

## **LIQUIDATING TRUST AGREEMENT**

This liquidating trust agreement ("Liquidating Trust Agreement"), dated as of April [ ], 2005, by and among Pegasus Satellite Communications, Inc., on behalf of itself and its debtor affiliates (collectively, "Pegasus" or the "Debtors") and Ocean Ridge Capital Advisors, LLC, as Liquidating Trustee, executed in connection with the Debtors' First Amended Joint Chapter 11 Plan dated January 31, 2005, as may be amended (the "Plan"), filed by the Debtors in the United States Bankruptcy Court for the District of Maine (the "Bankruptcy Court") provides for the establishment of a liquidating trust evidenced hereby (the "Liquidating Trust") in order to liquidate in accordance with the goal of resolving, realizing upon and maximizing the value of certain of the Debtors' assets, rights and causes of action for enforcement by the Liquidating Trustee, as successor to and representative of the Estates in accordance with section 1123(b)(3)(B) of the Bankruptcy Code. Except with respect to the terms defined herein, all capitalized terms contained herein shall have the meanings ascribed to them in the Plan.

### **W I T N E S S E T H**

**WHEREAS**, the Plan provides for, among other things, the issuance to the Holders of Allowed Claims in Class 3A (including Holders of Allowed Senior Notes Claims, collectively, the "Beneficiaries") of one hundred percent (100%) of the trust interests held as of record as contemplated herein (the "Liquidating Trust Interests"). The Liquidating Trust Interests represent one hundred percent (100%) of continuing beneficial interests of the Liquidating Trust and shall be in book entry form;

**WHEREAS**, the Liquidating Trust is created pursuant to, and to effectuate the Plan;

**WHEREAS**, the Liquidating Trust is created to make Distributions to Holders of Allowed Claims pursuant to the Plan including, the Beneficiaries;

**WHEREAS**, the Liquidating Trust is established for the sole purpose of liquidating its assets (in a manner which maximizes the value of such assets), for the benefit of the Beneficiaries, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective or authority to continue or engage in the conduct of a trade or business;

**WHEREAS**, the Liquidating Trust is intended to qualify as a liquidating trust for federal income tax purposes, within the meaning of Treasury Regulations Section 301.7701-4(d) and to be exempt from the requirements of the Investment Company Act of 1940 pursuant to Sections 7(a) and 7(b) thereof; and

**WHEREAS**, in the event the Liquidating Trust shall fail or cease to qualify as a liquidating trust in accordance with Treasury Regulations Section 301.7701-4(d), the parties to the Liquidating Trust Agreement intend that the Liquidating Trustee create a Delaware limited liability partnership or limited liability company as an alternative.

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

## ARTICLE I

### **ESTABLISHMENT OF THE LIQUIDATING TRUST**

1.01 Transfer of Property to the Liquidating Trust. Pursuant to the Plan, the Debtors and the Liquidating Trustee hereby establish, on behalf of the Beneficiaries, the Liquidating Trust, and the Debtors hereby transfer, assign, and deliver to the Liquidating Trust the following: (i) the Remaining Assets as and when transferred to the Liquidating Trust, (ii) any Distribution that remains unclaimed as provided in section 7.6 of the Plan, (iii) all proceeds of any of the foregoing, (iv) in the event of an Alternate Court Approved Bid, as applicable, all of the Interests in the Reorganized Debtors subject to the terms of such Alternate Court Approved Bid, and (v) in the event a PCC Court Approved Bid or an Alternate Court Approved Bid, as applicable, is not closed by the Outside Closing Date or there is no Broadcast Sale, the Broadcast Assets and/or the stock of the Reorganized Debtors (together, the “Liquidating Trust Assets”). If the Creditors Committee or Liquidating Trustee, as applicable, determines that it is appropriate for the Reorganized Debtors to transfer to the Liquidating Trust at a date subsequent to the Effective Date any of the Remaining Assets, including, but not limited to, the Patronage Certificates, or the stock of any of the Reorganized Debtors, the Reorganized Debtors shall make such transfer at such time and such remaining assets shall become Liquidating Trust Assets. The Liquidating Trustee agrees to accept and hold the Liquidating Trust Assets in trust for the Beneficiaries, subject to the terms of this Plan and this Liquidating Trust Agreement.

#### 1.02 Title to Liquidating Trust Assets.

(a) The Liquidating Trust Assets shall be transferred to the Liquidating Trust and/or the Reserves on the Effective Date. As provided in the Plan, additional assets may subsequently become Liquidating Trust Assets which shall be transferred to the Liquidating Trust. Such transfers may be accomplished in whole or in part by the transfer to the Liquidating Trust of the stock of the Reorganized Debtors.

(b) The transfer of the Liquidating Trust Assets to the Liquidating Trust shall be made for the sole benefit of the Beneficiaries. In this regard, the Liquidating Trust Assets will be deemed to be transferred to the Beneficiaries and held by the Debtors or the Reorganized Debtors on their behalf. Immediately thereafter, on behalf of the Beneficiaries, the Debtors or the Reorganized Debtors shall transfer the Liquidating Trust Assets to the Liquidating Trust in exchange for the Liquidating Trust Interests in the Liquidating Trust for the benefit of the Beneficiaries in accordance with the Plan. Upon the transfer of the Liquidating Trust Assets, the Liquidating Trust shall succeed to all of the Debtors’ or the Reorganized Debtors’ right, title and interest in the Liquidating Trust Assets and the Debtors or the Reorganized Debtors will have no further interest in or with respect to the Liquidating Trust Assets or the Liquidating Trust.

(c) Pursuant to the Plan, in consideration for their having received Liquidating Trust Interests, the Beneficiaries shall be deemed to have transferred to the Liquidating Trust any and all claims and causes of action such Beneficiaries may have against any Person in connection with, or in any way related to, the Liquidating Trust Assets, the Debtors or the Reorganized Debtors, except such claims or causes of action

which may not be permitted to be transferred, in which case, the Beneficiaries shall not be deemed to have lost such claim or cause of action.

(d) For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) shall treat the transfer of the Liquidating Trust Assets to the Liquidating Trust, as set forth in Section 1.02(a), (b) and (c) hereof and in accordance with the Plan, as a transfer to the Beneficiaries, followed by a transfer by them to the Liquidating Trust in exchange for Liquidating Trust Interests in the Liquidating Trust, and the Beneficiaries shall be treated as the grantors and owners hereof.

1.03 Assignment and Assumption of Claims. In accordance with Section 1.02 hereof, the Debtors or the Reorganized Debtors hereby transfer and assign the Liquidating Trust Assets to the Liquidating Trust (and subsequently transfer and assign any additional assets that become Liquidating Trust Assets as provided in the Plan) free and clear of any Liens, Claims, Interests, encumbrances or any liability of any kind (other than obligations expressly assumed by the Liquidating Trust under the Plan) and the Liquidating Trustee on behalf of the Liquidating Trust hereby assumes and agrees that all such Liquidating Trust Assets will be transferred to the Liquidating Trust free and clear of any Liens, Claims, Interests, encumbrances or any liability of any kind (other than obligations expressly assumed by the Liquidating Trust under the Plan).

1.04 Valuation of Liquidating Trust Assets. As soon as possible after the Effective Date, but in no event later than one hundred and twenty (120) days thereafter, the Liquidating Trustee, based upon his good faith determination after consultation with Liquidating Trust counsel, shall inform the Beneficiaries, through the posting on a web site to be established by the Liquidating Trustee, as to the estimate of the value of the Liquidating Trust Assets. The valuation shall be used consistently by all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) for all purposes, including federal income tax purposes.

1.05 Appointment of the Liquidating Trustee. The Liquidating Trustee shall be Ocean Ridge Capital Advisors, LLC.

1.06 Name of Liquidating Trust. The Liquidating Trust established hereby shall be known as "The PSC Liquidating Trust."

## **ARTICLE II**

### **LIQUIDATING TRUST INTERESTS**

2.01 Identification and Certification of Holders of Beneficial Interests. All Liquidating Trust interests shall be uncertificated. The holders of Liquidating Trust Interests shall be recorded and set forth in a register maintained by the Liquidating Trustee expressly for such purpose. All references in this Liquidating Trust Agreement to holders of Liquidating Trust Interests shall be read to mean holders of record as set forth in the official register maintained by the Liquidating Trustee and shall not mean any beneficial owner not recorded on such official registry. Unless otherwise expressly provided herein, the Liquidating Trustee may establish a

record date, which it deems practicable for determining the holders of Liquidating Trust Interests for a particular purpose

2.02 Directors of the Liquidating Trust. On the Initial Effective Date, the Creditors' Committee shall appoint at least one (1) but not more than three (3) directors to serve as the board of the Liquidating Trust (collectively, the "Liquidating Trust Board"). The number of directors may be changed only by vote of a majority of the Liquidating Trust Board.

2.03 Transferability of Liquidating Trust Interests.

(a) Liquidating Trust Interests shall be capable of being transferred, assigned, pledged or hypothecated (collectively, "Transferred" and any of the foregoing, a "Transfer"). Subject to compliance with applicable law, upon issuance, the Liquidating Trust Interests shall be transferable. The Liquidating Trustee shall establish procedures to govern the transfer of Liquidating Trust Interests. Once such procedures have been established, the Liquidating Trustee shall notify all record holders of such procedures. The Liquidating Trustee shall not seek to have the Liquidating Trust Interests listed on a nationally recognized stock exchange or any other inter-dealer quotation system after the Effective Date.

(b) The holder effecting a disposition of a Liquidating Trust Interest shall pay, or reimburse the Liquidating Trust for, all costs incurred by the Liquidating Trust in connection with the disposition of the Liquidating Trust Interest (including, without limitation, the legal fees incurred in connection therewith) on or before the tenth (10<sup>th</sup>) day after the receipt by that person of the Liquidating Trust's invoice for the amount due. If payment is not made by the date due, the person owing that amount shall pay interest on the unpaid amount from the date due until paid at a rate per annum equal to 10%.

### **ARTICLE III**

#### **PURPOSE, AUTHORITY, LIMITATIONS, AND DISTRIBUTIONS**

3.01 Purpose of the Liquidating Trust. The Liquidating Trust shall be established for making Distribution under the Plan and liquidating the Liquidating Trust Assets, in accordance with Treasury Regulation Section 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business. Accordingly, the Liquidating Trustee shall liquidate and convert to Cash, or otherwise distribute to the Beneficiaries, the Liquidating Trust Assets, make timely distributions and not unreasonably prolong the duration of the Liquidating Trust. The liquidation of the Liquidating Trust may be accomplished either through the sale of Liquidating Trust Assets (in whole or in combination), including the sale of any claims, rights or causes of action and/or through the prosecution or settlement of any claims, rights or causes of action, or otherwise, including the distribution of certain Liquidating Trust Assets to the Beneficiaries. The Liquidating Trust will not hold itself out as an investment company and will not conduct a trade or business.

3.02 Authority of Liquidating Trustee. In connection with the administration of the Liquidating Trust and the Reserves, except as set forth in this Liquidating Trust Agreement

or the Plan, the Liquidating Trustee is authorized, to perform any and all acts necessary or desirable to accomplish the purposes of the Liquidating Trust and the Plan. Without limiting, but subject to, the foregoing and to Section 3.04 hereof, the Liquidating Trustee shall be expressly authorized but shall not be required, to:

(a) hold legal title to any and all rights of the holders of Liquidating Trust Interests in or arising from the Liquidating Trust Assets, including but not limited to, collecting, receiving any and all money and other property belonging to the Liquidating Trust and the right to vote any claim or interest in a case under the Bankruptcy Code and receive any distribution therein;

(b) perform the duties, exercise the powers, and assert the rights of a trustee under sections 704 and 1106 of the Bankruptcy Code (with the benefit of periods of limitation applicable to a trustee in bankruptcy), including, without limitation, commencing, prosecuting or settling any cause of action, enforcing contracts, and asserting claims, defenses, offsets and privileges;

(c) take possession and control, administer, maintain and dispose of documents, books and records related to the Liquidating Trust Assets;

(d) protect and enforce the rights to the Liquidating Trust Assets by any method deemed appropriate including, without limitation, by judicial proceedings or pursuant to any applicable bankruptcy, insolvency, moratorium or similar law and general principles of equity;

(e) investigate, analyze, compromise, adjust, arbitrate, sue on or defend, pursue, prosecute, abandon, or otherwise deal with and settle, in accordance with the terms set forth in Section 3.03 hereof, any causes of action or Litigation Claims in favor of or against the Liquidating Trust as advisable or as otherwise provided in Section 3.03 hereof;

(f) avoid and recover transfers of the Estates' property as may be permitted by the Bankruptcy Code or applicable state law, including, without limitation, those identified in the Disclosure Statement;

(g) determine and satisfy any and all liabilities created or incurred by the Liquidating Trust;

(h) object to, prosecute, settle and compromise or otherwise resolve Claims asserted against the Debtors;

(i) file, if necessary, any and all tax and information returns with respect to the Liquidating Trust and pay taxes properly payable by the Liquidating Trust, if any;

(j) execute offsets against Claims as provided for in the Plan;

(k) assert or waive any privilege or defense on behalf of the Liquidating Trust, the Debtors or the Reorganized Debtors;

(l) pay all expenses and make all other payments relating to the Liquidating Trust Assets;

(m) retain and pay such independent law firms as counsel to the Liquidating Trust as the Liquidating Trustee may select to aid in the prosecution of any claims that constitute the Liquidating Trust Assets, and to perform such other functions as may be appropriate. The Liquidating Trustee may commit the Liquidating Trust to and shall pay such independent law firms reasonable compensation for services rendered and expenses incurred. A law firm shall not be disqualified from serving as independent counsel to the Liquidating Trust solely because of its prior retention by the Creditors' Committee;

(n) retain and pay an independent accounting firm to perform such reviews and/or audits of the financial books and records of the Liquidating Trust as may be appropriate and to prepare and file any tax returns or informational returns for the Liquidating Trust as may be required. The Liquidating Trustee may commit the Liquidating Trust to and shall pay such independent accounting firm reasonable compensation for services rendered and expenses incurred. An accounting firm shall not be disqualified from serving as an independent public accounting firm to the Liquidating Trust solely because of its prior retention by the Creditors' Committee;

(o) retain and pay such third parties as the Liquidating Trustee may deem necessary or appropriate to assist the Liquidating Trustee including, but not limited to, investigators, expert witnesses, advisors, and disbursement and paying agents, in carrying out his powers and duties under this Liquidating Trust Agreement. The Liquidating Trustee may commit the Liquidating Trust to and shall pay all such persons or entities reasonable compensation for services rendered and expenses incurred, as well as commit the Liquidating Trust to indemnify any such parties in connection with the performance of services;

(p) employ such employees or consultants, as consistent with the purposes of the Liquidating Trust and as necessary or appropriate to assist the Liquidating Trustee in carrying out his powers and duties under this Liquidating Trust Agreement. The Liquidating Trustee may commit the Liquidating Trust to and shall pay all such employees or consultants reasonable salary in the amounts it shall determine to be appropriate and any employee benefits it may establish pursuant to Section 3.02(q) below. If the Liquidating Trustee shall employ employees pursuant to this Section 3.02(p), the Liquidating Trustee shall establish payroll procedures and pay any and all federal, state or local tax withholding required under applicable law with respect to any such employees, and it will take all other actions it deems necessary to effectuate the provisions of this Section 3.02(p);

(q) establish and adopt or cease to provide such employee benefits for the benefit of any employees described in Section 3.02(p) above as consistent with the purposes of the Liquidating Trust and as necessary or appropriate, including the adoption of any group health plan;

(r) invest any moneys held as part of the Liquidating Trust in accordance with the terms of Section 4.05 hereof, limited, however, to such investments that are (a) consistent with the Liquidating Trust's status as a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d) and which actions are merely incidental to its liquidation and dissolution and (b) permitted by section 345 of the Bankruptcy Code or as otherwise approved by the Bankruptcy Court;

(s) borrow funds;

(t) represent the Liquidating Trust and the Estates before the Bankruptcy Court and any other courts of competent jurisdiction with respect to the Liquidating Trust Assets;

(u) appear as a party in interest in an action or proceeding over which the Bankruptcy Court has retained jurisdiction pursuant to the Plan;

(v) request any appropriate tax determination, including, without limitation, a determination pursuant to Section 505 of the Bankruptcy Code;

(w) seek the examination of any entity under, and subject to, the provisions of Bankruptcy Rule 2004;

(x) exercise such other powers as may be vested in the Liquidating Trustee by the Liquidating Trust Agreement, the Plan, or an order of the Bankruptcy Court;

(y) execute any documents, instruments, contracts and agreements necessary and appropriate to carry out his powers and duties;

(z) take or refrain from taking any and all actions the Liquidating Trustee reasonably deems necessary for the continuation, protection and maximization of the Liquidating Trust Assets or to carry out the purposes hereof;

(aa) take any and all necessary actions to convert the Liquidating Trust to a Delaware limited liability company, in the event that the Liquidating Trust shall fail or cease to qualify as a liquidating trust within the meaning of Treasury Regulations Section 301.7701-4(d);

(bb) establish and maintain a website for the purpose of publishing information and notices to the Beneficiaries;

(cc) make Distributions in accordance with the Plan;

(dd) coordinate with the Indenture Trustees for Distributions to be made to the holders of Allowed Class 3A Claims under the Plan;

(ee) make all operating decisions for the Reorganized Debtors and exercise all control over the assets of the Reorganized Debtors and the Liquidating Trust

including, without limitation, the Broadcast Assets including the Debtors' broadcast television stations, subject to the jurisdiction of the Bankruptcy Court (notwithstanding anything contained herein to the contrary, the Liquidating Trustee shall be required to obtain order(s) from the Bankruptcy Court to sell or otherwise dispose of all or a portion of the Broadcast Assets including the Debtors' FCC licenses and broadcast television stations); and

(ff) take any and all necessary actions to dissolve any of the Reorganized Debtors and the Liquidating Trust, as same may be necessary, appropriate and/or applicable in accordance with section 5.4(l) of the Plan.

### 3.03 Certain Actions by the Liquidating Trustee.

(a) The Liquidating Trustee shall be empowered to and (subject to Sections 2.03 and 3.04 hereof and this Section 3.03) may, take all appropriate action with respect to the Liquidating Trust Assets consistent with the purpose of the Liquidating Trust, including, without limitation, the filing, prosecution (including objections), estimation, settlement or other resolution of Claims, causes of action and Litigation Claims, including, without limitation, those based upon Sections 502, 544, 547, 548, 549, 550 or 553(b) of the Bankruptcy Code and oversee the management of any Liquidating Trust Assets. Notwithstanding the foregoing, the Liquidating Trustee shall follow the procedures set forth in this Section 3.03 prior to entering into any proposed action or series of related actions regarding the Liquidating Trust Assets. The Liquidating Trustee is expressly authorized to settle and compromise Claims, causes of action and Litigation Claims without further Bankruptcy Court approval, and upon the execution of a stipulation in respect thereof, such settlements and compromises shall be deemed approved by the Bankruptcy Court.

(b) Unless otherwise set forth herein, the Liquidating Trustee is authorized to consummate an action without any notice to or consent from the Liquidating Trust Board and shall be held harmless by the Liquidating Trust Board and the Beneficiaries in taking such action.

3.04 Limitation of Liquidating Trustee's Authority. Notwithstanding anything herein to the contrary the Liquidating Trustee shall not and shall not be authorized to,

(a) engage in any trade or business, or vary or make any investment with respect to the Liquidating Trust Assets or any proceeds therefrom (other than as provided in Section 4.05 below), and shall take such actions consistent with the orderly liquidation of the Liquidating Trust Assets as are required by applicable law, and such actions permitted under Sections 3.02, 3.03, 3.06, 3.07 and 4.05 hereof;

(b) engage in any investments or activities inconsistent with the treatment of the Liquidating Trust as a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d) while the Liquidating Trust qualifies as a liquidating trust; provided, however, that if the Liquidating Trustee shall convert the Liquidating Trust to a



Delaware limited liability company, the restrictions of this Section 3.04(b) shall not apply; or

(c) engage in any activities inconsistent with the treatment of the Liquidating Trust (or any successor limited liability company) as exempt from the provisions of the Investment Company Act of 1940.

In addition, the Global Settlement Agreement, the Asset Purchase Agreement, and the Cooperation Agreement are, in accordance with the Global Settlement Order, binding on the Liquidating Trust and the Liquidating Trustee.

**3.05 Books and Records.** The Liquidating Trustee shall maintain in respect of the Liquidating Trust and the holders of Liquidating Trust Interests historical books and records for the period commencing on the date hereof through the term of this Agreement relating to the Liquidating Trust Assets and income of the Liquidating Trust and the payment of expenses of, and liabilities of claims against or assumed by, the Liquidating Trust in such detail and for such period of time as may be necessary to enable it to make full and proper accounting in respect thereof in accordance with Article VIII hereof and to comply with applicable provisions of law. Such books and records shall be maintained on modified cash or other comprehensive basis of accounting necessary to facilitate compliance with the tax reporting requirements of the Liquidating Trust. Except as provided in Sections 8.01(b) and 11.01 hereof, nothing in this Liquidating Trust Agreement requires the Liquidating Trustee to file any accounting or seek approval of any court with respect to the administration of the Liquidating Trust, or as a condition for managing any payment or distribution out of the Liquidating Trust Assets. Holders of Liquidating Trust Interests shall have the right upon thirty (30) days prior written notice delivered to the Liquidating Trustee to inspect such historical books and records (including financial statements) and the register maintained pursuant to Section 2.01 hereof, provided that, if so requested, such holder shall have (i) entered into a confidentiality agreement satisfactory in form and substance to the Liquidating Trustee in his sole discretion; and (ii) agreed to bear the costs of the Liquidating Trustee incurred in connection with such inspection. In his discretion, the Liquidating Trustee may publish any information requested by the holders of Liquidating Trust Interests on a website established by the Liquidating Trustee pursuant to Section 3.02(bb) above, subject to the requirements of Section 3.04(d) above.

**3.06 Additional Powers.** Except as otherwise set forth in this Liquidating Trust Agreement or in the Plan, and subject to the Treasury Regulations governing liquidating trusts and the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Liquidating Trustee may control and exercise authority over the Liquidating Trust Assets and over the protection, conservation and disposition thereof. No person dealing with the Liquidating Trust shall be obligated to inquire into the authority of the Liquidating Trustee in connection with the protection, conservation or disposition of the Liquidating Trust Assets.

**3.07 Application of Liquidating Trust Assets and Other Property.** The Liquidating Trustee shall apply all Liquidating Trust Assets and any proceeds therefrom, as follows:

(a) The Liquidating Trustee shall apply all Cash constituting Liquidating Trust Assets and any proceeds therefrom in the order and reflecting the priorities set forth below:

FIRST, to pay all the liabilities, costs and expenses of the Liquidating Trust including, without limitation, the compensation then due and payable to the Liquidating Trustee as specified in Section 4.07(a) hereof and the reimbursement for any and all costs, expenses and liabilities incurred by the Liquidating Trustee in connection with the performance of his duties under this Liquidating Trust Agreement.

SECOND, to make the payments required under the Plan directly to holders of Allowed Claims and Liquidating Trust Interests in accordance with the terms, provisions and priorities set forth in the Plan.

(b) Subject to the Plan and Section 3.07(c) below, the Liquidating Trustee shall distribute at least annually and in accordance with this Liquidating Trust Agreement beginning on the Effective Date or as soon thereafter as practicable to holders of Liquidating Trust Interests from the Liquidating Trust Assets all Liquidating Trust Available Cash on hand and permitted investments. All Distributions shall be made in accordance with the Plan. The Liquidating Trustee may withhold from amounts distributable to any Person any and all amounts, determined in the Liquidating Trustee's reasonable sole discretion, required by any law, regulation, rule, ruling, directive or other governmental requirement.

(c) Notwithstanding anything to the contrary in Sections 3.07(a), and (b), above, prior to making any distribution, the Liquidating Trustee may retain such amounts (i) as are necessary to maintain the Reserves in accordance with the terms of the Plan, (ii) as are reasonably necessary to meet contingent liabilities and to maintain the value of the Liquidating Trust Assets during liquidation, (iii) to pay reasonable expenses (including, but not limited to, any taxes imposed on the Liquidating Trust or in respect of the Liquidating Trust Assets), and (iv) to satisfy other liabilities incurred by the Liquidating Trust in accordance with the Plan or the Liquidating Trust Agreement.

(d) If a Distribution shall be in Cash, the Liquidating Trustee shall distribute such Cash by wire, check, or such other method as the Liquidating Trustee deems appropriate under the circumstances.

**3.08 Reserve Accounts for Disputed Claims.** On and after the Effective Date, the Liquidating Trustee shall hold Cash and/or Liquidating Trust Interests in one or more reserves (the "Disputed Claims Reserve(s)") in an aggregate amount sufficient to pay each holder of a Disputed Claim the amount such holder would be entitled to receive under the Plan and this Liquidating Trust Agreement from the Liquidating Trust if such claim immediately became allowed in full. The Disputed Claims Reserve(s) will be treated as a disputed ownership fund for federal income tax purposes as provided in the Plan and shall be liable for and provide

payment for its share of all taxes, administrative costs and fees. The Debtors shall be the transferors of assets to the Disputed Claims Reserve(s) and the Liquidating Trustee shall be the administrator of the Disputed Claims Reserve(s).

3.09 Reserve for Liquidating Trust Expenses. On and after the Effective Date, the Liquidating Trustee shall hold Cash and/or Liquidating Trust Interests in one or more reserves (the “Trust Administration Reserve(s)”) in an aggregate amount sufficient to pay projected costs and expenses of the Liquidating Trust until the termination of the Liquidating Trust.

3.10 Reporting Duties.

(a) Federal Income Tax. The “taxable year” of the Liquidating Trust shall be the “calendar year” as those terms are defined in Section 441 of the Code. The Liquidating Trustee shall file returns for the Liquidating Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a). The Liquidating Trustee shall annually (within seventy-five (75) days after the end of each calendar year) send to each record holder of a Liquidating Trust Interest a separate statement setting forth the holder’s share or items of income, gain, loss, deduction, or credit and will instruct all such holders to report such items on their federal income tax returns. Such reporting shall also occur within sixty (60) days of the dissolution of the Liquidating Trust. The Liquidating Trust’s taxable income, gain, loss, deduction, or credit will be allocated (subject to Section 5.4(n)(3)(ii) of the Plan relating to Disputed Claims) to the Beneficiaries in accordance with their relative beneficial interests in the Liquidating Trust.

(b) Other. The Liquidating Trustee shall also file any other statements, returns or disclosures relating to the Liquidating Trust that are required by any governmental authority.

3.11 Compliance with Laws.

(a) Any and all distributions of Liquidating Trust Assets and proceeds of borrowings, if any, shall be made in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

(b) The Liquidating Trustee shall administer the Liquidating Trust and make any and all distributions in compliance with all applicable laws, including, but not limited to, the filing and withholding requirements of applicable federal and state taxation laws.

## **ARTICLE IV**

### **THE LIQUIDATING TRUSTEE**

4.01 Generally. The Liquidating Trustee’s powers are exercisable solely in a fiduciary capacity, as applicable, consistent with, and in furtherance of, the purposes of this Liquidating Trust and not otherwise, except that the Liquidating Trustee may deal with the Liquidating Trust Assets for his own account as permitted by Section 4.07.

4.02 Responsibilities of Liquidating Trustee. The Liquidating Trustee shall maximize the value of the Liquidating Trust Assets through orderly liquidating and converting the Liquidating Trust Assets to Cash or otherwise distributing certain Liquidating Trust Assets to the Beneficiaries, make timely Distributions as provided in the Plan, and not unduly prolong the duration of the Liquidating Trust. In so doing, the Liquidating Trustee will exercise his reasonable business judgment in liquidating the Liquidating Trust Assets. The liquidation of the Liquidating Trust Assets may be accomplished through the sale of Liquidating Trust Assets (in whole or in combination), including the sale of any claims, rights, causes of actions or Litigation Claims or through the prosecution or settlement of any or all claims, rights, causes of action or Litigation Claims, or otherwise, including the distribution of Liquidating Trust Assets to Beneficiaries. Any and all proceeds generated from such Liquidating Trust Assets shall be held by the Liquidating Trust. The Liquidating Trustee may incur reasonable and necessary expenses in liquidating the Liquidating Trust Assets.

4.03 Liability of Liquidating Trustee. In no event shall the Liquidating Trustee be personally liable for any claim asserted against the Liquidating Trust. Notwithstanding anything to the contrary set forth herein, no provision of this Liquidating Trust Agreement shall be construed to relieve the Liquidating Trustee from liability for his own grossly negligent actions, his own grossly negligent failure to act, or his own fraud or willful misconduct, except that the Liquidating Trustee shall not be liable for any error of judgment made in good faith, or with respect to any action taken or omitted to be taken in good faith, unless the Liquidating Trustee was grossly negligent.

4.04 Reliance by Liquidating Trustee. Except as otherwise provided in Section 4.03 above:

(a) the Liquidating Trustee may rely, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other paper or document believed by him to be genuine and to have been signed or presented by the proper party or parties;

(b) the Liquidating Trustee may consult with any and all professionals to be selected by him or the Liquidating Trust, and the Liquidating Trustee shall not be liable for any action taken or omitted to be taken by him in accordance with the advice of such professionals, unless the Liquidating Trustee was grossly negligent; and

(c) persons dealing with the Liquidating Trustee shall look only to the Liquidating Trust Assets to satisfy any liability incurred by the Liquidating Trustee to such person in carrying out the terms of this Liquidating Trust Agreement, and the Liquidating Trustee shall have no personal obligation to satisfy any such liability, except as described in Section 4.03 above.

4.05 Investment and Safekeeping of Liquidating Trust Assets. All moneys and other property received by the Liquidating Trustee shall, until distributed or paid over as herein provided, be held in trust for the benefit of the Beneficiaries, but need not be segregated from other Liquidating Trust Assets, unless and to the extent required by law. The Liquidating Trustee shall be under no liability for interest or producing income on any moneys received by

him hereunder and held for distribution or payment to the holders of Liquidating Trust Interests, except as such interest shall actually be received by the Liquidating Trustee. Investments of any moneys held by the Liquidating Trustee shall be administered in view of the manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs; provided, however, that the right and power of the Liquidating Trustee to invest the Liquidating Trust Assets, the proceeds thereof, or any income earned by the Liquidating Trust, shall be limited to the right and power to invest such Liquidating Trust Assets (pending periodic distributions in accordance with Section 3.07 hereof) in demand and time deposits, such as short-term certificates of deposit, in banks or other financial institutions, or other temporary liquid investments, such as Treasury bills; and provided further, that the scope of any such permissible investments shall be limited to include only those investments, or shall be expanded to include any additional investments, as the case may be, that a liquidating trust within the meaning of Treasury Regulation Section 301.7701-4(d), may be permitted to invest in, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise and as permitted by section 345 of the Bankruptcy Code or as otherwise approved by the Bankruptcy Court. Any investment made as provided for herein must mature prior to the date of the next scheduled distribution, but in no event shall such investment have a maturity date in excess of six (6) months from the date of the acquisition of such investment. The provisions of Section 11-23 of the Estates, Power and Trusts Law of New York shall not apply to the Liquidating Trust Agreement.

4.06 Authorization to Expend Liquidating Trust Assets. The Liquidating Trustee may, as necessary pursuant to the terms hereof, expend the Liquidating Trust Assets (i) as reasonably necessary to meet Disputed Claims and to maintain the value of the Liquidating Trust Assets during liquidation, (ii) to pay all administrative expenses of the Liquidating Trust (including, but not limited to, any taxes imposed on the Liquidating Trust), and (iii) to satisfy all other liabilities incurred or assumed by the Liquidating Trust (or to which the Liquidating Trust Assets are otherwise subject) in accordance with this Liquidating Trust Agreement or the Plan.

4.07 Expense Reimbursement and Compensation.

(a) The Liquidating Trustee shall be entitled to receive reasonable compensation in connection with the performance of its duties as set forth in Exhibit A hereto, plus the reimbursement of reasonable out-of-pocket expenses. Any successor to the Liquidating Trustee shall also be entitled to reasonable compensation in connection with the performance of its duties, which compensation shall be approved by the Liquidating Trust Board, plus the reimbursement of reasonable out-of-pocket expenses.

(b) After the Effective Date, on or before the last day of each month following the month for which compensation or reimbursement is sought, the Liquidating Trustee and each of its professionals seeking compensation shall serve a monthly statement on the Liquidating Trustee and the Liquidating Trust Board. The Liquidating Trustee and the Liquidating Trust Board will have ten (10) days from the date such statement is received to review the statement and object to such statement by serving an objection setting forth the precise nature of the objection and the amount at issue on the statement. At the expiration of the ten (10) day period, the Liquidating Trustee shall pay from Liquidating Trust Assets 100% of the amount requested, except for the portion of such fees and disbursements to which any objection

has been made. The parties shall attempt to consensually resolve objections, if any, to any monthly statement. If the parties are unable to reach a consensual resolution of any such objection, the party who received an objection to its fees may seek payment of such fees by filing a motion with the Bankruptcy Court and providing at least ten (10) days' notice to the Liquidating Trustee. If the Liquidating Trustee or any professional fails to submit a monthly statement, it shall be ineligible to receive payment of fees and expenses therefore as provided in this Liquidating Trust Agreement until the monthly statement is submitted.

(c) If the Cash in the Liquidating Trust shall be insufficient to compensate and reimburse the Liquidating Trustee or the Liquidating Trust Board, including any professionals retained by the Liquidating Trustee or the Liquidating Trust Board for any amounts to which he or they are entitled hereunder, then the Liquidating Trustee is hereby authorized, subject to Sections 3.03(b) and 3.03(c) hereof, to reduce to Cash or borrow against that portion of the Liquidating Trust Assets necessary so as to effect such compensation and reimbursement.

4.08 No Bond. The Liquidating Trustee shall serve without bond.

4.09 Confidentiality. The Liquidating Trustee shall, during the period that he serves as Liquidating Trustee under this Liquidating Trust Agreement and for a period of twelve (12) months following the termination of this Liquidating Trust Agreement, hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to any entity to which any of the Liquidating Trust Assets relates or of which he has become aware in his capacity as Liquidating Trustee, except as otherwise required by law.

## ARTICLE V

### SUCCESSOR LIQUIDATING TRUSTEE

5.01 Removal. The Liquidating Trustee may be removed with cause by and only by the affirmative, unanimous vote of the Liquidating Trust Board. The removal of the Liquidating Trustee pursuant to this Section 5.01 shall become effective on the appointment of a successor by the Liquidating Trust Board. In the event that the Liquidating Trustee is removed pursuant to this Section 5.01, the Liquidating Trustee, pursuant to Section 4.07, shall be paid all outstanding compensation and any unreimbursed out of pocket expenses incurred through the effective date of the removal of the Liquidating Trustee.

5.02 Resignation. The Liquidating Trustee may resign by giving not less than ninety (90) days' prior written notice thereof to the Liquidating Trust Board. Such resignation shall become effective on the earlier to occur of (i) the day specified in such notice; and (ii) the appointment of a successor by the Liquidating Trust Board and the acceptance by such successor of such appointment. If a successor Liquidating Trustee is not appointed or does not accept his appointment within ninety (90) days following delivery of a notice of resignation, the Liquidating Trustee may petition the Bankruptcy Court for the appointment of a successor Liquidating Trustee.

5.03 Appointment of Successor upon Removal, Resignation, or Death. If the Liquidating Trustee is removed pursuant to Section 5.01 hereof, resigns pursuant to Section 5.02

hereof or dies or otherwise ceases to act as Liquidating Trustee for any reason, the Liquidating Trust Board shall appoint a successor Liquidating Trustee by majority vote. If a successor Liquidating Trustee is not appointed or does not accept his appointment within ninety (90) days following such action for removal, delivery of notice of resignation, death or other cessation to act of the predecessor Liquidating Trustee, as the case may be, any holder of a Liquidating Trust Interest may petition the Bankruptcy Court for the appointment of a successor Liquidating Trustee.

5.04 Acceptance of Appointment by Successor Liquidating Trustee. Any successor Liquidating Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the Liquidating Trust records. Thereupon, such successor Liquidating Trustee shall, without any further act, become vested with all the properties, rights, powers and duties of his predecessor in the Liquidating Trust with like effect as if originally named herein; provided, however, that a removed or resigning Liquidating Trustee shall, nevertheless, when requested in writing by the successor Liquidating Trustee, execute and deliver an instrument or instruments conveying and transferring the foregoing to such successor Liquidating Trustee.

5.05 Continuation of Provisions. The indemnity, exculpation, release and insurance provisions set forth in sections 3.03(c), 4.03 and Article X of this Liquidating Trust Agreement shall survive for the benefit of the Liquidating Trustee subsequent to the removal or resignation of the Liquidating Trustee.

## ARTICLE VI

### **THE LIQUIDATING TRUST BOARD**

6.01 Authority of the Liquidating Trust Board. Except as otherwise provided by the Plan, the Confirmation Order, or this Liquidating Trust Agreement, the Liquidating Trust Board shall have only consultation rights with respect to the decisions of the Liquidating Trustee in managing the Liquidating Trust. In the event that the Liquidating Trust Board disagrees with any intended actions or inaction of the Liquidating Trustee, the Liquidating Trust Board shall have (a) the right to seek an order from the Bankruptcy Court compelling the Liquidating Trustee to act or cease acting in accordance with the order and (b) the right to remove the Liquidating Trustee if the Liquidating Trust Board believes that the intended actions or inaction rise to the level of gross negligence or willful misconduct.

6.02 By-Laws. The Liquidating Trust Board shall adopt such by-laws as it may deem appropriate provided that such by-laws are consistent with the terms of this Liquidating Trust Agreement.

6.03 Expense Reimbursement and Compensation. Each director shall be entitled to reimbursement out of any Liquidating Trust Available Cash in the Liquidating Trust for his out-of-pocket expenses. As compensation for the performance of his duties, each director shall be entitled to the compensation set forth in Exhibit A hereto.

6.04 Liability of Directors. In no event shall any director be personally liable for any claim asserted against the Liquidating Trust. Notwithstanding anything to the contrary set forth herein, no provision of this Liquidating Trust Agreement shall be construed to relieve a director from liability for his own grossly negligent actions, his own grossly negligent failure to act, or his own fraud or willful misconduct, except that a director shall not be liable for any error of judgment made in good faith, or with respect to any action taken or omitted to be taken in good faith.



## ARTICLE VII

### **SUCCESSOR DIRECTORS**

7.01 Removal. A director may be removed with or without cause at any time and replaced by the affirmative vote of holders of an absolute majority in amount of the total amount of Liquidating Trust Interests outstanding, expressed at any time by written consent delivered to the Liquidating Trustee.

7.02 Resignation. A director may resign by giving not less than thirty (30) days' prior written notice thereof to the remaining directors and the Liquidating Trustee. Such resignation shall become effective on the later to occur of (i) the day specified in such notice; and (ii) the appointment of a successor as otherwise provided herein.

7.03 Appointment of Successor upon Removal, Resignation, or Death. If a director is removed pursuant to Section 7.01 above, resigns pursuant to Section 7.02 above or dies or otherwise ceases to act as director for any reason, the remaining directors and the Liquidating Trustee shall, by majority vote, appoint a successor director. If a successor director is not appointed or does not accept his appointment within thirty (30) days following such action for removal, delivery of a notice of resignation, death or other cessation to act of the predecessor director, as the case may be, any holder of a Liquidating Trust Interest may petition the Bankruptcy Court for the appointment of a successor director.

7.04 Acceptance of Appointment by Successor Director. Any successor director appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the Liquidating Trust records. Thereupon, such successor director shall, without any further act, become vested with all of the rights, powers, trusts and duties of his predecessor with like effect as if originally named herein; provided, however, that a removed or resigning director shall, nevertheless, when requested in writing by the successor director, execute and deliver an instrument or instruments conveying and transferring to such successor director under the Liquidating Trust all the rights, powers, and trusts of such predecessor director.

## ARTICLE VIII

### **REPORTS TO BE FILED BY THE LIQUIDATING TRUSTEE**

8.01 Other Reports. Not later than forty-five (45) days following (i) the last day of the third full calendar month following the Effective Date; and (ii) the last day of every third calendar month thereafter until the dissolution of the Liquidating Trust (each of (i) and (ii), a "Reporting Period"), the Liquidating Trustee shall file a report (a "Report") with the Bankruptcy Court and shall send copies of such Report to the United States Trustee that discloses, for the applicable Reporting Period: (a) compensation paid to the Liquidating Trustee; (b) amounts paid to the Debtors' Professionals; (c) amounts paid to Creditors' Committee Professionals; (d) amounts paid in satisfaction of other post-Effective Date expenses of the Reorganized Debtors; (e) the amounts of any Distributions paid to Holders of Administrative Claims, Priority Non-Tax Claims, Priority Tax Claims, and Secured Claims; (f) the amount of

any Distributions paid to Holders in each Class of General Unsecured Claims; (g) the amounts held in the Reserves by the Liquidating Trustee as of the conclusion of the Reporting Period, including the Disputed Claims Reserve; (h) the number and aggregate face amount of Disputed Claims compromised, adjudicated, or otherwise resolved during the Reporting Period; (i) the number and aggregate face amount of Disputed Claims remaining; and (j) such other information as the Liquidating Trustee may deem necessary or appropriate to keep the Bankruptcy Court and interested parties generally apprised of the status of the Liquidating Trust and the Reorganized Debtors' cases.

## **ARTICLE IX**

### **TERMINATION OF LIQUIDATING TRUST**

9.01 Termination of Liquidating Trust. The Liquidating Trust will terminate on the earlier of (a) sixty (60) days after the final distribution of the Liquidating Trust Assets in accordance with the terms of this Liquidating Trust Agreement and the Plan; and (b) the fifth (5th) anniversary of the Effective Date; provided, however, that, on or prior to a date less than six (6) months prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the Liquidating Trust if it is necessary to the liquidation of the Liquidating Trust Assets (in a manner that would maximize the value of such assets). Notwithstanding the foregoing, multiple extensions can be obtained so long as Bankruptcy Court approval is obtained on a date within the period six (6) months prior to the expiration of each extended term. The aggregate of all such extensions shall not exceed three (3) years, unless the Liquidating Trustee receives a favorable ruling from the IRS that any further extension would not adversely affect the status of the Liquidating Trust as a liquidating trust within the meaning of Treas. Reg. § 301.7701-4(d) for federal income tax purposes. The Liquidating Trustee shall not unreasonably prolong the duration of the Liquidating Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Liquidating Trust Assets and to effect the distribution of the Liquidating Trust Assets to the holders of the Liquidating Trust Interests in accordance with the terms hereof and terminate the Liquidating Trust as soon as practicable. Prior to and upon termination of the Liquidating Trust, the Liquidating Trust Assets will be distributed to the holders of Liquidating Trust Interests, pursuant to the provisions set forth in the Plan.

## **ARTICLE X**

### **INDEMNIFICATION**

10.01 None of the Liquidating Trust Board, the Liquidating Trustee, or any of their respective members, directors, officers, affiliates, employees, employers, agents, professionals or representatives shall be personally liable in connection with the affairs of the Liquidating Trust to any of the Beneficiaries, or the Liquidating Trust, or any other Person, except for such of the members of the Liquidating Trust Board's or Liquidating Trustee's acts or omissions as shall constitute fraud, willful misconduct or gross negligence. Except in those situations in which the Liquidating Trustee is not exonerated of personal liability as aforesaid, the Liquidating Trustee, including any former Liquidating Trustee, shall be defended, held harmless and indemnified from time to time by the Liquidating Trust against any and all losses,

claims, costs, expenses and liabilities (including legal fees and expenses) any costs of defending any action to which the Liquidating Trustee may be subject in connection with any other action, suit, proceeding or investigation brought or threatened against the Liquidating Trustee in such Liquidating Trustee's capacity as Liquidating Trustee or in any other capacity contemplated by the Plan or the Liquidating Trust Agreement or in any manner arising out of or related to the Plan, the Liquidating Trust Agreement of the affairs of the Liquidating Trust. The Liquidating Trust shall indemnify, defend and hold harmless the members of the Liquidating Trust Board, employees and agents of the Liquidating Trust to the same extent as is provided for in this Section for the Liquidating Trustee.

10.02 The Liquidating Trustee and the Liquidating Trust Board, together with their respective members, agents, directors, officers, affiliates, employees, employers, professionals, and or representatives, hereby are exculpated by all Persons, including all holders of Claims against and Interests in the Debtors, and parties in interest in the Debtors' chapter 11 cases, and each of them, from any and all claims, causes of action, and other assertions of liability arising out of the discharge of the powers and duties conferred upon the Liquidating Trust Board or the Liquidating Trustee by the Plan, any Final Order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan, the Liquidating Trust Agreement, or applicable law, except for acts or omissions arising out of or related to their fraud, gross negligence or willful misconduct.

10.03 The Liquidating Trustee may purchase at the expense of the Liquidating Trust and carry all insurance policies, including, without limitation, any tail insurance, and pay all insurance premiums and costs the Liquidating Trustee deems reasonably necessary or advisable, including, without limitation, purchasing any errors and omissions insurance with regard to any liabilities, losses, damages, claims, costs and expenses it may occur, including but not limited to attorney's fees and expenses, arising out of or due to its actions or omissions, or consequences of such actions or omissions with respect to the implementation and administration of the Plan or this Liquidating Trust Agreement.

## **ARTICLE XI**

### **AMENDMENT AND WAIVER**

11.01 Any substantive provision of this Liquidating Trust Agreement may be amended or waived by the Liquidating Trustee, after approval by the Liquidating Trust Board, with the approval of the Bankruptcy Court or other court of competent jurisdiction. Technical amendments to this Liquidating Trust Agreement may be made, as necessary to clarify this Liquidating Trust Agreement or enable the Liquidating Trustee to effectuate the terms of this Liquidating Trust Agreement, by the Liquidating Trustee with the consent of the Liquidating Trust Board. Notwithstanding this Section 11.01, any amendments to this Liquidating Trust Agreement shall not be inconsistent with the purpose and intention of the Liquidating Trust to liquidate in an orderly manner the Liquidating Trust Assets (which will maximize the value of such assets) in accordance with Treasury Regulations Section 301.7701-4(d) and Section 3.01 hereof, or in the alternative, as allowed under Delaware law applicable to limited liability companies.

11.02 In the event that the Liquidating Trust shall fail or cease to qualify as a liquidating trust in accordance with Treasury Regulations Section 301.7701-4(d), this Liquidating Trust Agreement may be amended by the Liquidating Trustee to the extent necessary to create a Delaware limited liability company and to comply with all applicable laws in the creation of said Delaware limited liability company.

## ARTICLE XII

### **MISCELLANEOUS PROVISIONS**

12.01 Intention of Parties to Establish Liquidating Trust. This Liquidating Trust Agreement is intended to create a liquidating trust for federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as such a trust and any ambiguity herein shall be construed consistent herewith and, if necessary, this Liquidating Trust Agreement may be amended by the Liquidating Trustee to comply with such federal income tax laws, which amendments may apply retroactively. In the alternative, if the Liquidating Trust shall fail or cease to qualify as a liquidating trust in accordance with Treasury Regulations Section 301.7701-4(d), then this Liquidating Trust Agreement is intended to create a Delaware limited liability company.

12.02 Preservation of Privilege and Defenses. In connection with the rights, claims, causes of action and Litigation Claims that constitute the Liquidating Trust Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Liquidating Trust shall vest in the Liquidating Trustee and his representatives, and the Debtors, the Reorganized Debtors and the Liquidating Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges and available defenses.

12.03 Cooperation. The Debtors and the Reorganized Debtors shall provide the Liquidating Trustee with copies of such of their books and records as the Liquidating Trustee shall reasonably require for the purpose of performing his duties and exercising his powers hereunder.

12.04 Laws as to Construction. This Liquidating Trust Agreement shall be governed and, construed in accordance with the laws of the State of New York, without giving effect to rules governing the conflict of laws. The actual administration of the Liquidating Trust may be conducted in such location, and the location of the Liquidating Trust Assets may be changed as the Liquidating Trustee may determine from time to time.

12.05 Severability. If any provision of this Liquidating Trust Agreement or the application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Liquidating Trust Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Liquidating Trust Agreement shall be valid and enforced to the fullest extent permitted by law.

12.06 Notices. Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person for whom such notice is intended:

If to the Debtors:

Pegasus Satellite Communications, Inc.  
225 City Line Avenue  
Bala Cynwyd, PA 19004  
Attention: Assistant General Counsel  
Phone: 610. 934.7000

If to the Liquidating Trustee:

Ocean Ridge Capital Advisors, LLC  
56 Harrison Street  
Suite 203A  
New Rochelle, NY 10801

Attn: Mr. Bradley Scher  
Phone. (914) 235-1075

with a copy to:

[ ]

If to a holder of a Liquidating Trust Interest:

To the name and address set forth on the register maintained by the Liquidating Trustee or on a website created and maintained pursuant to Section 3.02(bb) hereof.

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

12.08 Tax Identification Numbers. The Liquidating Trustee may require any of the holders of Liquidating Trust Interests to furnish to the Liquidating Trustee (i) its, his or her employer or taxpayer identification number ("TIN") as assigned by the Internal Revenue Service, or (ii) in the case of Beneficiaries that are not United States persons for federal income tax purposes, certification of foreign status on IRS Form W-8BEN or W-8ECI, and the Liquidating Trustee may condition any Distribution to any of holders of Liquidating Trust Interests upon receipt of such identification number or certification. If any of the holders of Liquidating Trust Interests shall fail to provide the Liquidating Trustee with any requested TIN within ninety (90) days after the request, such failure shall be deemed a waiver of all of such holders interests in the Liquidating Trust and rights to distribution hereunder or under the Plan.

Proceeds that would have been distributed to said holders shall be distributed to the other holders based on their pro rata interests.

12.09 Relationship to the Plan. The principal purpose of this Liquidating Trust Agreement is to aid in the implementation of the Plan and therefore this Liquidating Trust Agreement incorporates the provisions of the Plan. To that end, the Liquidating Trustee shall have full power and authority to take any action consistent with the purpose and provisions of the Plan, and to seek any orders from the Bankruptcy Court in furtherance of implementation of the Plan and this Liquidating Trust Agreement. If any provisions of this Liquidating Trust Agreement are found to be inconsistent with the provisions of Section 5.4 of the Plan, the provisions of the Liquidating Trust Agreement shall control.

12.10 Counterparts, Execution and Delivery by Facsimile. For the purposes of facilitating the execution of this Liquidating Trust Agreement, as herein provided and for other purposes, this Liquidating Trust Agreement may be executed simultaneously in counterparts, each of which counterpart shall be deemed to be an original, and all such counterparts shall constitute but one and the same instrument. Any original counterpart when executed and transmitted by electronic facsimile shall be deemed duly delivered to the other party upon confirmed receipt thereof by such other party.

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

Pegasus Satellite Communications, Inc. (on behalf  
of itself and all of the  
Debtors and Debtors in Possession)

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

Name:

Title:

Ocean Ridge Capital Advisors, LLC, as Liquidating  
Trustee

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

Name: Bradley E. Scher

Title: Managing Member

**Liquidating Trust Board' Compensation**

Annual director's fees of [\$\_\_\_\_.]

**Liquidating Trustee's Compensation**

A. Upon the Initial Effective Date, payment of all reasonable out of pocket expenses incurred, costs and time expended prior to the Initial Effective Date, including any such periods of time prior to the execution of this Liquidating Trust Agreement.

B. The Liquidating Trustee will receive compensation for the performance of its duties as follows: (i) hourly compensation in accordance with the schedule at rates set forth immediately below, which rates may be reasonably adjusted from time to time; and (ii) a success fee equal to three percent (3%) of all recoveries paid to the Beneficiaries in excess of a Base Recovery Level, which shall be reasonably established by the Liquidating Trustee in discussion with the Liquidating Trust Board.

**Rate Schedule**

Bradley Scher	\$300/hr
Michael Salvati	\$300/hr
David Black	\$250/hr
Sylvie Robinson	\$250/hr

Other staff as may be required from time to time at an hourly rate to be reasonably determined by the Liquidating Trustee not to exceed the rate then in effect for Bradley Scher.