

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION**

In Re:)	
)	
SOUTHEAST WAFFLES, LLC)	CASE NO. 3:08-bk-07552
d/b/a WAFFLE HOUSE,)	Chapter 11 Proceedings
Debtor.)	Judge Keith M. Lundin
)	

**DISCLOSURE STATEMENT TO ACCOMPANY PLAN
OF REORGANIZATION SUBMITTED BY SOUTHEAST WAFFLES, LLC**

SouthEast Waffles, LLC submits this Disclosure Statement for use in soliciting acceptances of its Plan of Reorganization of Debtor¹ dated July 21, 2009 (the "**Plan**").

I. INTRODUCTION

On August 25, 2008, Debtor filed a voluntary petition for relief under Chapter 11 of the Bankruptcy Code. Since the filing of the petition, Debtor has remained in possession of its property and operated its affairs as Debtor-in-Possession. Although no Trustee has been appointed, Gary Murphey was appointed CRO and has primary responsibility for Debtor's operations and is Debtor's representative ultimately responsible for deciding on and directing Debtor's efforts to prepare and propose a reorganization plan. A Committee has been formed, has retained counsel, and has been active in the bankruptcy.

The purpose of a disclosure statement is to provide the holders of Claims against, and interests in, a debtor with adequate information about the debtor and its assets and debts sufficient to enable such holders to make an informed judgment about the merits of approving a plan.

After notice to Creditors and Interest Holders, the Bankruptcy Court conducted a hearing and determined that this Disclosure Statement contains "adequate information" (as defined in Bankruptcy Code Section 1125(a)) of a kind, and in sufficient detail, that would enable a hypothetical investor typical of the holders of Claims or Interests in the case to make an informed judgment in voting to accept or reject the Plan. Approval of this Disclosure Statement by the Court does not constitute a recommendation to accept or reject the Plan.

Article I of the Plan contains definitions of certain terms. Where those capitalized terms are used in this Disclosure Statement, they have the meaning set forth in Article I of the Plan. Those defined terms are very important to fully understand this Disclosure Statement.

¹ Capitalized terms used in this Disclosure Statement shall have the meaning ascribed to them in the Plan.

II. DISCLAIMER

No representations concerning Debtor or the Plan, other than as set forth in this Disclosure Statement, are authorized by Debtor. Any representations or inducements made to secure your acceptance of the Plan that are other than as contained in this Disclosure Statement should not be relied upon by you in arriving at your decision.

Most of the historic and current financial and other information contained in this Disclosure Statement has been derived from Debtor or Debtor's records. Debtor believes the information to be correct, however, it has not been independently verified in every instance, nor has it been subjected to a certified audit. The projections attached to the Disclosure Statement have been also been prepared by GS Acquisitions, LLC, which projections believes the projections to be sound, but they have not been independently assessed.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE HEREOF UNLESS ANOTHER TIME IS SPECIFIED HEREIN, AND NEITHER DELIVERY OF THIS DISCLOSURE STATEMENT NOR ANY EXCHANGE OF RIGHTS MADE IN CONNECTION WITH THIS DISCLOSURE STATEMENT SHALL, UNDER ANY CIRCUMSTANCES, CREATE AN IMPLICATION THAT THERE HAS BEEN NO CHANGE IN THE FACTS SET FORTH HEREIN SINCE THE DATE THE DISCLOSURE STATEMENT WAS COMPILED.

III. SUMMARY OF PLAN

The Plan is a complex document that must be analyzed in its entirety, but a summary of the Plan follows. All of Debtor's assets used in connection with the operation of its 105 Restaurants, including certain deposits, will be transferred to GS Acquisitions LLC ("GS Acquisitions"). The assets being sold will be transferred to GS Acquisitions free and clear of all liens, claims and encumbrances.

The consideration to be paid for these assets totals at least \$20,224,000, comprised of \$4,835,000 in cash to be paid on the Effective Date and the principal amount of \$15,422,000 to be paid over time. GS Acquisitions will execute a new note payable to FirstBank in the amount of approximately \$8.8 million, which note will bear interest at 5% per annum and be repaid within 7 years of the Effective Date. GS Acquisitions will pledge all of the acquired assets to FirstBank to secure its obligations. GS Acquisitions will pay directly to the holder Allowed Tax Claims (up to \$4.01 million) in quarterly installments over five years from the Effective Date, plus interest.

The \$4,835,000 cash to be paid by GS Acquisitions on the Effective Date, together with the existing cash retained by the Debtor as of the Effective Date (estimated to equal approximately \$3.5 million), will first be used to pay Allowed Post Petition Trade Debt, Allowed Administrative Claims, and the amounts required to cure leases and executory contracts, including the Franchise Agreements, to be assumed and assigned to GS Acquisitions under the Plan. This cash will also be used to pay any Allowed non-tax Priority Claims and the amount due to the holders of Allowed Class 4 Convenience Claims.

The remaining cash, as well as additional amounts derived from the pursuit of Recovery Causes of Action, the collection of accounts, and the liquidation of other assets not sold to GS Acquisitions will be available for distribution under the Plan and will be distributed to the holders of Allowed Unsecured Class 5 Claims, after payment of on-going expenses of the Liquidation Agent and Debtor. The Liquidation Agent/Debtor will have sufficient cash on hand to make a significant initial distribution to the holders of Allowed Class 5 Claims shortly after the Effective Date.

GS Acquisitions will also make monthly payments of \$10,554.17 (representing interest on approximately \$2.5 million at the rate of 5% per annum) to a Subrogation Release Escrow Fund for 48 months after the Effective Date. Commencing on the forty-ninth month after the Effective Date, GS Acquisitions will make additional payments of principal and interest to the Subrogation Release Escrow Fund until a total principal amount of at least \$2.5 million has been paid into the fund. GS Acquisitions shall have a period of up to six years in which to fund the total principal amount due to the Subrogation Release Escrow Fund. The amounts held by the Liquidation Agent in the Subrogation Release Escrow Fund will be distributed in satisfaction of any Allowed Class 7 Claims. To the extent the Class 7 Claims are disallowed or reduced, the excess amount shall be available for distribution to Allowed Unsecured Claims in accordance with the Plan.

Depending on how claims objections are resolved and Recovery Causes of Action are determined or settled, the Committee estimates that holders of Class 5 Unsecured Claims should receive a total dividend between 35 % and 45 % of their Allowed Claims. If the amounts in the Subrogation Release Escrow Fund are ultimately paid to the holders of Allowed Class 5 Unsecured Claims, the recovery could be as high as 65% of their Allowed Claims.

IV. CONFIRMATION PROCEDURES AND EFFECT

The Plan cannot be consummated unless it is confirmed by the Court. Confirmation of the Plan requires that, among other things, either (i) each Class of Claims or Interests that is impaired by the Plan has voted to accept the Plan by the requisite majority, or (ii) the Plan is determined by the Court to be fair and equitable, as defined by the Code, with respect to Classes of Claims or Interests that have rejected the Plan. The Code also requires that the confirmation of the Plan be in the "best interests" of all Holders of Claims and Interests.

Debtor believes that the Plan meets the classification requirements of the Code, which require that all Claims or Interests in a Class be "substantially similar." Disputes regarding the proper classification of Claims or Interests not specifically classified in the Plan shall be resolved pursuant to the procedures established by the Code, the Rules and other applicable law.

For the Plan to be confirmed, Debtor must obtain the requisite votes to satisfy the confirmation requirements of section 1129 of the Bankruptcy Code.

A. Creditors Eligible to Vote.

Only the votes of Classes whose Claims or Interests are impaired by the Plan will be counted in connection with the confirmation of the Plan. Generally, and subject to the specific provisions of § 1124 of the Code, a Class is "impaired" if its legal, equitable or contractual rights

attaching to the Claims or Interests of that Class are modified, other than by curing defaults in stated maturities or by Payment in Full, in Cash, on the Effective Date. All classes of Claims are impaired under the Plan and, accordingly, entitled to vote to accept or reject the Plan. Though impaired, Class 8 is an insider class and, therefore, not entitled to vote on the Plan. Any class receiving no distribution under the Plan is deemed to have rejected the Plan pursuant to 11 U.S.C. § 1126(g). In determining acceptance of the Plan, votes will be counted only if submitted by a holder of an Allowed Claim. Claims may be allowed by the Court for voting purposes only.

B. Acceptances Necessary to Confirm the Plan.

For the Plan to be accepted and thereafter confirmed, it must be accepted by at least one Class of Claims that is impaired by the Plan and entitled to vote on the Plan. Under § 1126 of the Code, an impaired Class is deemed to have accepted the Plan if: (i) with respect to a Class of Claims, votes representing at least two-thirds (2/3) in amount and more than one-half (1/2) in number of Allowed Claims that have voted in that Class have accepted the Plan; and (ii) with respect to a Class of Interests, votes representing at least two-thirds (2/3) in amount of those Allowed Interests that have voted have accepted the Plan; provided that the vote of any Holder of an Allowed Claim or Allowed Interest whose acceptance or rejection of the Plan was not made in good faith, as determined by the Court, will not be counted.

Unless each impaired Class unanimously accepts the Plan, the Court, in order to confirm the Plan, must independently determine that the Plan provides to each holder of a Claim of such Class a recovery which has a value, as of the Effective Date, at least equal to the value, as of the Effective Date, of the distribution which such Holder would receive or retain if each of the Debtor was liquidated under Chapter 7 of the Code on the Effective Date. Debtor believes that the Disclosure Statement and Plan will enable the Court to make this determination.

C. Manner of Voting.

Enclosed is a ballot for use in voting on the Plan. The ballot includes a section allowing the holder of an Unsecured Claim to elect to become a member of the Class 4 Convenience Class. This option may be selected irrespective of whether the creditor accepts or rejects the Plan. Unsecured Creditors holding Allowed Claims in excess of \$750 that do not affirmatively opt to join the Convenience Class shall remain members of the Class 5 Unsecured Claims. In voting for or against the Plan, please use only the ballots sent to you with this Disclosure Statement or a photocopy of the ballots. If a Person has an Allowed Claim in more than one (1) Class or against both of the Debtors, such Person may vote multiple ballots. Holders of Allowed Claims entitled to vote to accept or reject the Plan may vote by completing, dating, signing and delivering the enclosed ballot to:

Tammie Wills
Harwell Howard Hyne Gabbert & Manner, P.C.
315 Deaderick St., Suite 1800
Nashville, TN 37238
(615) 256-0500
(615) 251-1059 – facsimile
tsw@h3gm.com

In order for a ballot to be counted, the ballot must be received at the above address on or before 4:00 p.m., C.D.T., on _____, 2009. A ballot, once submitted, cannot be withdrawn or modified except as provided under the Code.

D. Confirmation Without Acceptance.

Section 1129(b) of the Code provides that the Plan may be confirmed by the Court despite not being accepted by every impaired Class if: (i) at least one impaired Class of Claims has accepted the Plan; and (ii) the Court finds that the Plan does not discriminate unfairly and is fair and equitable to the rejecting Classes. Among other things, such a finding would require a determination by the Court that the Plan provides that no Holder of an Allowed Claim or Allowed Interest junior to the rejecting Class will receive or retain any property or payment under the Plan, until or unless such rejecting Class is Paid in Full.

Debtors reserves the right pursuant to § 1129(b) of the Code to request the Court to confirm the Plan if all of the applicable requirements of § 1129(a) of the Code have been met. In addition, Debtor reserves the right pursuant to § 1126(e) of the Code to request the court to strike any ballot rejecting the Plan cast by any holder of a Claim or Interest which was not cast in good faith.

E. Hearing on Confirmation of the Plan.

The Court has set _____, 2009, at _____ .m., C.S.T., in Nashville, Tennessee for the hearing to determine whether the Plan has been accepted by the requisite number of holders of Claims and Interests and whether the other standards for confirmation of the Plan have been satisfied. The hearing may be adjourned from time to time without further written notice other than an announcement in open court. Each Holder of a Claim or Interest will receive with this Disclosure Statement the Notice of Hearing on Confirmation of the Plan.

F. Discharge Upon Confirmation.

The Confirmation Order shall discharge the Debtor from all Claims to the extent allowed pursuant to § 1141 of the Code and shall constitute an injunction against the pursuit of any Claim or Interest, Post-Petition Trade Debt or Administrative Expense except as otherwise provided in the Plan. Parties asserting entitlement to payment of Administrative Expenses or Post-Petition Trade Debt incurred Prior to the Confirmation Date and holders of Claims and Interests shall be permanently enjoined from asserting any Claim or Interest against the Debtor, Liquidation Agent, or the Debtor's assets based upon any act or omission, transaction or other activity that occurred prior to the Effective Date, except as otherwise provided in the Plan, whether or not a proof of claim or interest was filed and whether or not such claim or interest is allowed under § 502 of the Bankruptcy Code. The rights afforded under the Plan and the treatment of Administrative Expenses, Post-Petition Trade Debt, Claims and Interests under the Plan shall be in exchange for and in complete satisfaction, discharge, and release of all Claims and termination of all Interests, unless otherwise set forth in the Plan.

G. Binding Effect of Plan.

The provisions of the Plan shall be binding upon and inure to the benefit of all persons, entities, and governmental authorities described herein and/or claiming an interest in any and all

property in which Debtor has an interest and such persons', entities', and governmental authorities' successors, heirs and assigns whether or not such persons, entities, and governmental authorities vote to accept the Plan. Failure to file a timely objection to the Plan will be deemed to be an agreement to the terms of the Plan for purposes of § 1129(a)(9).

V. GENERAL INFORMATION ABOUT DEBTORS AND THESE CASES

A. Pre-Bankruptcy History of the Debtor.

Debtor SouthEast Waffles LLC is a limited liability company organized under the laws of the State of Tennessee. Debtor was formed in 1999 for the purpose of purchasing and operating as franchisee Waffle House® restaurants. Debtor has engaged in that business since 1999. Debtor purchased the majority of its restaurants from TreeTop Enterprises, Inc. (“TTE”) in April 1999. TTE was formed in 1974 by Nat Harris and Billy Ezell. Since its formation, Debtor Southeast Waffles, LLC has been primarily (95%) owned by Mr. James Shaub (“Shaub”).

Immediately prior to the filing of this bankruptcy case, Debtor operated approximately 113 Waffle House® restaurants. Debtor’s Waffle House® restaurants are open continuously, 24 hours/day, 365 days/year. At the time of its formation, Debtor operated 92 restaurants. Debtor added 25 restaurants after its formation, including fifteen in the first two years after its formation and closed three older units. Debtor’s restaurant operations are located primarily in Middle Tennessee, much of Alabama and the Eastern half of Mississippi with the exception of the coastal areas, along with one unit in Franklin, Kentucky.

Debtor’s restaurant units are primarily located along the I-65 corridor in Tennessee and Alabama. Annualized sales for these locations have historically been approximately \$66 million. Substantially all locations are leased. Approximately 80% of all food is purchased through one vendor. Retail units by state are as follows:

State	Number of Units
Tennessee	46
Alabama	48
Mississippi	10
Kentucky	1

Debtor is headquartered in Nashville, Tennessee and retains many of the original management personnel and associates who were in place at the time of the 1999 purchase. Debtor has approximately 2000 full time and part-time hourly employees who work in its restaurants, approximately 120 salaried management employees at the store, regional and district level, and approximately 12 employees who work at the Debtor’s corporate headquarters in Nashville.

Debtor is party to a franchise policy agreement (“FPA”) with agreement Waffle House Inc. (“WHI”). Debtor obtained its master franchise agreement by assignment from TTE in 1999. The franchisor WHI is headquartered in Atlanta, Georgia. WHI owns and operates

approximately 800 restaurants in addition to franchising restaurants. As of the filing of this bankruptcy case, Debtor was the second largest franchisee in the system.

Debtor reports its annual operations on a 52-53 week year ended on the Thursday closest to May 31st of each year. Generally, fiscal years consist of 4 week operating periods (“OPs”) with 13 periods for each fiscal year. Debtor has historically prepared annual financial statements are prepared under the same basis of reporting income taxes (“Income Tax Basis”). For Debtor, the Income Tax Basis differs primarily from generally accepted accounting principles primarily with respect to the methodology of calculating depreciation and amortization. No provision was made for income taxes as Debtor is an LLC. The financial statements for the fiscal years ended May 2001 through 2007 were audited by Lattimore Black Morgan & Cain, P.C. (“LBMC”). A summary of financial highlights for these fiscal years is provided below.²

<i>Year Ended May 30th</i>	2001	2002	2003	2004	2005	2006	2007
Sales	\$ 67,382,829	\$ 68,518,291	\$ 67,015,286	\$ 70,389,453	\$ 70,281,226	\$ 67,404,762	\$ 66,972,395
Cost of Sales	17,628,580	18,139,295	16,805,417	18,194,970	18,182,370	16,878,691	16,809,306
Gross Profit	49,754,249	50,378,996	50,209,869	52,194,483	52,098,856	50,526,071	50,163,089
Operating Expenses	48,701,639	48,039,965	47,057,515	48,678,312	47,865,817	46,450,611	46,047,310
EBITDA	1,052,610	2,339,031	3,152,354	3,516,171	4,233,039	4,075,460	4,115,779
Depreciation and Amortization	3,142,312	2,925,155	2,637,344	2,425,662	2,026,292	1,550,194	1,708,391
Interest	2,150,645	2,233,544	2,179,776	2,101,809	1,866,198	1,692,146	1,561,970
Other (Income) Expense, net	(90,617)	(203,761)	(257,215)	(134,010)	(147,449)	(234,136)	28,059
Net Income (Loss)	\$ (4,149,730)	\$ (2,615,907)	\$ (1,407,551)	\$ (877,290)	\$ 487,998	\$ 1,067,256	\$ 817,359

On August 8, 2008, FirstBank informed Shaub that it suspected that Debtor’s checking accounts at its bank and at SunTrust Bank had been used to improperly kite checks, a scheme whereby “float” is created between two separate checking accounts. On or about August 11, 2008, a representative of the Internal Revenue Service informed Shaub that Debtor was seriously delinquent with respect to its withholding tax obligations. At the same time, Becky Sullivan, Debtor’s chief financial officer and employee in charge of Debtor’s accounting abruptly resigned and thereafter informed Shaub that she had retained legal counsel.

After these events occurred, Shaub asked WHI and Lattimore Black Morgan & Cain, PC, Debtor’s accountants, to assist in an investigation of these issues and Debtor’s financial condition. This investigation confirmed that checks had been wrongly drawn on Debtor’s bank accounts at times when there were insufficient funds available to cover those checks and that, as a result, Debtor had wrongly obtained approximately \$3.5 million from SunTrust Bank. The investigation also confirmed that Debtor owed more than \$1.0 million in withholding taxes and that Debtor was seriously delinquent on the sales tax obligations owed in connection with its Alabama restaurants.

On August 21, 2008, WHI hand-delivered to Shaub a letter in which it purported to terminate Debtor’s franchise agreements. On August 25, 2008, Shaub concluded that it was in the best interests of the Debtor and all its creditors to file this Chapter 11 proceeding in order to

² After the filing of this Case, Debtor’s CRO performed certain analyses of the audited numbers as well as an analysis of preliminary results for the year ended May 2008. These analyses indicated to the CRO that Debtor’s historical financial statements for at least 2006, 2007 and 2008 were not accurate.

provide for the payment of obligations relating to its on-going business operations while continuing to work to resolve the Debtor's accounting irregularities.

B. Significant Post-Bankruptcy Actions of the Debtor.

Since the Petition Date, Debtor has continued to operate 105 of its restaurants in the ordinary course of business. These on-going operations have generated significant cash flow. Since September, 2008, Gary M. Murphey has been in charge of all of Debtor's financial and operational matters. Debtor retained Murphey as its Chief Restructuring Officer pursuant to an agreed order first entered on September 23, 2008 in settlement of a motion for appointment of a chapter 11 trustee filed by FirstBank, Debtor's secured lender, and in settlement of a motion for appointment of an examiner filed by SunTrust Bank.

Immediately after the filing of this Case, Debtor obtained permission to pay all prepetition wage and benefit payments due to employees, up to the priority claim limit of \$10,950 per employee set forth in section 507(a)(4) and (5) of the Bankruptcy Code. As a result, substantially all, if not all, valid employee priority claims have already been paid in full. In the months after filing, Debtor also made utility deposits totaling approximately \$380,000 in order to insure uninterrupted utility service after the commence of the Case. These deposits are still being held by the utilities.

Since the Petition Date, Debtor has funded its on-going operations and administrative expenses pursuant to Agreed Orders pursuant to which FirstBank, as Debtor's secured creditor, has authorized Debtor to use cash collateral. These orders grant FirstBank a post-petition lien in substantially all of Debtor's assets as adequate protection for any decline in the value of FirstBank's collateral that may result from Debtor's use of cash collateral. Since October 2008, Debtor has also made pursuant to these agreed orders cash payments to FirstBank in the amount of \$60,000 each as additional adequate protection.

A summary of the operating periods for Debtor's fiscal year ended May 2009 ("Fiscal 09") is provided as follows:

<u>Period</u>	<u>4 Weeks Ended</u>	<u>Period</u>	<u>4 Weeks Ended</u>
OP1	6/26/2008	OP8	1/8/2009
OP2	7/24/2008	OP9	2/5/2009
OP3	8/21/2008	OP10	3/5/2009
OP4	9/18/2008	OP11	4/2/2009
OP5	10/16/2008	OP12	4/30/2009
OP6	11/13/2008	OP13	5/28/2009
OP7	12/11/2008		

Debtor's operating reporting reflecting financial results from the Petition Date through June 25, 2009 was filed with the Court on July 7, 2009. This report reflects that, during these eleven operating periods, Debtor's total sales equaled \$53.095 million, and net income, after payment of restructuring costs and adequate protection payments, equaled \$2.932 million.

Since the filing of this Case, Debtor has obtained Orders authorizing the assumption of substantially all of its unexpired real property leases for its restaurant locations. Pursuant to these Orders, Debtor has cured, or will cure prior to the Effective Date, all pre-petition defaults in these leases, including the payment of past due real estate taxes. Debtor did close approximately eight underperforming stores. Debtor also operates approximately nine of its Restaurants at locations for which it currently has no long term lease.

In addition to supervising the Debtor's operations and finances, Murphey has also explored ways to maximize the value of Debtor's assets. Murphey has been approached by several entities who expressed a desire to acquire Debtor's business operations. Murphey has provided financial and operational information related to Debtor to these parties. WHI and GS Acquisitions have seriously pursued an acquisition of Debtor's assets through a plan of reorganization. The plan filed by Debtor is a result of the negotiations with GS Acquisitions.

C. Pre-Petition Claims Bar Date.

The Court granted Debtor's motion to establish a deadline for filing all claims against the Debtor that existed as of the Petition Date, except for certain rejection damage claims. Pursuant to orders of the Court, April 10, 2009 was established as the deadline by which all Claims other than employee related Claims had to be filed, and May 1, 2009 was set as the date by which all employee-related Claims had to be filed.

D. Competing Plan filed by WHI.

On July 6, 2009, WHI filed a plan of reorganization in this case (the "WHI Plan"). The Court has set the hearing on the adequacy of the disclosure statement filed in support of the WHI Plan for August 11, 2009. The WHI Plan proposes that the Debtor's assets used in the operation of its Restaurants and \$800,000 of Debtor's cash will be transferred to a newly-formed subsidiary of WHI. The WHI Plan provides for no cash purchase price. Instead, the WHI Plan proposes to pay all claims, including some Allowed Administrative Claims over a multi-year period. Under the WHI Plan, Allowed Unsecured Claims, other than those in the convenience class, are paid over a ten year period of time.

Debtor believes that its Plan provides a greater return to creditors without the accompanying uncertainty associated with payments over time. Although this Plan does propose to pay FirstBank and Tax Claims over time, because GS Acquisitions will not be required to use cash flow to make payments to Allowed Unsecured Claims or Allowed Administrative Claims, the certainty of being able to make the payments required in the future is greater than would exist under the WHI Plan.

The following table compares the present value of the consideration to be paid, including net Debtor's net estimated cash, under the WHI Plan and under the Debtor's Plan, assuming an Effective Date of October 1, 2009.

WHI AND DEBTOR PLAN COMPARISONS

	WHI	Debtor/ GS Acquisitions
Class 1 - FirstBank Secured Claim	\$ 8,829,222	\$ 8,829,222
Class 2 Claims	-	-
Class 3 - Allowed Tax Claims	4,011,624	4,011,624
Class 4 - Convenience Class	-	-
Class 5 - Allowed Unsecured Claims	2,672,138	4,000,000
Class 6 - Penalty Claims	-	-
Class 7 - Subrogation Claims	2,548,333	2,548,333
Unclassified Claims	1,100,000	835,000
Total Claims Paid by Purchaser	19,161,317	20,224,179
Estimated Remaining Cash Post Confirmation	78,762	359,403
Total	\$ 19,240,079	\$ 20,583,582

Debtor estimates that, on a present value basis, the return to Class 5 Allowed Unsecured Claims under its Plan will be approximately 10% greater than the return under the WHI Plan and represents a material improvement over the uncertain return provided for under the WHI Plan.

VI. DEBTOR'S ASSETS

Debtor's primary tangible assets consist of 105 Restaurants and other assets related to Restaurant operations. These assets include real estate leases; furniture, fixtures and equipment; and related back office and support assets used in connection with the Restaurants. All of the assets, including approximately \$380,000 in utility deposits made after the Petition Date, shall be transferred to GS Acquisitions on the Effective Date.

The operating report filed on July 7, 2009 valued Debtor's total assets at \$10.92 million. These assets included net cash of \$3.639 million, accounts receivable of \$0.137 million, equipment at net book value of \$4.644 million, inventory of \$0.562 million, prepaid expenses and deposits of \$1.069 million. The financial statements filed with the Court do not attempt to calculate the value of Debtor's franchise rights, leasehold interests or good will.

In addition, Debtor owns certain unimproved parcels of real property that will, under the Plan, be sold, with the net proceeds being distributed to Allowed Class 5 Claims in accordance with the Plan. Debtor also has causes of action including Avoidance Actions and the Recovery Causes of Action. All of Debtor's Remaining Assets shall be retained by Debtor after the Effective Date for liquidation and distribution in accordance with the Plan.

VII. DEBTOR'S LIABILITIES

A. Secured Claims.

FirstBank. This creditor has a claim secured by a first priority lien on substantially all of Debtor's assets. Debtor scheduled FirstBank's claim at \$12.2 million; FirstBank's proof of claim asserts a secured claim of \$12,530,458.35, exclusive of post-petition amounts.

Other. Various creditors have filed proofs of claim asserting security interests in Debtor's assets. According to the claims docket that the Clerk of Court maintains for this Case, as of June 12, 2009, those claims (excluding FirstBank's) total approximately \$1.015 billion--including one claim filed by a former employee for \$1.0 billion. Debtor intends to object to this claim.

B. Non-Tax Priority Claims.

Per Debtor's Schedules, there are no such Claims. However, as of June 12, 2009, the Claims docket that the Clerk of the Court maintains for this Case shows filed Priority and Tax Claims of \$4,027,600.85, including again the \$1.0 billion claim filed by a former employee. Debtor intends to object to all, or at least substantially all of these claims, and currently does not believe that any material amount of these claims will ultimately be allowed.

C. Priority Tax Claims.

Various taxing authorities hold unsecured Tax Claims that, per Debtor's Schedules, total \$4,705,620.62. According to the claims docket that the Clerk of the Court maintains for this case as of June 12, 2009, total filed Priority and Tax Claims are \$4,027,600.85. Debtor currently believes that the ultimately allowed amount of these claims will be several hundred thousand dollars less than this amount.

D. Post-Petition Administrative Claims.

Administrative Claims are accorded priority under Bankruptcy Code Section 507(a)(2). Per the Debtor's operating report filed July 7, 2009, Debtor had total post-petition liabilities totaling \$3.467 million as of June 25, 2009, including accrued and unpaid workers' compensation expenses, professional fees and taxes. A more detailed discussion of some of these claims follows:

1. **Debtor's Counsel.** Debtor's counsel estimates that its total fees and costs through the Effective Date will be approximately \$725,000. Debtor's counsel has previously been paid approximately \$550,000 for services rendered from the Petition Date through March 31, 2009.

2. **Committee Counsel.** Committee's counsel estimates that the Committee's total fees and costs through the Effective Date will be approximately \$310,000. Committee counsel has previously been paid approximately \$183,500 for services rendered from the Petition Date through May 18, 2009.

3. **CRO.** The CRO estimates that his total fees and costs through the Effective Date shall be approximately \$400,000. The CRO will continue to be paid regularly until the Effective Date, so the unpaid fees of the CRO as of that date are not expected to be material.

4. **Post-Petition Trade Debt.** The CRO estimates that, as of the Effective Date, accrued and unpaid Post Petition Trade Debt and Post-petition taxes will be approximately \$2.5 million, excluding professional fees discussed above and reserves for workers compensation claims. The date of the month on which the Effective Date occurs, the timeliness with which creditors submit bills and other factors will affect the actual amount of Post-Petition Trade Debt outstanding as of the Effective Date.

E. Unsecured Claims.

Debtor has scheduled \$12,256,610.85 in Unsecured Claims, including those scheduled as disputed, contingent or unliquidated. Per Debtor's claims docket, \$16,591,257.42 in Unsecured Claims have been filed. Debtor currently estimates that Allowed Unsecured Claims will ultimately total less than \$11.5 million.

VIII. FINANCIAL PROJECTIONS FOR THE ON-GOING RESTAURANT LOCATIONS

A detailed pro-forma budget and balance sheet for the years 2010 – 2016 prepared by GS Acquisitions are attached hereto as Exhibit A. In addition to the \$4.835 million to be paid on the Effective Date, the principals of GS Acquisitions have committed to deposit working capital in an amount of not less than \$300,000. Debtor fully expects that GS Acquisitions will have more than sufficient funds to make the on-going payments under the Plan for which GS Acquisitions is responsible.

IX. KEY TERMS OF THE PLAN

A. Classification of Claims and Interests.

The Claims of creditors and Interests of equity security holders under the Plan are divided into the following classes and subclasses:

Unclassified Claims. These claims consist of all timely filed and Allowed Administrative Claims and Post Petition Trade Debt.

Class 1 *FirstBank's Allowed Secured Claim*

Class 2 *Allowed Priority Claims*

Class 3 *Allowed Tax Claims*

Class 4 *Allowed Convenience Class Claims*

Class 5 *Allowed General Unsecured Claims*

Class 6 *Allowed Penalty Claims*

Class 7 *Allowed Subrogation Claims*

Class 8 *Interest Holders*

B. Treatment of Claims and Interests.

The following is the treatment provided in the Plan for claims:

1. Unclassified Claims: Quarterly fees owed to the United States Trustee will be paid when due. Debtor shall continue to make post-confirmation quarterly fee payments to the United States Trustee, based upon disbursements by Debtor, until entry of a Final Decree pursuant to Bankruptcy Code Section 350. All Allowed Post Petition Trade Debt will be paid on (a) the date on which payment is due in the ordinary course of business consistent with existing terms and practice or (b) the date on which there exists a Final Order requiring payment. Except as set forth below, all Allowed Administrative Claims shall be paid on the latter of (a) when due, (b) the Effective Date or (c) the date on which there exists a Final Order requiring payment.

Under the Plan, any creditor or party in interest asserting that it is still owed for either an Administrative Claim or a Post Petition Trade Debt must file a Request for Payment of the Administrative Claim or the Post Petition Trade Debt by no later than January 15, 2010. Any creditor or party in interest that fails to file a Request for Payment by this date shall be forever barred from asserting any such right to payment and any such right shall be waived and forever released.

2 FirstBank's Allowed Secured Class 1 Claim: Class 1 consists of the Allowed Secured Claim of FirstBank. The Class 1 Claim shall be Allowed and paid as follows: GS Acquisitions shall execute a promissory note payable to FirstBank in the amount of the FirstBank Note Principal and shall also comply with the following:

- a. FirstBank Note Principal: \$8,830,000.00, subject to adjustment on the Confirmation Date as additional information becomes known.
- b. Loan Repayment: GS Acquisitions shall make to FirstBank monthly payments of principal and interest in the amount of \$69,827.08 beginning on the 1st day of the second calendar month immediately after the Effective Date, calculated on a fifteen year straight line amortization. GS Acquisitions will make additional payments to FirstBank totaling \$1 million prior to the fourth anniversary of the Note. All amounts remaining due on the FirstBank Note Principal shall be due and payable in full at the end of the seventh (7th) year following the Effective Date.
- c. Loan Interest Rate: 5% per annum, based on a 360 day year. Interest shall be paid monthly, in arrears.

- d. **Loan Covenant:** There will be no financial covenants; however, GS Acquisitions will meet with FirstBank on an annual basis to review operating results and to discuss its plans for the current and succeeding fiscal year. Liquidation Agent shall be given not less than ten (10) calendar days notice of the date, time and place of GS Acquisitions's annual meeting with FirstBank, and may attend that meeting in his discretion.
- e. **Financial Statements:** GS Acquisitions will provide to FirstBank and concurrently to the Liquidation Agent:
 - i. audited financial statement of GS Acquisitions within 120 days after the close of each such fiscal year.
 - ii. internally prepared financial statements (including a balance sheet and profit and loss statement) of GS Acquisitions for each quarter of each fiscal year, within 30 days after the close of each such period.
 - iii. within 30 days following FirstBank's written request for same, such additional information, reports and statements prepared by GS Acquisitions in the ordinary course of business, respecting the business operations and financial condition of GS Acquisitions, from time to time, as FirstBank may reasonably request.
- f. **Loan Collateral:** FirstBank's loan to GS Acquisitions will be secured by a first lien on all of Debtor's assets acquired by GS Acquisitions and any replacements or substitutions thereof. Further, FirstBank's liens from GS Acquisitions encompass all assets on which FirstBank had a perfected lien as of the Petition Date. GS Acquisitions may however sell certain of the assets after the Effective Date with FirstBank's consent, such consent not to be unreasonably withheld, if such sale(s) do not erode FirstBank's secured position.
- g. Approximately \$1.2 million in existing letters of credit issued by FirstBank in support of Debtor will be assumed by GS Acquisitions on the Effective Date. If GS Acquisitions replaces any such letters of credit prior to their next scheduled expiration date, FirstBank agrees to refund to GS Acquisitions a portion of the fees paid to FirstBank by Debtor in respect of the most recent issuance\renewal of such replaced letter of credit, pro rated on the basis of the number of days any such letter of credit was outstanding since its most recent issuance or renewal compared to 365. GS Acquisitions will indemnify FirstBank from and against any losses arising from any draws under either of the letters of credit after the Effective Date.

3. Class 2 Claims: While several unpaid or duplicate Priority Claims were filed prior to the Bar Date, Debtor plans to object to those claims and thus believes that it has no, or limited, unpaid Allowed Priority Claims. To the extent that any such claim becomes Allowed, it will be paid by Debtor on the Effective Date or entry of a Final Order directing payment.

4. Class 3 Claims: Class 3 consists of Allowed Tax Claims entitled to priority pursuant to Bankruptcy Code Section 507(a)(8). GS Acquisitions shall pay each Allowed Tax Claim in full with interest at the federal judgment rate as of the Confirmation Date. Payments shall be in 16 equal quarterly installments beginning on the first day of the fourth full calendar month after the Effective Date, and shall continue on the first day of each successive month until the Allowed Tax Claims are paid in full. To the extent the aggregate principal amount of Allowed Tax Claims (excluding the Allowed Tax Claims of the Internal Revenue Service) ultimately reduces the total principal amount of Allowed Tax Claims (including the Allowed Tax Claims of the Internal Revenue Service) to a principal amount less than \$4,011,624.00, then GS Acquisitions shall pay to the Debtor for distribution pursuant to the terms of the Plan the amount of such reduction over the same quarterly period as the Allowed Tax Claims are paid. To the extent the aggregate principal amount of the Allowed Tax Claims of the Internal Revenue Service are reduced to an amount less than \$1,984,000, then GS Acquisitions shall retain the net benefit resulting from the reduction of the Allowed Tax Claims asserted by the Internal Revenue Service.

5. Class 4 Claims: Class 4 is a Convenience Class, and consists of all Allowed Unsecured Claims of \$750.00 or less--or that the holders of Allowed Unsecured Claims in excess of \$750.00 elect to reduce to \$750.00. In complete satisfaction of each Allowed Class 4 Claim, each such Allowed Claim will be paid 50% of their Allowed Claim (up to \$375.00) within either (i) thirty (30) days after the Effective Date or (ii) the date on which a Final Order is entered requiring payment. All creditors shall be given the option to elect to become Convenience Class members on the ballot soliciting acceptance of the Plan. All Class 4 Allowed Convenience Class Claims shall be paid in full (without interest) prior to any distribution to Class 5 Claims.

6. Class 5 Claims: Class 5 consists of the Allowed Unsecured Claims, other than those in, or electing to be in, Class 4. Holders of Allowed Class 5 Claims shall be paid on a Pro Rata basis until paid in full (without interest). Holders of Allowed Class 5 Claims shall receive the net amount available for distribution under the Plan from the Liquidation Agent and Debtor after payment of the amounts due for Allowed Administrative Expenses, Allowed Post Petition Trade Debt, Allowed Priority Claims, Allowed Class 4 Claims and after reserving amounts sufficient to pay anticipated post-Effective Date expenses of the Debtor as well as amounts required to be reserved under the Plan for Disputed Claims. The Debtor/Liquidation Agent will have sufficient cash funds on the Effective Date to enable it to make a substantial distribution to Allowed Class 5 Claims shortly after the Effective Date.

7. Class 6 Claims. Class 6 consists of all Penalty Claims. They shall be paid (without interest) if and when all Allowed Class 5 Claims have been paid in full (without interest).

8. Class 7 Claims. Class 7 consists of all Allowed Subrogation Claims asserted by the Pledgors. The Subrogation Claims arise from the fact that each of the Pledgors granted FirstBank a lien on certain property owned by each to further secure the obligations of the Debtor to FirstBank. Since the Petition Date, FirstBank has foreclosed upon and realized value for some of this collateral, and FirstBank expects to foreclose upon certain additional collateral prior to the Effective Date of the Plan. The net proceeds realized by FirstBank from the Plegors'

collateral have been, and will continue to be, applied by FirstBank to reduce Debtor's obligation to FirstBank. As a result of the application of these net proceeds generated from the liquidation of the Pledgors' collateral, FirstBank expects to have reduced the amount owed by Debtor to approximately \$8.8 million as of the Effective Date, the FirstBank Note Principal. Under the Plan, per estimates from FirstBank, the net, total amount expected be realized from the liquidation of the Pledgors' collateral and applied to the Debtor's obligation is approximately \$2.5 million, which is the Original Funding Amount under the Plan. On the Effective Date, the amounts of the FirstBank Note Principal and the Original Funding Amount will be adjusted based on the actual net proceeds applied to the loan as a result of liquidation of the Pledgors' third-party collateral as of that date.

The Pledgors assert that under section 509 of the Bankruptcy Code and under common law, each is entitled to recover from the debtor by means of subrogation the value of its collateral applied against the Debtor's obligations to First Bank. Under the Plan, these claims are defined to be the Subrogation Claims. The Committee, WHI, and the Debtor dispute that the Pledgors have any valid Subrogation Claims. Among other reasons, these parties assert that the Pledgors waived any right to the Subrogation Claims.

In order to provide for the payment of the disputed Class 7 Claims pending resolution of the disputes over the validity of the Subrogation Claims asserted by Pledgors, the Debtor shall maintain a Subrogation Release Escrow Fund in a segregated interest bearing account. GS Acquisitions shall make the following payments to the Subrogation Release Escrow Fund in order to provide for the satisfaction of any Allowed Class 7 Claims:

- a. Beginning on the first day of the second calendar month after the Effective Date and continuing for 48 months, GS Acquisitions will make monthly payments of not less than \$10,554.17. This amount is calculated to compensate for interest on the Original Funding Amount at 5% per annum.
- b. Beginning with the 49th month and continuing for the following 72 months, GS Acquisitions will make monthly payments of not less than \$35,394.00 plus an additional amount calculated to compensate for interest on the outstanding balance of the Original Funding Amount at 5% interest per annum. GS Acquisitions shall have the right to prepay at any time without penalty the outstanding balance due on the Original Funding Amount.
- c. If, prior to or after the Effective Date, a Final Order is entered awarding to any Pledgors all or any portion of the Subrogation Claims, then the amount of such prevailing Subrogation Claim shall be paid out of the Subrogation Escrow Release Fund to the prevailing Pledgor(s) following the complete satisfaction of all of GS Acquisitions's obligations under this Plan to FirstBank.
- d. If, prior to or after the Effective Date, a Final Order is entered disallowing or reducing by settlement any of the Subrogation Claims asserted by the

Pledgors, either in whole or in part, then the amount of such reduction in the Subrogation Claims shall be released to the Liquidation Agent for distribution pursuant to the terms of this Plan to the holders of Allowed Claims other than the Class 7 Claims.

- e. Nothing in the Plan shall preclude the Debtor, the Liquidation Agent, or any other party from asserting any right of set off or from taking any other appropriate collection action to recover for its own benefit any amounts determined to be owed to Pledgors from the Subrogation Release Escrow Fund.
- f. Unless the Court orders otherwise, upon the entry of a Final Order or Final Order resolving all the disputes regarding the Subrogation Claims, all interest accrued on the Subrogation Release Escrow Fund shall be released to the Liquidation Agent for distribution pursuant to the terms of this Plan to the holders of Allowed Claims other than the Class 7 Claims.

9. Class 8 Interests. Class 8 consists of all Debtor's Interest Holders. These Interests shall be cancelled on the Effective Date, with all control over Debtor's Remaining Assets vested in the Liquidation Agent.

X. EXECUTORY CONTRACTS AND UNEXPIRED LEASES, INCLUDING THE WHI FRANCHISE AGREEMENTS

By the Confirmation Date, GS Acquisitions will designate to Debtor which leases and executory contracts will be assigned or assumed and assigned to GS Acquisitions, some of which may be assumed as modified. GS Acquisitions will have no liability for the payment or satisfaction of any other claim arising prior to the Effective Date under any lease or executory contract. All such cure costs shall be paid by Debtor. Debtor will also assume and assign to GS Acquisitions all of its Franchise Agreements. Debtor shall file a motion to assign or assume and assign to GS Acquisitions all designated executory contracts and unexpired leases not already assumed, which motion shall set forth Debtor's cure obligations and set forth GS Acquisitions's responsibility for performing Restaurant remodels that are past due under the Franchise Agreements.

The Debtor asserts that GS Acquisitions can easily provide adequate assurance of future performance of future obligations under the Franchise Agreement and other contracts to be assigned to it. The principals of GS Acquisitions are Phil Mickelson, Steve Loy and Terry Pefanis. Each of these men has been successful, and each is willing to personally guarantee GS Acquisitions's on-going obligations under the Franchise Agreement. Mr. Mickelson is a well-known professional golfer and successful investor.

Mr. Pefanis will be the chief executive officer of GS Acquisitions. He is currently a Nashville based consultant who specializes in business turnarounds, corporate planning and strategy, acquisition/divestiture reviews and diligence. Prior to starting his consulting business, he served as Chief Operating Officer of Big Idea which is best known for its best-selling series, *VeggieTales*. He was responsible all aspects of the company's operations including production, sales, marketing, music, book publishing, business affairs and accounting. In 2003, Mr. Pefanis

lead the company through a 363-bankruptcy sale and recapitalization. Thereafter, he designed and implemented a highly successful turnaround of the business. Prior to Big Idea, Mr. Pefanis spent eight years in various positions at Gaylord Entertainment. During his time at Gaylord, he held various positions, including COO of Gaylord Films, CFO of Gaylord's Creative Content Group, and Corporate Finance and Internal Audit Director. Mr. Pefanis began his career in public accounting and worked for Price Waterhouse for eleven years.

Steve Loy Steve Loy is Chief Executive Officer of Gaylord Sports Management. Mr. Loy joined Gaylord in 1992 as Vice President and General Manager of the Phoenix office. In 1998, he was appointed President and CEO and since has overseen major sponsorships with world class companies such as Barclay's, ExxonMobil, Callaway Golf, and expanded into baseball player management and golf course design. Steve's clients include Phil Mickelson

Further, GS Acquisitions, after engaging in good faith consultation with WHI and FirstBank, will designate post-confirmation an employee/officer who will have responsibility for the day to day management of the operation of the Restaurants. GS Acquisitions has already identified one person who was formerly employed by WHI as a potential person to fulfill this role. GS Acquisitions is also open to other suggestions from WHI regarding potential operating officers with suitable experience. Further, if requested by WHI or if required to obtain Court approval of the assignment of the Franchise Agreements, GS Acquisitions will also obtain the personal guaranty of the operating officer of GS Acquisition's obligations under the Franchise Agreements, in addition to the principal's guarantees thereof, and will also grant this individual an equity interest in GS Acquisitions.

The Franchise Agreements provide that the Debtor's rights may be assigned to a qualified successor, subject to the consent of WHI, which consent may not be unreasonably withheld. WHI has preliminarily informed GS Acquisitions that it will not consent to the assignment of Debtor's rights under the Franchise Agreements to GS Acquisitions. The Debtor believes that WHI has no reasonable basis on which to withhold its consent to the proposed assignment. The Debtor further believes that WHI has a conflict of interest with respect to this matter in light of WHI's desire to acquire the Debtor's assets pursuant to the WHI Plan for a significantly lower price, and no cash down payment, than will be paid by GS Acquisition.

Any executory contract or unexpired lease not expressly assumed herein or by separate order of the Bankruptcy Court shall be deemed rejected upon entry of the Confirmation Order. Any claim arising as a result of rejection of an executory contract by virtue of the Confirmation Order shall be filed on or before thirty (30) days from the date the Confirmation Order is entered on the Court's docket. Any rejection damages claim not timely filed shall be deemed waived without further action by the Liquidation Agent, the Committee or Debtor.

XI. MEANS FOR EXECUTION OF THE PLAN

On the Effective Date, Debtor will convey to GS Acquisitions all of Debtor's assets used in the operation of its Restaurants other than Debtor's Remaining Assets, including but not limited to (i) all utility deposits (other than any subject to valid offset), (ii) all cash in the Restaurants, (iii) all food, operating supplies and other inventory in the Restaurants, (iv) all

furniture, fixtures, equipment, signage and other fixed assets at the Restaurants and in Debtor's corporate office, (v) all copyrights, trademarks, trade secrets, and other intellectual property owned by the Debtor, (vi) all of Debtor's goodwill and (vii) all partnership or limited liability membership interests that have an interest in a location where the Debtor currently operates a Restaurant.

GS Acquisitions will pay to the Debtor on the Effective Date \$4,835,000 for distribution pursuant to the Plan, and GS Acquisitions will make directly the payments due under the Plan to holders of Allowed Class 1 and Allowed Class 3 Claims.

GS Acquisitions will also make the payments due under the Plan to the Subrogation Release Escrow Fund. GS Acquisitions' payments to the Subrogation Escrow Release Fund will be subordinated to payments due under the Plan from GS Acquisitions to FirstBank.

GS Acquisitions and Debtor will prepare and agree on a closing statement that cuts-off and trues-up the accounting for Debtor as of the Effective Date. The net amount due will either reduce or increase the cash amount paid by GS Acquisitions to Debtor on the Effective Date. The true up will include cut-off of sales, cash deposits, commissary and register shortages, Pro Rata allocation of invoices spanning the pre and post sale periods (i.e. utilities), prepaid rent, advertising/logos and accrued property taxes. If GS Acquisitions continues under Debtor's existing Major Medical Benefit Plan employee health plan, Debtor will be credited with the monthly pro rata benefit paid at the beginning of the month.

As of the Effective Date, Debtor will assume (to the extent not already assumed), will cure in accordance with the terms set forth below any and all defaults under (to the extent not already cured), and will assign to GS Acquisitions, and GS Acquisitions will simultaneously assume from Debtor, (i) all of Debtor's rights and obligations under all leases and/or subleases with respect to Debtor's use and occupancy of the land and/or buildings upon or within which a Restaurant is located; and (ii) all of Debtor's rights and obligations under the Franchise Agreements. The Confirmation Order or the Final Order assuming and assigning the Franchise Agreements shall grant GS Acquisitions a period of at least twenty four months from the Effective Date in which to complete all remodel/rehab obligations existing as of the Effective Date with respect to Restaurants for which a franchise agreement is being assumed and assigned to GS Acquisitions.

Notwithstanding anything else in the Plan to the contrary, all existing cash deposits made to, or for the benefit of, insurers providing worker's compensation insurance to Debtor during any period prior to the Effective Date shall be held for the benefit of GS Acquisitions, unless Debtor has obtained a resolution of Lumberman's issues prior to Effective Date, in which event any cash deposit made to or for the benefit of Lumberman's shall be returned to Debtor. After the Effective Date, GS Acquisitions shall be responsible for administering, defending and all costs associated with both pending and future worker's compensation claims asserted by individuals who were employees of Debtor.

GS Acquisitions will work with Debtor and the Liquidation Agent regarding allowing Debtor continued access to Debtor's current IT and accounting system. GS Acquisitions will not

shut down or materially limit access to the data stored by Debtor as of the Effective Date without the prior written consent of the Liquidation Agent. Debtor will prepare an electronic file sufficient for WHI or GS Acquisitions to print W-2s for 2009 for all Debtor's employees, and WHI or GS Acquisitions will mail timely such W-2s in 2010. Debtor will pay WHI for \$.45 per W-2 at the time the file is transferred. WHI and GS Acquisitions will not remove any IT equipment from the Debtor's MetroPlex location necessary for the Debtor to conduct its wind-down. GS Acquisitions will cooperate with the Liquidation Trustee to insure continued access to IT equipment and dated needed to prosecute the Recovery Causes of Action.

XII. THE LIQUIDATION AGENT AND THE PURSUIT OF CAUSES OF ACTION

A. Appointment and General Duties.

On or prior to the Confirmation Date, the Committee shall select the initial Liquidation Agent and shall file a notice with Court identifying that person. Pursuant to § 1129(a)(5) of the Code, it is hereby disclosed that the Liquidation Agent shall serve as the sole director and officer of the Debtors after the Effective Date. Pursuant to § 1123(b)(3)(B) of the Code, the Liquidation Agent is appointed as the official representative to retain, enforce, pursue, settle and compromise each and every right, Claim and Cause of Action on behalf of the Debtor's estate.

The Liquidation Agent shall have the responsibilities and authority provided in the Plan. Generally and without limitation, the Liquidation Agent shall be responsible for implementing this Plan for the benefit of all holders of Allowed Claims as provided by this Plan, subject to the continued jurisdiction of the Court. The Liquidation Agent is also responsible for making distributions and for winding down the Debtor's affairs, including, without limitation, filing final tax returns and terminating any benefit plans remaining in existence as of the Effective Date. Additionally, among other things, the Liquidation Agent will be responsible for taking any action needed in connection with the pursuit of Recovery Causes of Action and for taking any action needed in connection with payments due from GS Acquisitions to the Debtor or the Subrogation Release Escrow Fund, and for taking any actions related to the resolution and payment of Claims.

The Liquidation Agent shall have full authority and discretion to settle, with notice or Court approval, any objection to filed Claims other than the Allowed Class 1 Claim or the Class 7 Claims asserted by the Pledgors, to investigate, pursue, settle and collect any Recovery Causes of Action and security deposits, without notice or Court approval; provided however that any settlement of a Recovery Cause of Action that is not an Avoidance Action shall require prior Court approval.

B. Recovery Causes of Action.

The Debtor retains and reserves all Recovery Causes of Action for pursuit by the Debtor post-confirmation. After the Effective Date, the Debtor, acting through the Liquidation Agent, shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all Recovery Causes of Action without the consent or approval of any third party and without any further order of Court; provided however that any settlement of a

Recovery Cause of Action that is not an Avoidance Action shall require prior Court approval. Under the Plan, the Debtor shall retain all rights to commence and pursue, as appropriate, any and all Recovery Causes of Action in any court or other tribunal including, without limitation, in an adversary proceeding filed in the Chapter 11 Case. While the Debtor has attempted to identify certain Recovery Causes of Action which may be pursued in the Plan, the failure to list any potential or existing Recovery Cause of Action is not intended to limit the Debtor's rights to pursue any Recovery Cause of Action not listed or identified.

Unless a Recovery Cause of Action is expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, the Debtor expressly reserves such Recovery Cause of Action for later adjudication (including, without limitation, Recovery Causes of Action not specifically identified or which the Debtor may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtor at this time or facts or circumstances which may change or be different from those which the Debtor now believe to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Recovery Causes of Action upon or after the Confirmation or consummation of the Plan based on the Disclosure Statement, the Plan or the Confirmation Order, except where such Recovery Causes of Action have been released in the Plan or other Final Order. In addition, the Debtor expressly reserve the right pursuant to the Bankruptcy Code to assert or adopt as a defense any claims in any lawsuit in which the Debtor is a defendant or an interested party, irrespective of whether a Recovery Cause of Action has been commenced based upon such claim.

Among the Recovery Causes of Action preserved are actions for avoidance and recovery pursuant to Section 550 of the Bankruptcy Code of transfers avoidable by reason of Sections 544, 545, 547, 548, 549, or 553(b), whether or not such actions have been commenced prior to the Effective Date of the Plan.

C. NOTICE TO POTENTIAL DEFENDANTS:

In the Statement of Financial Affairs on file with the Court, Debtor listed all payments made within ninety (90) days prior to the Petition Date, and payments made within one (1) year prior to the Petition Date to insiders of the Debtor. Each and every person listed as having received any such payment, as well as any other unlisted party that did, in fact, receive any such transfer, or believes it may have received such a transfer, is on notice that the rights of the estate to recover such payments are preserved for possible prosecution by the Debtor. Recovery shall not be limited to the amounts set forth in the Statement of Financial Affairs. To the extent Debtor may have inadvertently omitted any such payment or transfer, all rights of Debtor to avoidance and recovery as are provided by the Bankruptcy Code are also preserved.

Except as otherwise provided in the Plan or Confirmation Order, any Person to whom the Debtor has incurred an obligation (whether on account of services, purchase or sale of goods or otherwise), or who has received services from the Debtor or a transfer of money or property of the Debtor, or who has transacted business with the Debtor, or leased equipment or property from the Debtor should assume that such obligation, transfer, or transaction may be reviewed by

the Debtor and may, if appropriate, be the subject of a Recovery Cause of Action, whether or not (i) such Person has filed a proof of claim in this Chapter 11 Case; (ii) such Person's proof of claim has been objected to by the Debtor; (iii) such Person's Claim was included in the Debtor's Schedules; (iv) such Person's scheduled Claim has been objected to by the Debtor or has been identified by the Debtor as disputed, contingent, or unliquidated; or (v) such action falls within the express description of possible actions set forth herein. *Except as expressly provided in the Plan, the Confirmation Order shall not bar the Debtor by res judicata, collateral estoppel or otherwise from collecting, prosecuting or defending any matter, or Recovery Cause of Action.*

Without limiting the foregoing, the Debtor believes that potential Avoidance Actions to recover preferences pursuant to Section 547 of the Bankruptcy Code exist against every Person who received a payment from the Debtor within ninety (90) days prior to the Petition Date. A list of such entities is set forth on Exhibit B hereto, as well as, to the best of the Debtor's knowledge, the payments known to have been made to those entities during the 90-day period. Other payments may be identified in the future. The Debtor has not yet attempted to determine which of the payments identified qualify as preferences under Section 547 of the Bankruptcy Code, but the Debtor may initiate an Avoidance Action against any recipient or subsequent transferee of any of these payments.

The Liquidation Agent, acting on behalf of Debtor's estate, may pursue Recovery Causes of Action against Lattimore, Black, Morgan and Cain, PC, and/or any of its current or former partners or shareholders in connection with auditing and other services provided to the Debtor, as well as professional and other obligations to the Debtor.

The Liquidation Agent, acting on behalf of Debtor's estate, may also pursue Recovery Causes of Action related to payments to the Debtor's Chief Manager, Shaub, as well as the actions and management of the Debtor by Shaub and the Debtor's former Chief Financial Officer, Rebecca Sullivan, including without limitation any actions and omissions which had the effect of the Debtor, creditors, or other parties-in-interest suffering damages.

The Liquidation Agent, acting on behalf of Debtor's estate, may also pursue a Recovery Cause of Action against the Pledgors including without limitation to determine subrogation rights, for equitable subordination, or for damages suffered by the Debtor, creditors, or other parties-in-interest. The Liquidation Agent shall also have all rights of the Debtor and its estate to contest the validity of the Subrogation Claims.

The Debtor, acting through the Liquidation Agent, has broad discretion to pursue or abandon the Recovery Causes of Action. However, the Debtor shall not be required to pursue the Recovery Causes of Action that it determines in good faith, after consultation with counsel, are unlikely to result in a material net recovery to the Debtor's estate after deducting the estimated costs of prosecuting and collecting any potential recoveries.

D. Hiring and Compensation of Employees and Professionals.

The Liquidation Agent is authorized to hire employees and agents, upon terms acceptable to the Liquidation Agent, to assist with performance of duties under the Plan. In enforcing and pursuing rights, Claims and Recovery Causes of Action, the Liquidation Agent shall retain counsel or other professionals upon such terms not inconsistent with this Plan as may be agreed

upon by such counsel or other professionals and the Liquidation Agent. The Liquidation Agent is authorized to pay post-Effective Date expenses, including the fees of any attorneys, accountants, independent contractors, employees, or agents, as such expenses come due without approval of the Court.

E. Indemnification.

The Liquidation Agent shall serve during the duration of his or her appointment without a surety bond. Neither the Liquidation Agent nor any of his or her respective employees or agents shall be personally liable for payments to be made to the holders of Claims under this Plan. The Liquidation Agent shall have no liability to the Debtor, or any Claimant, except for his or her own gross negligence or willful misconduct, and shall not be liable for any act or omission of any of his or her respective employees or agents unless the Liquidation Agent acted with gross negligence or willful misconduct in the selection or retention of such employee or agent. The Liquidation Agent shall be entitled to indemnification from the Debtor for any claims or actions asserted against him in his role as Liquidation Agent, unless he or she is found by Final Order to have been guilty of gross negligence or willful misconduct. The Liquidation Agent shall be entitled to a full release as a part of the Final Decree in this Case. Any compensation to the Liquidation Agent (or his counsel, employees or agents) shall be from the Debtor's cash.

F. Replacement of Liquidation Agent.

The duly appointed Liquidation Agent may resign and appoint a proposed successor. A notice identifying the successor Liquidation Agent shall be filed with the Court and served on the Office of the United States Trustee and counsel for the Committee. Any creditor or party in interest may object to the successor Liquidation Agent for cause.

XIII. MODIFICATIONS OF THE PLAN

A. Pre-Confirmation Amendment.

Debtor 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 meet applicable Bankruptcy Code requirements, and is acceptable to the Committee and FirstBank.

B. Post-Confirmation Amendment not Requiring Re-solicitation.

After the entry of the Confirmation Order, Debtor, the Liquidation Agent or GS Acquisitions may modify the Plan to modify any defect or omission or to reconcile any inconsistencies in the Plan or in the Confirmation Order, as may be necessary to carry out the purposes and effects of the Plan, provided that:

- a. the moving party obtains approval of the Court for such modification, after notice and hearing;
- b. Such modification does not materially or adversely affect the interests, rights, treatment, or distributions of any class of allowed claims under the Plan; and

- c. the modified Plan is acceptable to the Committee and FirstBank.

C. Post-Confirmation/Pre-Consummation Amendment Requiring Re-solicitation.

After the Confirmation Date and before substantial consummation of the Plan, Debtor may modify the Plan in a way that materially or adversely affects the interests, rights, treatment, or distributions of a class of claims, provided that:

- a. The Plan, as modified, meets applicable Bankruptcy Code requirements; and is acceptable to the Committee and FirstBank.
- b. Debtor obtains Court approval for such modification, after notice and hearing;
- c. Such modification is accepted by at least two-thirds in amount, and more than one-half in number, of allowed claims voting in each Class adversely affected by such modification; and
- d. Debtor complies with § 1125 of the Bankruptcy Code with respect to the Plan, as modified.

XIV. SUMMARY OF OTHER PROVISIONS OF THE PLAN

A. Liquidation of Debtor's Remaining Assets.

The Debtor shall expeditiously liquidate the Debtor's Remaining Assets after the Effective Date. Post-Effective Date sales of tangible assets comprising part of the Debtor's Remaining Assets shall not require Court approval and shall be sold on terms and conditions acceptable to the Debtor. The net proceeds from the liquidation of the Debtor's Remaining Assets shall be distributed in accordance with this Plan. The Debtor, in its sole discretion, has authority to abandon any of the Debtor's Remaining Assets that has no market value or that it believes is burdensome to the Debtor's estate.

B. Rules Regarding Distributions.

The Debtor shall make distributions as often as is consistent with the Plan and deemed practical in the Liquidation Agent's sole discretion. With respect to any distribution prior to the final distribution, if the holder of an Allowed Claim would receive less than \$50.00, the Debtor may choose not to distribute such lesser amount to such holder, but may instead defer the distribution thereof until the cumulative amount to be distributed to such holder at any subsequent distribution is \$50.00 or more. No interest on any such deferred amount shall be paid to such holder. If the final distribution to the holder of an Allowed Claim would be less than \$10.00, the Debtor is not required to make such distribution, and such distribution is deemed waived.

Subject to Rule 9010 of the Federal Bankruptcy Rules, all distributions, notices and requests to holders of Allowed Claims shall be sent to them at the address of each such holder as

set forth on the proof of claim filed by such holder or at their last-known address if no proof of claim is filed. The Debtor or any holder of an Allowed Claim may designate in writing any other address for purposes of this section, which designation shall be effective upon receipt or upon publication of such notice as it is approved by the Court.

The Debtor shall make the final distribution in accordance with the Plan within 60 days after all of the Debtor's Remaining Assets have been liquidated and all net proceeds deposited, no Disputed Claims exist, and all post-Effective Date expenses have been paid in full. Within 90 days of the final distribution, or as soon as possible thereafter, the Liquidation Agent shall file a report accounting that the bankruptcy estate has been fully administered with the Court.

If the holder of an Allowed Claim fails to negotiate a check issued to such holder within ninety (90) days of the date such check was issued, then the Liquidation Agent will provide written notice to such holder stating that unless such holder negotiates such check within thirty (30) days of the notice, the amount of cash attributable to such check will be deemed to be unclaimed, such holder's Claim will no longer be deemed to be Allowed, and such holder will be deemed to have no further Claim in respect of such check and will not participate in any further distributions under the Plan. If a distribution is returned to the Liquidation Agent pursuant to an incomplete or incorrect address, as to such distribution, within 120 days of the return of such distribution, then the amount of cash attributable to the distribution will be deemed unclaimed and such holder will be deemed to have no further claim and will not participate any further distributions under the Plan, with all such funds to be distributed to the other holders of Allowed Claims.

C. Claims Objections and Allowance Issues.

Debtor or any party in interest, including the Liquidation Agent, may file an objection to any Claim in any class on or before the Claims Objection Deadline. Objections not filed within such time will be deemed waived. If any Claim or portion thereof is challenged by an objection or otherwise, distribution may, in the Liquidation Agent's sole discretion, be made on any portion of such disputed Claim which is undisputed pending resolution of the Claim allowance as a whole.

With respect to any Claim for which the Debtor has insurance coverage (excluding self-insurance), the Claim will be treated as an Allowed Claim only to the extent that the Claimant establishes that such Claim is not recoverable under the Debtors' insurance. Unless the Claimant obtains a Final Order establishing that the Claim is not recoverable under the Debtor's insurance, such Claim is automatically disallowed and will be entitled to no distribution.

The Debtor or any other party in interest may file with the Court, on or before the Claims Objection Deadline, a written objection to the allowance or classification of any Claim, which objection shall be served upon the Claimant and other parties in interest. The failure to object to or to examine any Claim for the purposes of voting on this Plan shall not be deemed a waiver of a party's right to object to, or re-examine the Claim in whole or in part within the above-described time period.

Upon a Disputed Claim becoming an Allowed Claim, the Debtor has the sole discretion to (i) pay the Claimant its Pro Rata share of any missed distributions upon the Disputed Claim

becoming an Allowed Claim or (ii) retain its Pro Rata share of any missed distributions until the next scheduled distribution date, at which time the Debtor shall pay the Pro Rata share of any missed distributions and the Pro Rata share of that particular distribution.

To the extent that any Claim is estimated for any purposes other than for voting, then in no event will such Claim be Allowed in an amount greater than the estimated amount.

In the event that the holder of any Claim shall transfer such Claim, it shall immediately advise the Liquidation Agent in writing of such transfer. The Liquidation Agent shall be entitled to assume that no transfer of any Claim has been made by any holder unless and until the Liquidation Agent has received written notice to the contrary. Each transferee of any Claim shall take such Claim subject to the provisions of the Plan and to any request made, waiver or consent given or other action taken hereunder and, except as otherwise expressly provided in such notice, the Liquidation Agent shall be entitled to assume conclusively that the transferee named in such notice shall thereafter be vested with all rights and powers of the transferor under the Plan.

D. Claims Reserve.

Until all of Debtor's Remaining Assets, including all Recovery Causes of Action, have been liquidated or abandoned, the Liquidation Agent shall not make any Pro Rata distribution, excluding the final distribution, without retaining an amount sufficient to pay all timely post-Effective Date expenses, as such may reasonably be anticipated to be required prior to the closing of this Case, and an equal Pro Rata portion to pay Disputed Claims. In determining the amount to be reserved for Disputed Claims, the appropriate Pro Rata calculations required by the Plan will be made as if all Disputed Claims were Allowed in the full amount claimed by the holders thereof, or in the amount estimated by the Bankruptcy Court under § 502(c) of the Code or Rule 3018(a) of the Bankruptcy Rules, whichever is less. Notwithstanding anything to the contrary herein, the Liquidation Agent shall not be required to retain any reserve for the \$1,000,000,000 proof of claim filed by a former employee.

E. Employees.

On the Effective Date, Debtor shall terminate the employment of all of its employees. Other than those specifically designated by GS Acquisitions prior to the Effective Date, the terminated employees will be offered provisional employment with GS Acquisitions, with continued employment dependent on each employee's compliance with GS Acquisitions's hiring practices. To the extent that any employee of Debtor is not immediately hired by GS Acquisitions, GS Acquisitions will be responsible to provide COBRA coverage to those employees to the extent required by Department of Labor regulations.

F. Corporate Action by Debtor.

All matters provided for under the Plan involving the corporate structure of Debtor, or any corporate action to be taken by or required of Debtor, excluding its dissolution, will be deemed to have occurred and be effective as provided in the Plan, and will be authorized and approved in all respects without any requirement for further action by the shareholders or directors of Debtor.

G. Legally Binding Effect.

Confirmation of the Plan will bind Debtor and all creditors and Interest Holders, whether or not they accept the Plan. The distributions of consideration provided for in the Plan will be in exchange for and in complete settlement, satisfaction and discharge of all Claims and Interests, including any Claim for interest after the Petition Date. All creditors shall be precluded from asserting any Claim against Debtor or its property based upon any transaction or other activity of any kind that occurred prior to the Effective Date.

H. Transfer of Assets Free and Clear.

Debtor's transfer of its assets to GS Acquisitions shall be free and clear of all liens and encumbrances, except those expressly provided by the Plan and the Confirmation Order. GS Acquisitions shall not assume or be responsible for any liability of Debtor which protection from liability or responsibility shall extend to the maximum extent allowed by law and permitted under the Bankruptcy Code, including under Bankruptcy Code Sections 363(m), 365, and 1141.

EXCEPT AS OTHERWISE SET FORTH IN THE PLAN WITH RESPECT TO GS ACQUISITIONS'S EXPRESS ASSUMPTION OF DEBTOR'S OBLIGATIONS, GS ACQUISITIONS WILL NOT ASSUME ANY OBLIGATION, DEBT OR LIABILITY OF DEBTOR THAT AROSE PRIOR TO THE EFFECTIVE DATE AND THE SAME SHALL EITHER BE DISCHARGED BY THE COURT OR RESOLVED OR SATISFIED BY THE LIQUIDATION AGENT.

I. Release of FirstBank, GS Acquisitions, WHI and Committee.

On the Effective Date, Debtor and its estate release FirstBank, GS Acquisitions, WHI and the members of the Committee (acting in their capacity as Committee Members and not as creditors) from any and all claims or causes of action that they have or may have against them arising on or before the Effective Date.

J. Discharge of Claims.

Except as otherwise expressly provided in the Plan or in the Confirmation Order, the Confirmation Order will operate as a discharge, pursuant to Bankruptcy Code Section 1141(d), to the fullest extent permitted by applicable law, as of the Effective Date, of any and all Debts of, and Claims of any nature whatsoever against Debtor and GS Acquisitions that arose at any time prior to the Effective Date, including any and all Claims for principal and interest, whether accrued before, on or after the Petition Date. Without limiting the generality of the foregoing, on the Effective Date, Debtor and GS Acquisitions will be discharged from any Claim or debt that arose prior to the Confirmation Date and from any and all debts of the kind specified in Bankruptcy Code Sections

502(g), 502(h), or 502(i), regardless of whether (a) a Proof of Claim based on such debt was filed pursuant to Bankruptcy Code Section 501, (b) a Claim based on such debt is an Allowed Claim pursuant to Bankruptcy Code Section 502, or (c) the holder of a Claim based on such debt has voted to accept the Plan. As of the Effective Date, except as otherwise expressly provided in the Plan or in the Confirmation Order, all persons and entities, including all holders of a Claim, will be forever precluded and permanently enjoined to the fullest extent permitted by applicable law from asserting directly or indirectly against Debtor, GS Acquisitions or any of its respective successors and assigns, or the assets or properties of any of them, any other or further Claims, debts, rights, causes of action, remedies, liabilities, or anything based upon any act, omission, document, instrument, transaction, or other activity of any kind or nature that occurred prior to the Effective Date or that occurs in connection with implementation of the Plan and the Confirmation Order will contain appropriate injunctive language to that effect. In accordance with the foregoing, except as specifically provided in the Plan or in the Confirmation Order, the Confirmation Order will be a judicial determination of the discharge of all such Claims and other debts and liabilities against the Debtor, pursuant to Bankruptcy Code Sections 524 and 1141, and such discharge will void any judgment obtained against Debtor, at any time, to the extent that such judgment relates to a discharged Claim, liability or debt holders of Administrative Claims or Post Petition Trade Debt Claim that do not file an application or other Bankruptcy Court-approved pleading by appropriate bar date will be forever barred from asserting such Claim against Debtor, GS Acquisitions or any of their respective properties.

K. General Injunction.

Pursuant to Bankruptcy Code Sections 105, 1123, 1129 and 1141, in order to preserve and implement the various transactions contemplated by and provided for in the Plan, as of the Confirmation Date, except as otherwise provided in the Plan or in the Confirmation Order, all persons or entities that have held, currently hold or may hold a Claim or other debt, liability, or Equity Interest that is discharged pursuant to the terms of the Plan are and will be permanently enjoined and forever barred to the fullest extent permitted by law from taking any of the following actions on account of any such discharged Claims, debts, liabilities, or Equity Interests, other than actions brought to enforce any rights or obligations under the Plan or the Plan documents:

- (a) commencing or continuing in any manner any action or other proceeding against Debtor, GS Acquisitions, the Liquidation Agent or their respective properties;
- (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against Debtor, GS Acquisitions, the Liquidation Agent or their respective properties;
- (c) creating, perfecting or enforcing any lien or encumbrance against Debtor, GS Acquisitions, the Liquidation Agent or their respective properties;
- (d) asserting a set-off, right of subrogation, or recoupment of any kind against any debt, liability or obligation due to Debtor, GS Acquisitions, or the Liquidation Agent; or

(e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order.

Debtor, GS Acquisitions, and the Liquidation Agent will have the right to independently seek enforcement of this general injunction provision. This general injunction provision is an integral part of the Plan and is essential to its implementation.

L. Exculpation from Liability.

Debtor, WHI, GS Acquisitions, and the Liquidation Agent and their respective directors, officers, employees, agents, representatives, accountants, attorneys, and professionals (acting in such capacity), and their respective heirs, executors, administrators, successors, and assigns, will neither have nor incur any liability whatsoever to any person or other entity for any act taken or omitted to be taken in good faith in connection with or related to the formulation, preparation, dissemination, implementation, confirmation, or consummation of the Plan, the Disclosure Statement, any Plan document, or any contract, instrument, release, or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection with the Plan or Debtor's bankruptcy case. The rights granted here under are cumulative with, and not restrictive of, any and all rights, remedies, and benefits that Debtor and its agents have or obtain pursuant to any provision of the Bankruptcy Code. This exculpation from liability provision is an integral part of the Plan and is essential to its implementation. Notwithstanding the foregoing, nothing in the Plan shall release any claims against Debtor, its respective current or former managers, directors, officers, employees, agents, owners, representatives, accountants, attorneys, or professionals (acting in such capacity) for any pre-Petition Date acts.

M. Governing Law.

Except to the extent that the Bankruptcy Code, Bankruptcy Rules, or other federal laws apply, the rights and obligations arising under the Plan shall be governed by the laws of the State of Tennessee, without giving effect to any principles of conflicts of law contained therein.

N. Security Deposits.

To the extent Debtor has posted security deposits (with landlords, utilities or otherwise) pre-Petition Date, those amounts may be setoff against Allowed Claims only upon the written consent of the Liquidation Agent or upon entry of a Final Order authorizing such offset. To the extent Debtor has posted security deposits with utilities, the deposit shall be remitted to GS Acquisitions promptly after the Effective Date unless the holder complies with the requirements of the first sentence of this paragraph.

O. Confirmation Order and Plan Control.

To the extent the Confirmation Order and/or the Plan is inconsistent with the Disclosure Statement, any other agreement entered into between or among the Debtor and any third party, the Plan controls the Disclosure Statement and any such agreements and the Confirmation Order (and any other Orders of the Court) shall be construed together and consistent with the terms of the Plan.

P. Consent to Jurisdiction

By accepting any distribution or payment under or in connection with the Plan, by filing any Proof of Claim, by filing any Cure Claim or objection to the assumption or assignment of any assumed contract, by voting on the Plan, or by entering an appearance in the reorganization case, all Creditors and other parties in interest have consented, and will be deemed to have expressly consented to the jurisdiction of the Bankruptcy Court for all purposes with respect to any and all matters relating to, arising under or in connection with the Plan or the reorganization case, including the matters and purposes set forth in the Plan. The Bankruptcy Court will maintain jurisdiction to the fullest extent allowed under applicable law over all matters set forth in the Plan.

Q. NOTICES.

Any notice required hereunder or under the Plan shall be in writing, and addressed as follows:

If to Debtor:

Southeast Waffles, LLC
446 Metroplex Drive, Suite 210
Nashville, TN 37211
Attn: Gary Murphey

With a copy to:

Glenn B. Rose
Harwell Howard Hyne Gabbert et al
315 Deaderick Street, Suite 1800
Nashville, TN 37237

If to GS Acquisitions LLC

Terry Pefanis

With a copy to:

William Norton
Bradley Arant Boult Cummings LLP
1600 Division Street, Suite 700
Nashville, TN 37203

If to FirstBank:

FirstBank
Doug Remke
200 Fourth Avenue North
Suite 100
Nashville, TN 37219

With a copy to:

James R. Kelley
Neal & Harwell, PLC
150 Fourth Avenue N., Suite 2000
Nashville, TN 37219

If to Committee:

[Member]

With a copy to:

Robert J. Mendes
MGLAW PLLC
2525 West End Avenue, Suite 1475
Nashville, TN 37203

If to Waffle House, Inc. or GS Acquisitions

Jonathan Waller
Waffle House, Inc.
5986 Financial Drive
Norcross, GA 30338

With a copy to:

Philip V Martino
DLA Piper LLP (US)
100 North Tampa Street, Suite 2200
Tampa, FL 33602

If to the Liquidation Agent:

(To be included in Confirmation Order)

XV. CONDITIONS PREDECENT

A. To Confirmation

The Plan may not be confirmed unless:

a. Debtor shall have sufficient cash on hand as of the Effective Date: (i) to cure, and it must simultaneously cure, any and all monetary defaults under the leases, subleases, Franchise Agreements and other executory contracts to be assumed and assigned to GS Acquisitions (other than the remodel obligations under the Franchise Agreements to be cured by GS Acquisitions after the Effective Date), (ii) to make immediate payment of all other unpaid Administrative Expenses reasonably expected to be Allowed, (iii) to pay all Allowed Post Petition Trade Debt and (iv) to pay all post Effective Date obligations of the Debtor.

b. No default in payments or other terms of the cash collateral order relating to FirstBank shall have occurred.

c. Gary Murphey will remain in place as the Debtor's CRO through the Effective Date.

d. The Plan is confirmed by October 30, 2009.

e. The total amount of Tax Claims that have been Allowed, scheduled, or filed or determined to have been Allowed or filed shall, not exceed \$4,011,624 (excluding interest).

f. The federal judgment rate as of the Confirmation Date must not be greater than 4.0% per annum.

B. TO EFFECTIVE DATE

10.2 The Effective Date shall not occur unless:

a. The Confirmation Order shall have been entered.

b. Should an appeal of the Confirmation Order be filed prior to the Effective Date, GS Acquisitions may (but is not required to) elect to proceed with the provisions of the

Plan provided that the Plan has not been stayed by either the Bankruptcy Court or by an appellate court.

c. None of the letters of credit issued by the Bank and outstanding shall have been drawn.

d. FirstBank and GS Acquisitions shall have agreed on definitive loan documents reasonably necessary as determined in their good faith discretion.

e. No material adverse change shall have occurred with respect to Debtor's business or GS Acquisitions; and

f. A Final Order(s) shall have been entered providing for the assumption and assignment to GS Acquisitions LLL of the Franchise Agreements and leases for the Restaurants, which order must grant GS Acquisitions a period of at least 24 months in which to cure Debtor's Restaurant remodel obligations pending as of the Effective Date.

C. WAIVER OF CONDITIONS TO CONFIRMATION OR CONSUMMATION

10.3 The conditions above can be waived as follows:

<u>Paragraph</u>	<u>Waiver By</u>
10.1(a)(i)	GS Acquisitions
10.1(b)	FirstBank
10.1(e)	GS Acquisitions
10.1(f)	GS Acquisitions
10.2(c)	FirstBank
10.2(d)	GS Acquisitions and FirstBank
10.2(f)	GS Acquisitions
All Others	Committee, GS Acquisitions and FirstBank

XVI. LIQUIDATION ANALYSIS

To obtain confirmation of the Plan, Debtor must show that each holder of an impaired Claim or Interest has accepted the Plan, or that each holder will receive or retain under the Plan on account of the holder's Claim or Interest, property of a value, as of the Effective Date of the Plan, that is not less than the amount such holder would receive or retain if the Debtor's assets were liquidated under Chapter 7 of the Code on said date.

Generally speaking, the trustee in a Chapter 7 Case is not authorized to continue the Debtors' operations. Thus, the most extreme view of the recovery that could be obtained in a chapter 7 case is to assume that Debtor's operations are simply shut down and its assets liquidated. In this event, the Debtor would realize no value for its Franchise Agreements, leases or good will. The equipment and inventory located in the Restaurants would also have limited value. Even if full book value were obtained for these assets, which is extremely unlikely, the proceeds would not be sufficient to pay FirstBank's Allowed Secured Claim, much less Allowed Administrative, Tax or Priority Claims.

Given that Debtor continues to generate positive cash flow from its operations, Debtor believes that a sale of its assets as a going concern could be achieved prior to conversion of this Case to one under Chapter 7 of the Bankruptcy Code. After consummation of such a sale, this Case could be converted. This process would provide greater recovery to creditors, but not as great as the recovery to be paid under the Plan. The Plan provides for payment of Allowed Administrative, Priority, and Secured Claims in full, as well as an estimated total distribution of more than \$5.0 million to the holders of Allowed Unsecured Claims, while allowing the Debtor's Restaurants to be transferred to GS Acquisitions, remain open, and GS Acquisitions to provisionally hire substantially all of Debtor's store and management level employees. By allowing for the payment of FirstBank's Secured Claim, the Subrogation Claims, and Allowed Tax Claims in full over time, while avoiding the fees that would be payable to a Chapter 7 trustee, the Plan definitely generates a greater return to Unsecured Creditors than would an all cash sale followed by a conversion of this case to one under Chapter 7 of the Bankruptcy Code.

After payment of Allowed Administrative Expenses, Post-Petition Trade Debt, Secured Claims and Priority Claims, the Debtors believe that approximately \$4.4 million will be available for distribution to holders of Allowed Class 5 Claims, not including any amounts for Recovery Causes of Action. The Debtor also estimates that the total Allowed Claims in Class 5 will be approximately \$11.5 million. Thus, the Debtor estimate the recovery to Class 5 Allowed Claims to be approximately 38% percent of their Allowed Claim amount, excluding net recoveries from pursuit of the Recovery Causes of Action and excluding any possibility that Class 5 Allowed Claims will receive any of the Subrogation Release Escrow Fund. Under these circumstances, the Plan clearly offers all creditors more than would be received if this case were one under Chapter 7 of the Code. Therefore, acceptance of the Plan is in the best interest of creditors.

XVII. TAX CONSEQUENCES

The following discussion summarizes certain anticipated federal income tax consequences of implementation of the Plan to holders of Claims and Interests. It does not address all federal income tax consequences of the Plan nor does it address the state or local income tax or other state or local tax consequences of implementation of the Plan to Holders of Claims and Interests or to the Debtor.

The description of the federal income tax consequences of implementing the Plan is based on the Internal Revenue Code of 1986 (the "Tax Code"), the existing Treasury Regulations and Proposed Regulations thereunder, judicial decisions and current published administrative rulings generally available prior to the date of the filing of the Plan, all of which are subject to change at any time. Any such change may have a retroactive effect. THE DEBTOR HAS NOT RECEIVED, NOR WILL IT REQUEST, A RULING FROM THE IRS AS TO ANY OF THE

TAX CONSEQUENCES OF THE PROPOSED PLAN WITH RESPECT TO HOLDERS OF CLAIMS OR INTERESTS. NO ASSURANCE IS OR CAN BE GIVEN THAT THE IRS WILL AGREE WITH, NOR IS THE IRS BOUND BY, THIS DISCUSSION. The Debtor has not obtained an opinion of counsel with respect to any of these matters. The discussion below is general in nature and is not directed to the specific tax situation of any particular interested taxpayer. FOR THESE REASONS, ALL HOLDERS OF CLAIMS AND INTERESTS SHOULD CONSULT WITH THEIR OWN ADVISORS AS TO THE TAX CONSEQUENCES OF IMPLEMENTATION OF THE PLAN TO THEM UNDER APPLICABLE FEDERAL, STATE AND LOCAL TAX LAWS.

Generally, bad debts arising from a taxpayer's trade or business may be deducted from gross income to the extent of their worthlessness when such debts become partially or totally worthless. A cash basis taxpayer can deduct a bad debt only if an actual cash loss has been sustained or if the amount deducted was included in income. All accrual-basis taxpayers must use the specific charge-off method to deduct business bad debts.

Holders of Claims may be required to report income or be entitled to a deduction as a result of implementation of the Plan. The exact tax treatment depends on, among other things, each Claim holder's method of accounting, the nature of each Claim holder's Claim, and whether and to what extent such Claim holder has taken a bad debt deduction in prior taxable years with respect to the particular debt owed to it by the Debtor.

Debtor is a limited liability company. Thus, the confirmation of the Plan could have material adverse tax consequences for Debtor's Interest Holders. Debtor has not sought or received advice concerning the tax consequences of confirmation of the Plan on Debtor or its Interest Holders.

XVIII. RETENTION OF JURISDICTION

Notwithstanding the Confirmation of the Plan or occurrence of the Effective Date, the Court shall retain jurisdiction over the reorganization case and the estate through and after the Effective Date as to all matters, including but not limited to those matters specifically set forth in this Article. The Court, through the Confirmation Order shall reserve exclusive jurisdiction over the Plan, property dealt with under the Plan, and debts to creditors under the Plan, Debtor and the Liquidation Agent until such time as all Plan indebtedness has been paid in full or otherwise satisfied. The Court shall retain jurisdiction:

- (a) over all claims or rights in, liens on, or title to, property to be administered by the Liquidation Agent, including, but not limited to, any equitable relief in connection therewith;
- (b) to determine the allowability of claims upon objection to such claims by the Liquidation Agent or any Creditor;
- (c) to determine any tax liability pursuant to Bankruptcy Code Section 505;
- (d) to determine requests for payment of administrative expenses;

- (e) to adjudicate all claims objections and adversary proceedings brought by the Liquidation Agent against third parties;
- (f) to adjudicate the Recovery Cases of Action, irrespective of who prosecutes them;
- (g) to implement the provisions of the Plan and enter orders in aid of Confirmation and consummation of the Plan, including, without limitation, appropriate orders to enforce the right, title and powers of Debtor, GS Acquisitions or the Liquidation Agent from actions by holders of Claims against Debtor;
- (h) to determine classification, voting, treatment, allowance, estimation, withdrawal, disallowance, or reconsideration of claims and any objections relating thereto;
- (i) to fix, liquidate, or estimate claims;
- (j) to modify the Plan pursuant to Bankruptcy Code Section 1127;
- (k) to correct any defect, to cure any mistake or omission or reconcile any inconsistency in the Plan or the Confirmation Order as may be necessary or appropriate to carry out the purposes and intent of the Plan;
- (l) to adjudicate any Causes of Action that arose prior to the Confirmation Date or in connection with the implementation of the Plan, including Avoidance Actions;
- (m) to resolve any disputes concerning whether a Person or entity had sufficient notice of the reorganization case, the applicable claims Bar Date, the hearing on the approval of the Disclosure Statement as containing adequate information, the hearing on the Confirmation of the Plan for the purpose of determining whether a Claim is discharged hereunder or for any other purpose;
- (n) to enter a Final Order closing the reorganization case; and
- (o) to hear and determine any other such matter as may be provided for under Title 28 or any other title of the United States Code and any reference to the Bankruptcy Court, the Bankruptcy Code, the Bankruptcy Rules, other applicable law, the Plan or the Confirmation Order.

DATED: July 21, 2009.

Respectfully submitted,

/s/ Gary M. Murphey
Southeast Waffles, LLC.
By: Gary M. Murphey
Its: Chief Restructuring Officer

/s/ Glenn B. Rose
Glenn B. Rose
Harwell Howard Hyne Gabbert & Manner, P.C.
315 Deaderick Street, Suite 1800
Nashville, TN 37238

ATTORNEYS FOR DEBTOR