request or demand given or made under the Plan or under the Bankruptcy Code or the Bankruptcy Rules shall be in writing and shall be hand delivered or sent by a reputable overnight courier service, and shall be deemed given when received at the following addresses whether hand delivered or sent by overnight courier service:

**If to Proponents:**

Lamberth, Cifelli, Stokes, Ellis & Nason, P.A.  
Attn: Gregory D. Ellis  
3343 Peachtree Road, N.E  
East Tower, Suite 550  
Atlanta, GA 30326

- and -

Troutman Sanders, LLP  
Attn: Jeffrey W. Kelley  
Bank of America Plaza  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, Georgia 30308-2216

**If to the Disbursing Agent:** As set forth in the Plan Supplement.

**If to the Liquidation Trustee:** As set forth in the Plan Supplement.

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**Section 13.13 Cancellation of Documents.** On the Effective Date, except to the extent otherwise provided in the Plan, all notes, instruments, debentures, certificates and other documents evidencing Claims and Equity Interests in Debtor shall be canceled and deemed null, void and terminated.

**Section 13.14 Termination of Equity Committee.** The appointments of the Equity Committee shall terminate contemporaneously with the execution of the Liquidation Trust Agreement, and the members of the Equity Committee thereafter shall be released and discharged from all further rights and duties arising from or related to the Chapter 11 Case.

**Section 13.15 Post-Confirmation Reporting.** The Disbursing Agent and the Liquidation Trust shall file reports of their respective activities and financial affairs with the Bankruptcy Court on a Quarterly basis, within twenty (20) days after the conclusion of each such Quarterly calendar period. Any such reports shall be prepared substantially consistent with (both in terms of content and format) currently applicable Bankruptcy Court and United States Trustee guidelines for such matters, or as the Liquidation Trustee or the Disbursing Agent, as applicable, and the United States Trustee may otherwise mutually agree.

Dated: August 29, 2012.

**CDC CORPORATION**

By: /s/ Marcus A. Watson (w/express permission by GDE)  
Name: Marcus A. Watson  
Title: Chief Restructuring Officer  
Finley, Colmer and Company  
5565 Glenridge Connector, Ste. 200  
Atlanta, GA 30342  
770-668-0637

**LAMBERTH, CIFELLI, STOKES, ELLIS & NASON, P.A.**

*Attorneys for the Debtor*

By: /s/ Gregory D. Ellis  
Gregory D. Ellis  
Georgia Bar No. 245310  
[gellis@lcsenlaw.com](mailto:gellis@lcsenlaw.com)  
3343 Peachtree Road, N.E.  
East Tower, Suite 550  
Atlanta, GA 30326  
(404) 262-7373

**OFFICIAL COMMITTEE OF EQUITY SECURITY HOLDERS**

By: \_\_\_\_\_  
Name: Jeffery P. Minor  
Title: Chairman  
5848 Mitchaw Rd.  
Sylvania, OH 43650  
Tel: 419-537-1162

**TROUTMAN SANDERS, LLP**

*Attorneys for the Equity Committee*

By: /s/ Jeffrey W. Kelley (w/ express permission by GDE)  
Jeffrey W. Kelley  
Georgia Bar No. 412296  
[jeffrey.kelley@troutmansanders.com](mailto:jeffrey.kelley@troutmansanders.com)  
Bank of America Plaza  
600 Peachtree Street, N.E., Suite 5200  
Atlanta, Georgia 30308-2216  
(404) 885-3000

**EXHIBIT "1"**

**SCHEDULE OF OPTION INTERESTS**

<b>Name</b>	<b>Shares</b>	<b>Name</b>	<b>Shares</b>
Asia Pacific Online Limited	799,999	Patrick, Lisa	666
Asia Pacific Online Limited	1,178,333	Payne, Jackson	1,816
Barrett, Andrew	435	Payne, Jackson	666
Bevacqua, Julie	666	Peasland, Graham	109
Booth, Andrew	118	Peng, Jenny	1,400
Borchert, David	90	Pierre, Oscar	908
Bray, Paul	435	Prakasam, Nagaraja	196
Britt, Tom	28,333	Prakasam, Nagaraja	327
Cameron, Bruce	7,778	Prakasam, Nagaraja	834
Chalmers, Lynne	290	Rankin, Ben	72
Chien, K. F. R	30,000	Ray, Kate	653
Clough, John	43,333	Riesterer, Lee	666
Conour, Norma	145	Riley, Kelly	36
Crooks, David	508	Rodriguez, Sheri	666
Davis, Cindy	267	Ronk, Carol	1,200
Davis, Lorie	87	Ronnback, Niklas	800
de Weerd, Herbert	72	Rushforth, Jason	2,000
Doyle, Dominique	666	SLC Mana International Limited	5,000
Elswood, Paul	600	SLC Mana International Limited	13,333
Feltoe, Debra	136	SLC Mana International Limited	600
Fuca, Joseph	363	SLC Mana International Limited	11,666
Fuca, Joseph	540	Sanders, Brandon	181
Golubic, William	32	Schaff, Jonna	600
Goris, Fred	72	Schmit, Mark	75
Grant, Shawn	2,160	Sell, Bryan	267
Green, William	1,333	Smith, Jill	181
Hall, Mitchell	126	Smith, Lyonn	17
Hannabuss, Julian	666	Smith, Lyonn	109
Hoover, Howard	1,200	Stead, Carol	118
Hung, Frank	1,800	Tyner, Margaret	32
Hunt, IV J	180	Uribe, Maria	32
Johnson, Wanda	36	Vaz, Rajan	6,000
Katz, Alan	181	Wang, Cheung Yue Fred	15,000
Keay, Kate	290	Waters, Scott	666
Lau, Edmund	400	Weir, Lisa	72
Lockhart, Andrea	600	Wolfe, Chris	1,333
Luu, Sylvia	32	Wong, Simon	41,666
Martin, Lloyd	435	Wood, Ian	600
Mills, Judith	1,400	Yu, Sean	834
Monahan, Daniel	600		
Munro, Scott	1,400		
<b>TOTAL</b>	<b>2,106,137</b>	<b>TOTAL</b>	<b>111,397</b>
		<b>GRAND TOTAL</b>	<b>2,217,534</b>



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EXHIBIT "1"

SCHEDULE OF RESTRICTED STOCK AWARDS

Name	Shares
Asia Pacific Online Limited	908,411
Bahl, Monish	7,451
Cameron, Bruce	21,003
Chien, K. F. R	12,480
Chien, K. F. R	24,961
Chien, K. F. R	38,059
Clough, John	82,371
MacLamroc, Alan	8,599
Novajosky, Donald L	860
SLC Mana International Limited	936
SLC Mana International Limited	1,872
Wang, Cheung Yue Fred	6,240
Wang, Cheung Yue Fred	12,480
Wang, Cheung Yue Fred	26,547
<b>TOTAL</b>	<b>1,152,270</b>