

UNITED STATES BANKRUPTCY COURT

DISTRICT OF DELAWARE

In re:	)	Chapter 11
	)	
THE SCO GROUP, INC., <u>et al.</u> , <sup>1</sup>	)	Case No. 07-11337 (KG)
	)	(Jointly Administered)
	)	
Debtors.	)	

**DISCLOSURE STATEMENT IN CONNECTION WITH  
DEBTORS' AMENDED JOINT PLAN OF REORGANIZATION**

**Dated: January 8, 2009**

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<sup>1</sup> The Debtors and the last four digits of each of the Debtors' federal tax identification numbers are as follows:  
(a) The SCO Group, Inc., a Delaware corporation, Fed. Tax Id. #2823; and (b) SCO Operations, Inc., a Delaware corporation, Fed. Tax ID. #7393.

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<p><b>THE DEBTORS RESERVE THE RIGHT TO AMEND OR SUPPLEMENT THIS PROPOSED DISCLOSURE STATEMENT AT OR BEFORE THE CONFIRMATION HEARING</b></p>
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**I. INTRODUCTION**

**(A) Purpose of Disclosure Statement**

The SCO Group, Inc. ("SCO Group") and SCO Operations, Inc. ("Operations"), each a Delaware corporation (collectively, the "Debtors"), provide this *Disclosure Statement in Connection with Debtors' Amended Joint Plan of Reorganization* (the "Disclosure Statement") to the Holders of Claims against SCO Group classified in Classes 3, 3A and 4 and to the shareholders of SCO Group (Class 5) in order to permit such creditors and shareholders to make an informed decision in voting to accept or reject the *Debtors' Amended Joint Plan of Reorganization* (the "Plan") filed on January 8, 2009. A copy of the Plan accompanies this Disclosure Statement as Exhibit A.

All capitalized terms contained in this Disclosure Statement shall, unless otherwise defined herein, have the meanings ascribed to such capitalized terms in the "DEFINITIONS" section of the Plan.

**(B) The Chapter 11 Cases**

The Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code on September 14, 2007 (the "Petition Date") in the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court").

**(C) Disclaimers**

This Disclosure Statement is presented to Holders of Claims against the Debtors classified in Classes 3, 3A and 4 and to the Holders of Equity Interests in SCO Group (Class 5) in accordance with the requirements of section 1125 of the United States Bankruptcy Code, 11 U.S.C. §§ 101 - 1532 (the "Bankruptcy Code"). Section 1125 of the Bankruptcy Code requires that a disclosure statement provide information sufficient to enable a hypothetical and reasonable investor, typical of a debtor's creditors and stockholders, to make an informed judgment whether to accept or reject a plan. This Disclosure Statement may not be relied upon for any purpose other than that described above.

**THIS DISCLOSURE STATEMENT AND THE PLAN ARE AN INTEGRAL PACKAGE, AND THEY MUST BE CONSIDERED TOGETHER FOR THE READER TO BE ADEQUATELY INFORMED. THIS INTRODUCTION IS QUALIFIED IN ITS ENTIRETY BY THE REMAINING PORTIONS OF THIS DISCLOSURE STATEMENT, AND THIS DISCLOSURE STATEMENT IN TURN IS QUALIFIED, IN ITS ENTIRETY, BY THE PLAN.**

**NO REPRESENTATIONS CONCERNING EITHER OF THE DEBTORS ARE AUTHORIZED OTHER THAN AS SET FORTH IN THIS DISCLOSURE STATEMENT**

AND ITS EXHIBITS. IN ARRIVING AT YOUR DECISION OF WHETHER TO ACCEPT OR REJECT THE PLAN YOU SHOULD NOT RELY UPON ANY REPRESENTATIONS OR INDUCEMENTS MADE TO SECURE YOUR ACCEPTANCE OR REJECTION OF THE PLAN OTHER THAN AS CONTAINED IN THIS DISCLOSURE STATEMENT AND ITS EXHIBITS. SUCH ADDITIONAL REPRESENTATIONS AND INDUCEMENTS SHOULD BE REPORTED TO COUNSEL FOR THE DEBTORS, WHO WILL IN TURN DELIVER SUCH INFORMATION TO THE BANKRUPTCY COURT FOR SUCH ACTION AS MAY BE APPROPRIATE.

THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, INCLUDING ANY EXHIBITS CONCERNING THE FINANCIAL CONDITION OF THE DEBTORS HAVE NOT BEEN SUBJECT TO AN AUDIT OR INDEPENDENT REVIEW EXCEPT AS EXPRESSLY SET FORTH HEREIN.

THIS DISCLOSURE STATEMENT CONTAINS ONLY A SUMMARY OF THE PLAN AND CERTAIN MATERIAL AGREEMENTS AFFECTING THE RIGHTS AND OBLIGATIONS OF HOLDERS OF CLAIMS AGAINST THE DEBTORS CLASSIFIED IN CLASSES 3, 3A AND 4 AND TO THE HOLDERS OF EQUITY INTERESTS IN SCO GROUP (CLASS 5). EACH SUCH HOLDER IS STRONGLY URGED TO REVIEW THE PLAN AND SUCH AGREEMENTS BEFORE CASTING A BALLOT.

THE STATEMENTS CONTAINED IN THIS DISCLOSURE STATEMENT ARE MADE AS OF THE DATE OF THIS DISCLOSURE STATEMENT UNLESS ANOTHER TIME IS SPECIFIED. THERE IS NO GUARANTY THAT FACTS WILL NOT CHANGE AFTER THIS DISCLOSURE STATEMENT IS FILED; AND IT MUST BE ASSUMED THAT SOME FACTS WILL INDEED CHANGE FROM THAT TIME UNTIL THE HEARING ON THE APPROVAL OF THE DISCLOSURE STATEMENT OR THE CONFIRMATION OF THE PLAN (DISCUSSED BELOW).

A STATEMENT OF THE ASSETS AND LIABILITIES OF THE DEBTORS AS OF THE DATE OF THE COMMENCEMENT OF THEIR CHAPTER 11 CASES IS ON FILE WITH THE CLERK OF THE BANKRUPTCY COURT AND MAY BE INSPECTED BY INTERESTED PARTIES DURING REGULAR BUSINESS HOURS. IN ADDITION, PARTIES CAN ACCESS SUCH STATEMENT VIA THE INTERNET AT [www.epiqbankruptcysolutions.com](http://www.epiqbankruptcysolutions.com).

THIS DISCLOSURE STATEMENT HAS BEEN PREPARED IN ACCORDANCE WITH SECTION 1125 OF THE BANKRUPTCY CODE AND NOT IN ACCORDANCE WITH FEDERAL OR STATE SECURITIES LAWS OR OTHER APPLICABLE NON-BANKRUPTCY LAW. ENTITIES HOLDING OR TRADING IN OR OTHERWISE PURCHASING, SELLING OR TRANSFERRING CLAIMS AGAINST, INTERESTS IN OR SECURITIES OF, SCO GROUP SHOULD EVALUATE THIS DISCLOSURE STATEMENT ONLY IN LIGHT OF THE PURPOSE FOR WHICH IT WAS PREPARED.

THIS DISCLOSURE STATEMENT HAS NOT BEEN APPROVED OR DISAPPROVED BY THE SECURITIES AND EXCHANGE COMMISSION NOR HAS

**SUCH COMMISSION PASSED UPON THE ACCURACY OR ADEQUACY OF THE STATEMENTS CONTAINED HEREIN.**

**THIS DISCLOSURE STATEMENT IS NOT INTENDED TO BE AND SHOULD NOT BE CONSTRUED TO BE ADVICE ON THE TAX, SECURITIES OR OTHER LEGAL EFFECTS OF THE PLAN. EACH CREDITOR AND EQUITY INTEREST HOLDER SHOULD, THEREFORE, CONSULT WITH ITS OWN LEGAL, BUSINESS, FINANCIAL AND TAX ADVISORS AS TO ANY SUCH MATTERS CONCERNING THIS SOLICITATION, THE PLAN OR THE TRANSACTIONS CONTEMPLATED THEREBY.**

## **II. BACKGROUND OF DEBTORS**

SCO Group and Operations are Delaware corporations headquartered in Lindon, Utah. SCO Group also has an office in New Jersey that houses administrative, sales and marketing and product development facilities. Operations is wholly owned by SCO Group and operates the research, development, sales and implementation of technology owned by SCO Group as further described herein below. In addition to Operations, SCO Group has the following subsidiaries located both in and outside the United States as follows:

- a. SCO Global, Inc. (U.S.);
- b. Me, Inc. (U.S.);
- c. Me Software Limited (U.S.);
- d. Cattleback Holdings, Inc. (U.S.);
- e. SCO Canada, Inc. (Canada);
- f. SCO Software (UK) Ltd. (United Kingdom);
- g. SCO Japan, Ltd. (Japan);
- h. The SCO Group (Deutschland) GmbH (Germany);
- i. The SCO Group (France) Sarl (France); and
- j. SCO Software (India) Private Ltd. (India).

As of January 6, 2009, the Debtors and their foreign subsidiaries and affiliates had a total of 66 full and part-time equivalent employees employed in various capacities including, but not limited to, finance, human resources, executive management and information systems. The Debtors also regularly engage independent contractors to support the Companies' professional services, product development, sales and marketing operations. The Debtors' employees are not represented by any labor union and are not subject to a collective bargaining agreement, and the Debtors have never experienced a work stoppage.

SCO Group's common stock began trading on The NASDAQ National Market beginning in March 2000. In September 2002, SCO Group changed its trading symbol from "CALD" to "SCOX." Shares of SCO Group have traded on The NASDAQ Capital Market (formerly known as the NASDAQ SmallCap Market) from February 2003 to December 2007. In December 2007, SCO Group's common stock was delisted from the NASDAQ Capital Market and began trading on the "pink sheets." In December 2007, SCO Group's trading symbol changed to "SCOXQ.PK." The table below sets forth the range of high and low closing prices of SCO Group's common stock as reported on NASDAQ, as applicable, for the last two years.

<b>Year Ended October 31, 2007</b>	<b>High</b>	<b>Low</b>
Quarter ended January 31, 2007	2.98	0.85
Quarter ended April 30, 2007	1.19	0.82
Quarter ended July 31, 2007	2.21	0.77
Quarter ended October 31, 2007	1.66	0.15
<b>Year Ended October 31, 2008</b>	<b>High</b>	<b>Low</b>
Quarter ended January 31, 2008	.34	.05
Quarter ended April 30, 2008	.40	.06
Quarter ended July 31, 2008	.40	.10
Quarter ended October 31, 2008	.29	.09

On October 31, 2008, the closing sales price for SCO Group's common stock as reported on the pink sheets was \$0.11.

#### **(A) Debtors' Business**

##### *(i) UNIX Business*

SCO Group's core business focus is based on its UNIX software technology for distributed, embedded and network-based systems of small-to-medium sized businesses and branch offices and franchisees of Fortune 1000 companies.

SCO Group's largest source of revenue for its core UNIX business is derived from its worldwide, indirect, leveraged channel of distributors and independent solution providers ("resellers"). The Debtors have employees or contractors in a number of countries that provide support and services to customers and resellers. The other principal channel for selling and marketing SCO Group's products is through large corporations that have a large number of branch offices or franchisees. SCO Group accesses these corporations through their information



technology or purchasing departments. In addition, SCO Group sells its UNIX products to original equipment manufacturers (“OEMs”).

The original UNIX operating system was conceived on the premise that an operating system should be easily adapted to a broad range of hardware platforms and should provide a simple way of developing programs. Over the years, the UNIX operating system has been adapted for almost all OEM’s hardware, and today UNIX has the ability to share data across heterogeneous environments. SCO Group owns certain intellectual property rights and other ownership rights relating to the UNIX operating system. The Debtors’ intellectual property and ownership rights may be adversely impacted by issues related to the Pending Litigation (as defined and discussed in Article III, Section (B), below).

UNIX has had a long history of implementation, and has a large base of both customers and vendors that provide solutions and applications. On the Intel platform, SCO’s OpenServer and UnixWare products comprise a reliable, stable, low-cost UNIX operating system available for businesses. Today, SCO Group continues to focus on and generate revenue from small-to-medium business resellers as well as from large corporations, including Fortune 1000 companies. SCO Group also has continuing relationships with hardware vendors and has received certifications on many of the industry’s top hardware platforms.

SCO Group is continuing to pursue additional options for customers such as the ability to run on all modern hardware platforms through utilizing the technology available from the server industry’s focus on virtualization. While SCO Group has a long history of providing customers virtualization products, it plans to offer a new service where customers, particularly legacy customers, gain access to the technology they need to run their applications in a virtual environment.

SCO Group plans to continue to focus its UNIX development resources on current UNIX products and plans to support requirements for modern hardware and applications software. In addition, SCO Group intends to focus other engineering, research and development resources on mobility products and services for personal and professional productivity. The Debtors expect that these mobility products and services will enable easy, secure, real-time mobile access to all kinds of information stored in enterprise and web-based systems without the need for direct connection between end-point devices and those systems.

(ii) *OpenServer*

OpenServer is a UNIX-based offering targeted at small-to-medium businesses and branch offices of large enterprises. Businesses use OpenServer to simplify and speed business operations, better understand and respond to their customers’ needs and achieve a competitive advantage. OpenServer excels at running multi-user, transaction and business applications, communications gateways, and mail and messaging servers in both host and client/server environments. The Debtors continue to support existing users of OpenServer comprehensively, keeping the operating system current as well as obtaining certain hardware certifications. OpenServer has contributed a significant majority of revenue to the company over the years.

(iii) *UnixWare*

UnixWare is a UNIX-based offering targeted at medium-size businesses and enterprise customers. UnixWare is an advanced deployment platform for industry standard Intel processor systems. It is a foundation for solutions where proven scalability, reliability and affordability are critical. UnixWare includes enhancements and refinements to the UNIX platform, representing added value for existing UnixWare customers.

(iv) *Other Products*

In addition to OpenServer and UnixWare, SCO Group offers product maintenance and additional UNIX-related products, such as SCOoffice Server, a UNIX-based e-mail and collaboration system and other UNIX system add-ons.

(v) *Technical Support Services*

The Debtors provide a full range of pre- and post-sale technical support for all of its products, primarily focusing on OpenServer and UnixWare.

The Debtors also provide technical support to their resellers, as well as directly supporting SCO Group's end-user customers. The Debtors' resellers have the option to direct their customers to SCO for technical support or to provide first-level customer support themselves and utilize the Debtors' technical expertise for second-tier support.

Technical support services include a range of options from single incident e-mail and telephone support to dedicated "enterprise" level support agreements. Customers seeking additional technical support directly from the Debtors may enter into service agreements that best suit their needs.

(vi) *Licensing*

SCO Group has traditionally licensed its UNIX binary software and provided free maintenance for the life of the software release. To better align with industry licensing trends and customer expectations, SCO will introduce annual maintenance subscriptions for its SCO UNIX offerings that will include maintenance updates and value-added technology.

(vii) *Other Services*

SCO Group provides other services, including software development and programming, migration tools and services and assistance to customers in modernizing and integrating legacy applications with web services. SCO Group assists its end-user customers and solution providers in planning, creating, implementing and deploying business application solutions.

(viii) *Mobility Products and Services*

SCO's mobile business consists of a mobile development platform, a mobility server, and mobile applications. These are monetized through a combination of one-time application sales, monthly subscription service revenue and advertising. SCO Group has been working in the

mobility space for about 4 years. This work was born out of SCO Group's background in the server environment, and many of the mobile applications have a server component as part of the solution which helps the applications to be more secure and robust, while at the same time allowing for an ongoing subscription model instead of just a one-time application sale.

SCO Cloud Server – applications that are developed on the SCO Cloud Server can be deployed on any web browser or Java, Windows mobile or iPhone smart phones. This server provides a secure, reliable connection point between handheld devices and corporate infrastructure applications and servers. This server can be deployed at a customer site or hosted by SCO Group. There is a per-user fee associated with use of the mobility server.

SCO Cloud Applications – SCO Group's family of cloud applications includes solutions specific to the server business (HipCheck) and also solutions that revolve around a user's interaction with their social community (FCmobilelife, Shout Marketing, Shout Postcard).

HipCheck – enables pro-active mobile administration for UNIX and Windows servers. HipCheck is sold as a monthly subscription based on number of users and number of servers being managed.

FCmobilelife – allows a user to collaborate with business associates, family, and friends. Users can do mobile busy-search, schedule group meetings, set and achieve goals, and stay organized without the need for an Exchange server. FCmobilelife is a monthly subscription service.

Shout Marketing – allows customers such as sports teams, restaurants, and real estate agents to send personal, real-time multimedia messages to their opt-in base of customers or fans. Shout Marketing is a subscription service priced based on the size of a user's opt-in customer list.

Shout Postcard – A consumer version of the Shout product which allows users to share life's experiences on-the-go with family or friends. Shout Postcard is a mobile/web application designed to be monetized through advertising and propagated through wireless carriers and handset manufacturers. The product is integrated with social networking sites such as Facebook.

Based on the explosive mobile phone adoption in emerging markets such as India, China, Middle East and Africa, SCO Group recognizes that both consumer and enterprise mobile solutions to be a significant opportunity for the company. Research indicates that mobile phones far out sell personal computers and as such, many consumers in these emerging markets are using their mobile device in lieu of a personal computer. SCO will continue to deliver and innovate mobile solutions to best exploit the growth in these markets.

#### *(ix) Industry Relationships*

SCO Group has business relationships with a number of key global industry enterprises. These relationships encompass product integration, two-way technology transfers, product certification, channel partnerships and revenue generating initiatives in areas of product bundling, OEM agreements and training and education. SCO Group also has alliances with a

number of solution providers who write and develop custom applications to run on UNIX operating systems. Most of SCO Group's small business customers that cannot afford high-end solutions or an information technology staff rely on one of SCO Group's channel partners for these services. Maintaining these strategic alliances is critical to the success of SCO Group's UNIX business. The Debtors will seek to continue their relationships with key providers in certain vertical markets such as retail, medical/pharmaceutical, manufacturing and accounting where SCO Group's UNIX operating systems already have a presence. The Debtors' efforts to maintain or expand industry relationships may be adversely impacted by issues related to the Pending Litigation (discussed in Section III (B), below).

(x) *Marketing and Field Operations*

The Debtors' UNIX sales and marketing and field operations are organized by geographic area — SCO Group has an Americas division and an International division. Each division includes a sales organization, field marketing, pre- and post-sale technical support, and local professional services personnel.

The Americas team has field sales and support personnel located around the United States, Latin America and Canada. This region delivered approximately 50% of SCO Group's total revenue for the year ended October 31, 2008.

The International region delivered approximately 50% of SCO Group's total revenue for the year ended October 31, 2008, and includes EMEA (Europe, the Middle East and Africa) and Asia Pacific. The Debtors, through their non-debtor affiliates and subsidiaries, have resources, employees and/or contractors in the United Kingdom, Germany, France, Italy, China, Korea, Netherlands, Eastern Europe, India, and Japan.

In addition to the revenue provided by its indirect sales channel, SCO Group's resellers are invaluable for the influence they wield on the purchasing decisions of small and medium businesses. SCO Group's resellers often are not only the primary contact for input regarding their business customers' purchasing decisions, but also serve as their customers' outsourced information technology department. The reach of SCO Group's network of resellers into the small and medium business community is broad, as evidenced by its large installed base of servers running various versions of SCO Group's OpenServer and UnixWare operating systems.

SCO Group's marketing efforts support its sales and distribution efforts, promotions and product introductions, and include marketing activities to promote its UNIX and mobile products. Marketing is focused on branding, solutions, advertising, tradeshow, press releases, white papers and marketing literature. In particular, marketing strategy includes:

- branding SCO's UNIX and mobile products through public relations and advertising activities;
- maintaining an effective program to generate brand awareness and promote SCO Group's UNIX and mobile products; and
- increasing public awareness of SCO Group's UNIX and mobile products by participating in strategic tradeshow, conferences and technology forums.

SCO Group recognizes significant customer opportunity in emerging markets such as Russia, India, China, Middle East, Africa and other like markets. As such, the Debtors will tailor their marketing and field operations to best exploit the growth in these markets with their UNIX and mobile solutions.

(xi) *Software Engineering and Development*

SCO Group has taken steps to improve its UNIX software products to maintain system reliability, maintain backward compatibility, increase application support, provide broad hardware support, better integrate widely used internet applications, improve usability, and increase system performance. While the Debtors believe that these product enhancements will extend the lives and improve the functionality of SCO Group's UNIX products, they have not resulted in significant revenue increases in the short-term due to the long adoption cycle for new operating system purchases and the length of SCO Group's operating system product sales cycle, as well as the competition in SCO Group's markets.

The Debtors also deploy engineering, research and development resources for SCO Group's mobility products and services for personal and professional productivity, as well as custom services for business, government and consumer users. The Debtors expect these mobility products and services will enable easy, secure, real-time mobile access to all kinds of information stored in enterprise and web-based systems without the need for direct connection between end-point devices and those systems.

The Debtors' product development process is modeled to standard, commercial software engineering practices, designed to ensure consistent product quality. As a result, the Debtors are able to offer SCO Group's platform products to OEM customers in several configurations without significant additional effort. SCO Group incurred \$3,684,000 in research and development expense during the fiscal year ending October 31, 2008.

(xii) *SCOsource Business*

SCO Group acquired certain rights relating to the UNIX (including UnixWare) source code and derivative works and other intellectual property rights when it purchased substantially all of the assets and operations of the server and professional services groups of The Santa Cruz Operation, Inc. in May 2001. The Santa Cruz Operation had previously acquired such UNIX source code and other intellectual property rights from Novell, Inc. ("Novell") in 1995. Novell had acquired its rights from UNIX System Laboratories, a subsidiary of AT&T. Through this process, SCO Group believes that it acquired all UNIX source code, source code license agreements with thousands of UNIX vendors, certain UNIX intellectual property and other ownership rights, all claims for violation of the above mentioned UNIX licenses and copyrights and other claims, and control over UNIX derivative works. The Debtors' older intellectual property rights may be adversely impacted by issues related to the Pending Litigation (as discussed in Article III, Section (B)(ii), below).

The UNIX licenses SCO Group obtained have led to the development of several UNIX-based operating systems, including, but not limited to, UnixWare and OpenServer products, IBM's AIX, Sequent's DYNIX/Ptx, Sun's Solaris, SGI's IRIX and Hewlett-Packard's HP-UX.

These operating systems are all derivatives of the original UNIX source code owned by SCO Group.

The success of SCO's SCOsource business was dependent on its ability to protect and enforce SCO Group's rights to proprietary UNIX source code, copyrights and other intellectual property rights. To protect SCO Group's proprietary rights, SCO Group relies primarily on a combination of copyright laws, contractual rights and related claims.

### **III. EVENTS LEADING TO CHAPTER 11 CASES**

#### **(A) Competition**

Sales of SCO Group's UNIX-based products and services have been declining over the last several years, resulting in a steady decline in revenue. This decline in revenue has been primarily attributable to significant competition from alternative operating systems, particularly Linux. SCO Group faces direct competition in the operating system market from Linux operating system providers, other non-UNIX operating system providers and other UNIX-based operating system providers. In the operating system market, some of SCO Group's competitors include International Business Machines Corporation ("IBM"), Red Hat, Inc. ("Red Hat"), Novell, Inc. ("Novell"), Microsoft Corporation ("Microsoft"), and Sun Microsystems ("Sun").

In recent years, the Debtors have seen hardware and software vendors, as well as software developers, turn their certification and application development efforts toward Linux and elect not to continue to support or certify SCO Group's UNIX operating system products. This trend continued for SCO Group's fiscal year ended October 31, 2008 and through the present. If this trend continues, SCO Group's competitive position will be adversely impacted and future revenue from UNIX business will continue to decline.

SCO Group believes that it competes favorably with many of its operating system competitors in a number of respects, including product performance, functionality and networking capability. Notwithstanding these factors, SCO Group's revenue has declined over the last several years. Many of SCO Group's competitors are significantly larger than SCO Group and have much greater access to funding, technical expertise, marketing, and research and development resources. In addition, many of SCO Group's competitors have established brand recognition and market presence that may prevent SCO Group from obtaining or retaining market share. Additionally, there has been negative publicity surrounding the Pending Litigation relating to SCO Group's ownership of UNIX and related copyrights that has, to some degree, hampered SCO Group's ability to compete favorably.

The market for mobility products and services is relatively young, and the Debtors believe they are poised for rapid growth. Competition is strong and takes numerous forms, including database vendors who are providing mobile extensions of their current offerings, as well as start-up companies and large corporations who are focusing on custom solutions based on proprietary middleware. The Debtors believe that the landscape and competition will change rapidly and that no single company has established firm leadership. The success of SCO Group's mobility products and services offerings will depend, in part, on the outcome of the Pending Litigation, the level of commitment and resources the Debtors are able to devote to these

offerings, the business relationships SCO Group is able to establish, its ability to attract and retain new customers and providers, and the strength of their mobility offerings.

## **(B) Pending Litigation**

SCO Group is party to significant pending litigation proceedings involving the UNIX system (collectively, the “Pending Litigation”), including the following:

### *(i) IBM Corporation*

On or about March 6, 2003, SCO Group filed a civil complaint against International Business Machines Corporation (“IBM”). The case is pending in the United States District Court for the District of Utah, (the “Utah District Court”) under the caption *The SCO Group, Inc. v. International Business Machines Corporation*, Case No. 2:03CV0294 (the “IBM Litigation”). In this action, SCO claims that IBM breached its UNIX source code licenses (both the IBM and Sequent Computer Systems, Inc. “Sequent” licenses) by disclosing restricted information concerning the UNIX source code and derivative works and related information in connection with its efforts to promote the Linux operating system. The complaint includes, among other things, claims for breach of contract, unfair competition, tortious interference and copyright infringement. SCO Group is seeking damages in an amount to be proven at trial and injunctive relief.

On or about March 6, 2003, SCO Group notified IBM that IBM was not in compliance with SCO Group’s UNIX source code license agreement and on or about June 13, 2003, SCO Group delivered to IBM a notice of termination of that agreement, which underlies IBM’s AIX software. On or about August 11, 2003, SCO Group sent a similar notice terminating the Sequent source code license. IBM disputes SCO Group’s right to terminate those licenses. If the validity of SCO Group’s termination of those licenses is upheld, the Debtors believe that IBM is exposed to substantial damages and injunctive relief based on its continued use and distribution of the AIX operating system. On June 9, 2003, Novell sent SCO Group a notice asserting that it had the right to waive, and purporting to waive, the claims against IBM regarding its alleged license breaches. The Debtors contend that Novell had no right to take any such action relative to SCO Group’s UNIX source code rights.

On February 27, 2004, SCO Group filed a second amended complaint which added a claim for copyright infringement, and removed the claim for misappropriation of trade secrets. IBM filed an answer and 14 counterclaims against SCO Group. IBM’s counterclaims include claims for breach of contract, violation of the Lanham Act, unfair competition, intentional interference with prospective economic relations, unfair and deceptive trade practices, promissory estoppel, patent infringement and a declaratory judgment claim for non-infringement of copyrights. On October 6, 2005, IBM voluntarily dismissed with prejudice its claims for patent infringement.

IBM and SCO Group have filed expert reports and substantially completed expert discovery. IBM has filed six motions for summary judgment that, if granted in whole or in substantial part, could substantially reduce SCO Group’s claims. SCO Group has filed three motions for summary judgment. The summary judgment motions have not yet been decided.

Several of SCO Group's claims against IBM have been effectively dismissed or narrowed pursuant to a summary judgment entered in the Novell Litigation on August 10, 2007 (see, Novell, Inc., below in subsection (ii) below). The Utah District Court also ruled in the Novell Litigation that Novell had the right to direct SCO Group to waive certain of its contractual claims against IBM. On November 25, 2008, SCO filed its notice of appeal in the Novell case to challenge the rulings that negated several of SCO's claims against IBM. If this appeal is successful (as explained below), SCO believes that it has a strong basis for its claims against IBM. First, numerous witnesses have testified that IBM was restricted from disclosing its AIX and Dynix code and confidential information, just as SCO has claimed. The two principal witnesses IBM relies upon to support its position that it was not restricted from disclosing AIX and Dynix code or information had, years before this litigation, testified that licensees such as IBM were in fact restricted from such disclosures, just as SCO has alleged. Internal IBM documents prepared prior to this litigation also establish that SCO's interpretation was viewed as correct within IBM. Further, IBM documents generated prior to this litigation (as opposed to what it claims now) clearly state that Linux is a derivative work of UNIX. IBM also publicly took credit that disclosures it was making from its AIX system were materially benefiting Linux and taking it from a fringe operating system into the enterprise market, just as SCO has alleged. Of course, IBM has and will dispute all of the above, and as a large and financially potent adversary, has the wherewithal to vigorously contest these allegations.

(ii) *Novell, Inc.*

On January 20, 2004, SCO Group filed a lawsuit in Utah state court against Novell, asserting slander of title and seeking relief for Novell's alleged bad faith effort to interfere with SCO Group's ownership of copyrights related to SCO's UNIX source code and derivative works and UnixWare product. The case was removed by Novell to the United States District Court for the District of Utah (the "Utah District Court") and is styled *The SCO Group, Inc. v. Novell, Inc.*, Case No. 2:04CV00139 (the "Novell Litigation"). In the lawsuit, SCO Group seeks preliminary and permanent injunctive relief as well as damages. Specifically, SCO Group requests an Order compelling Novell to assign to SCO Group all copyrights wrongfully registered to Novell, precluding Novell from claiming any ownership interest in such copyrights, and requiring Novell to retract or withdraw all representations it has made regarding its purported ownership of such copyrights and UNIX itself.

Novell filed its answer and asserted counterclaims against SCO Group alleging breaches of the Asset Purchase Agreement between Novell and SCO Group's predecessor-in-interest, The Santa Cruz Operation, slander of title, and restitution/unjust enrichment, and requesting an accounting related to Novell's retained binary royalty stream, and declaratory relief regarding Novell's alleged rights under the Asset Purchase Agreement. On or about December 30, 2005, SCO Group filed a motion for leave to amend the complaint against Novell to assert additional claims, including copyright infringement, unfair competition and breach of Novell's limited license to use SCO Group's UNIX code. Novell consented to the filing of the additional claims.

On or about April 10, 2006, Novell filed a motion to stay the case pending a request for arbitration that Novell and SuSE Linux, GmbH ("SuSE") filed (on the same date) in the International Court of Arbitration in France (the "SuSE Arbitration"). The SuSE Arbitration involves claims by Novell that SCO Group granted SuSE the right to use SCO Group's



intellectual property through SCO Group's participation in the UnitedLinux initiative in 2002 and that, through Novell's subsequent acquisition of SuSE, Novell acquired SuSE's rights as a member of UnitedLinux. The Utah District Court ordered that portions of claims relating to the SuSE Arbitration should be stayed but the other portions of claims in the case should proceed. The three-person arbitration panel has been selected for the SuSE Arbitration in Switzerland, and that process has begun. The arbitration was scheduled for December 2007 but is stayed due to SCO Group's bankruptcy (See Docket No. 204 wherein the Bankruptcy Court ruled that the automatic stay applies to the SuSE Arbitration).

Meanwhile, in September 2006, Novell filed an Amended Counterclaim seeking, in relevant part, imposition of a constructive trust over certain revenue SCO Group collected from Sun Microsystems and Microsoft Corporation in 2003. Novell moved for a preliminary injunction, which was denied. Novell and SCO filed cross motions for summary judgment regarding the UNIX copyright ownership issue and related claims. On August 10, 2007, the Utah District Court ruled in favor of Novell on several of the summary judgment motions. The effect of these rulings was to significantly reduce or eliminate certain of SCO's claims in both the Novell case and the IBM case, and possibly others (collectively, the "SCO Litigation"). The Utah District Court ruled that Novell was the owner of certain UNIX and UnixWare copyrights that existed at the time of the 1995 Asset Purchase Agreement between Novell and the Santa Cruz Operations (the "APA"), and that Novell retained broad rights to waive SCO's contract claims against IBM. The Utah District Court also ruled that SCO owns the copyrights to post-APA UnixWare and derivatives and that SCO has other ownership rights in the UNIX technology. SCO was directed to accept Novell's waiver of SCO's UNIX contract claims against IBM. In addition, the Utah District Court determined that certain SCOSource licensing agreements that SCO executed in fiscal year 2003 and thereafter included older SVRx licenses and that SCO was possibly required to remit some portion of the proceeds to Novell. A bench trial was set to begin on September 17, 2007, and the judge was to determine what portion, if any, of the proceeds of the SCOSource agreements was attributable to such SVRx licenses and should be remitted to Novell and whether SCO had authority to enter into such SVRx licenses. The potential payment to Novell for those SVRx licenses ranged from a de minimis amount to in excess of \$30,000,000, the latter amount being the amount claimed by Novell, plus interest.

The trial of these issues, however, was automatically stayed as a result of SCO's filing a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware on September 14, 2007. On October 4, 2007, Novell filed a Motion for Relief from Automatic Stay. On November 27, 2007, the Bankruptcy Court modified the stay to permit Novell to pursue the trial scheduled in the Court on the allocation of proceeds from the SCOSource agreements and the question of SCO's alleged lack of authority to enter into them, but the Bankruptcy Court retained jurisdiction to determine whether to impose a constructive trust on any amounts found to be payable to Novell. The Bankruptcy Court also ruled that the bankruptcy stay applied to the SuSE arbitration proceeding pending in Europe. The Utah District Court then scheduled a four-day trial, conducted from April 29, 2008, through May 2, 2008, on those matters for which the Bankruptcy Court modified the stay.

Before this trial began, Novell conceded that it would not be making a claim to a portion of the fees paid to SCO by Microsoft in 2003 and Novell, therefore, reduced the principal amount of its claim to \$19,979,561.

On July 16, 2008, the Utah District Court entered its Findings of Fact, Conclusions of Law, and Order, ruling that (1) the SCOsource agreements with Linux end-users were not SVRx licenses and, therefore, Novell was not entitled to revenue from those agreements and SCO had the authority to enter into those agreements; (2) the 2003 SCOsource agreement with Microsoft contained an SVRx license that was incidental to the UnixWare license in the agreement, and, therefore, SCO was authorized to enter into the license and Novell was not entitled to revenue from the agreement; (3) the 2003 SCOsource agreement with Sun also contained an authorized incidental SVRx license and Novell was not entitled to revenue attributable to that license; and (4) the same Sun agreement contained an unauthorized amendment of a prior UNIX agreement, and Novell was entitled to \$2,547,817 of the revenue from the Sun agreement as attributable to that amendment. The Court directed Novell to file a brief identifying the amount of prejudgment interest it sought based on this award. On August 29, 2008, Novell filed an Unopposed Submission Regarding Prejudgment Interest, informing the Utah District Court that the parties agreed that Novell was entitled to \$918,122 in prejudgment interest through that date, plus \$489 per day until the entry of final judgment, based on the Utah District Court's \$2,547,817 award.

In its ruling of July 16, 2008, the Utah District Court also directed Novell to file a proposed Final Judgment consistent with the Utah District Court's trial and summary judgment orders. In its proposed submission to the Utah District Court in compliance with this order, Novell took the position that final judgment could not be entered because SCO's claims were stayed pending arbitration and the imposition of a constructive trust remains an open question in the Bankruptcy Court. Subsequently, in order to expedite the entry of final judgment, SCO sought to resolve these issues with Novell and agreed to an extension of Novell's deadline for filing its submission. Based on SCO's tracing of Sun's payments under its 2003 SCOsource agreement, Novell agreed that only \$625,487 of SCO's current assets were traceable as trust funds. On November 20, 2008, a Final Judgment was entered in the case and on November 25, 2008, SCO filed a notice of appeal.

SCO reasonably believes that it will prevail on appeal, for four main reasons. First, as a general matter, the Utah District Court failed to follow the requirements for resolving matters on summary judgment. Contrary to those requirements, the Utah District Court (i) assessed the credibility of the testimony offered by witnesses who supported SCO's interpretation of the agreements, (ii) weighed the evidence submitted by the parties, (iii) failed to draw numerous reasonable inferences from the evidence in favor of SCO (the non-moving party), and (iv) drew inferences in favor of Novell (the moving party). Second, the Utah District Court erred by seeking to interpret the agreements at issue without considering all of the extrinsic evidence of the parties' intent under the agreements. Third, in addition to failing to consider the extrinsic evidence, the Utah District Court failed to afford a reasonable interpretation to the language of the agreements at issue, where the Utah District Court's interpretation created redundant provisions, failed to give meaning to other provisions, and rendered illusory the bulk of the rights that SCO had acquired under the agreements. Fourth, the Utah District Court failed to reconcile the language of the agreements with the extrinsic evidence of the parties' intent, including the direct testimony of ten witnesses, from both sides of the negotiation of the APA and the parties' undisputed course of performance for almost a decade. These witnesses, who, SCO believes,

support SCO's interpretation of the agreements, include Novell's CEO at the time and the business executive that both sides agree led the Novell negotiations of the transaction. All business negotiators on both sides of the transaction agree that the intent and understanding of the agreement was that SCO's predecessor had purchased the UNIX copyrights from Novell. Further, SCO believes that a joint press release issued at the time of the transaction (according to the understanding of Novell's former CEO) states that Novell transferred the intellectual property of UNIX to SCO. Because UNIX is computer software code, the copyrights is the core intellectual property that was transferred. SCO also believes that the evidence establishes that shortly after the transaction was closed Novell sent numerous letters to its customers explaining that it had transferred "its existing ownership in UNIX System-based offerings . . . ." These UNIX System-based offerings were specifically identified as "All Releases of UNIX System V and prior Releases of the UNIX System" and "All UnixWare Releases up to and including UnixWare Release 2." SCO asserts that these letters directly contradict the summary judgment ruling issued by the federal district court in Utah. At a minimum, there are numerous contested issues of material fact that bear directly on the summary judgment issues addressed by the Utah District Court.

Under the foregoing analysis, SCO believes that the appellate court should remand the matter to the Utah District Court directing that the case proceed to trial on all of the claims that had not previously been stayed, including its claims for slander of title and breach of the APA and TLA. SCO would seek to show at trial that it acquired the then-existing UNIX and UnixWare copyrights under the APA and that Novell does not have the right to "waive" SCO's rights to bring claims for breach of the Software and Sublicensing Agreement such as at issue in the IBM litigation.

Of course, Novell has and will dispute all of the above, and as a large and financially potent adversary, has the wherewithal to vigorously contest these allegations.

(iii) *Red Hat, Inc.*

On August 4, 2003, Red Hat filed a complaint against SCO Group. The action is pending in the United States District Court for the District of Delaware under the case caption, *Red Hat, Inc. v. The SCO Group, Inc.*, Civil No. 03-772 ("Red Hat Litigation"). Red Hat seeks a declaratory judgment for non-infringement of copyrights and no misappropriation of trade secrets, asserting that the Linux operating system does not infringe on SCO Group's UNIX intellectual property rights. In addition, Red Hat claims that SCO Group had engaged in false advertising in violation of the Lanham Act, deceptive trade practices, unfair competition, tortious interference with prospective business opportunities, trade libel and disparagement. The Delaware court has stayed the case pending the outcome of the IBM Litigation and requires reports every 90 days on the status thereof.

If SCO can prevail on its appeal of the summary judgment in the Novell case, it is confident that it will prevail in defending itself against the Red Hat claims, inasmuch as IBM documents created prior to this litigation admit that Linux is derived from UNIX and SCO has competent expert opinions that Linux in fact infringes the UNIX copyrights. Further, a senior Red Hat executive publicly stated that the SCO allegations about Linux have "caused no slowdown whatsoever in the progress Linux is making". Of course, Red Hat has and will dispute

all of the above, and as a large and financially potent adversary, has the wherewithal to vigorously contest these allegations.

(iv) *AutoZone, Inc.*

On March 3, 2004 SCO Group filed suit against AutoZone, Inc (“AutoZone”). The action is pending in the United States District Court for the District of Nevada under the case caption *The SCO Group, Inc. v. AutoZone, Inc.*, CV-S-04-0237-RCJ-LRL (the “AutoZone Litigation”). In this action, SCO Group alleges that AutoZone ran versions of the Linux operating system that contain code, structure, sequence and/or organization from SCO’s proprietary UNIX System V code in violation of SCO Group’s copyrights.

AutoZone moved to change venue or to stay the case. The court denied the motion for change of venue and indicated that it would stay the case (pending the IBM and Novell cases in Utah) but first allowed SCO to take some initial discovery in order to determine whether it needed to move for an injunction. In response to the court’s order that SCO could conduct discovery, AutoZone filed an “Emergency Motion to Stay All Remaining Proceedings Related To the Issue of Preliminary Injunctive Relief.” AutoZone argued that SCO was just on a “fishing expedition” and that no discovery should be allowed because it had not used or copied any SCO proprietary information in migrating its systems to Linux. The court once again denied AutoZone’s motion.

Contrary to AutoZone’s repeated assertions that it had not used any proprietary SCO code in migrating to and using Linux, and that SCO was simply on a “fishing expedition,” the discovery that SCO conducted showed that AutoZone had used and copied over 110,000 files containing proprietary SCO code to migrate 3,500 servers to the Linux operating system. Because AutoZone agreed to remove the improperly used code and make no further use of it, SCO declined to pursue injunctive relief at that time and the stay was then implemented. In September 2008, the court in Nevada lifted the stay effective in January 2009 and ordered the parties to move the case forward from that point.

Based on the prior discovery that was done, SCO claims that it is owed damages by AutoZone in an amount to be proven at trial. Further, if SCO is successful in its appeal of the summary judgment in the Novell case, SCO will pursue its additional claims for copyright infringement for AutoZone’s continuing use of Linux which mirrors the claims in the IBM and Novell cases. As was mentioned, SCO has IBM documents admitting that Linux is a derivative work of UNIX and that these parts of UNIX used in Linux are integral to the operation of Linux. SCO also has competent and credible expert opinions that Linux violates the UNIX copyrights that are at issue in the Novell litigation. Of course, AutoZone has and will dispute all of the above, and as a large and financially potent adversary, has the wherewithal to vigorously contest these allegations.

(v) *Other Matters*

There is a lawsuit pending in India that was filed in April, 2003 by a former distributor doing business in India, claiming that SCO Group is responsible to repurchase certain software products and to reimburse the distributor for certain other operating costs. The Debtors do not

believe that they are responsible to reimburse the distributor for any operating costs and also believe that the return rights related to any remaining inventory has lapsed. The distributor requested that the court grant pre-judgment attachment of SCO Group assets located in India. The request was denied and hearings on the main claims are ongoing. The Debtors are vigorously defending this action.

#### **IV. THE CHAPTER 11 CASES**

##### **(A) Commencement of the Chapter 11 Cases**

On September 14, 2007, the Debtors filed voluntary petitions under Chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court in the District of Delaware. The cases were assigned case numbers 07-11337 and 07-11338 and are pending before the Honorable Kevin Gross. The Debtors have continued to operate their businesses and remain in possession of their property pursuant to sections 1107 and 1108 of the Bankruptcy Code.

##### **(B) Retained Professionals**

The Bankruptcy Court approved the Debtors' retention of certain professionals to represent and assist them in connection with the Chapter 11 Cases. Specifically, the Bankruptcy Court has approved the retention of the following professionals: (i) Berger Singerman, P.A., to serve as general bankruptcy co-counsel; (ii) Pachulski Stang Ziehl & Jones, LLP, to serve as general bankruptcy co-counsel; (iii) Boies Schiller & Flexner, LLP, to serve as special litigation counsel; (iv) Dorsey & Whitney, LLP, to serve as special corporate and securities counsel; (v) Mesirow Financial Consulting, LLC, to serve as financial advisors; and (vi) Tanner, LC, to serve as accountants. In addition, the Bankruptcy Court approved the retention of Epiq Bankruptcy Solutions, LLC ("Epiq") to serve as the Debtors' notice, claims and balloting agent pursuant to 28 U.S.C. § 156(c) and Bankr. Del. LR 2002-1(f).

##### **(C) First Day Relief**

At the commencement of the Debtors' Chapter 11 Cases, the Debtors filed several motions seeking what is commonly referred to as "first day" relief. This first day relief was designed to meet the goals of (1) continuing the Debtors' operations in Chapter 11 with as little disruption and loss of productivity as possible, (2) maintaining the confidence and support of customers, employees and certain other key constituencies; and (3) establishing procedures for the smooth and efficient administration of the Chapter 11 Cases.

The Bankruptcy Court approved the requested first day relief in various orders ("First Day Orders") entered by the Court on September 18, 2007. These First Day Orders provided for, among other things:

- Joint administration of the Debtors' bankruptcy cases;
- The continued maintenance of the Debtors' bank accounts, continued use of existing business forms, continued use of the Debtors' existing cash management system, and approval of the Debtors' investment guidelines on an interim basis;

- Authority to pay employees accrued pre-petition wages, salaries and benefits;
- Authority to pay pre-Petition Date sales, use and other taxes;
- Prohibiting utility providers (on an interim and then final basis) from altering or discontinuing services and establishing procedures to determine requests for additional assurances of payment of utility bills;
- Authority to hire temporary employees; and
- Authority to retain Epiq as claims, noticing and ballot agent.

**(D) Other Relief**

The Debtors also sought, and subsequently obtained the following relief:

- Authority to retain professionals used in the ordinary course of the Debtors' business;
- Authority to pay accrued benefits and severance to employees terminated post-petition under certain procedures;
- Approval of the employment of CFO Solutions to furnish the Debtors with a chief financial officer;
- Approval of interim compensation procedures for professionals retained by the Debtors' estates;
- Approval of a settlement relating to the sale of a patent to one of SCO's wholly-owned subsidiaries;
- Approval to assume the Debtors' leases of office space located in Lindon, Utah and Florham Park, New Jersey (the latter of which reached its normal term and is now terminated; SCO Operations now has offices in Murray Hill, N.J.);
- Approval of the expansion of Tanner, LC's retention as the Debtors' accountants; and
- Extension of the exclusive period during which only the Debtors may file and solicit acceptances to a plan.

**(E) Novell & SuSE Motions**

On September 28, 2007, the Debtors filed *Debtor The SCO Group, Inc.'s Motion to Enforce the Automatic Stay* (Docket No. 69) seeking to enforce the automatic stay against SuSE with respect to the SuSE Arbitration pending in Zurich, Switzerland. On November 13, 2007, overruling the objection filed thereto, the Bankruptcy Court granted that motion. (See Docket No. 204).

On October 4, 2007, Novell filed *Novell, Inc.'s Motion for Relief from Automatic Stay to Proceed with District Court Action to (i) Apportion Revenue from SCOSource Licenses and (ii) to Determine SCO's Authority to Enter into SCOSource Licenses, Etc.* (Docket No. 89). The Bankruptcy Court granted the motion, in part, allowing Novell and SCO Group to proceed to trial in the Novell Litigation on the following issues: "(1) the amount of the royalties to which Novell is entitled from certain SCOSource licenses that the District Court determined to be SVRX Licenses and any additional licenses that are determined to be SVRX Licenses; and (2) whether SCO [Group] had the authority to enter into licensing agreements with Microsoft Corporation and Sun Microsystems." However, the Bankruptcy Court ruled that "the automatic stay is not lifted for a determination of the imposition of a constructive trust, an issue which [the Bankruptcy Court] will adjudicate if and when necessary, following the District Court's decision in the [Novell Litigation]." (See Docket No. 233).

On October 4, 2007, Novell filed *Novell, Inc.'s Motion for Order Directing the Debtors to Remit Undisputed Future SVRX Royalties to Novell Upon Receipt* (Docket No. 90), which motion was denied by the Bankruptcy Court on November 13, 2007 (See Docket No. 203).

#### **(F) Claims**

The Debtors filed a motion seeking to establish April 10, 2008 as the deadline for parties, including governmental units, to file proofs of claim. *See* Docket No. 335. Pursuant to order of the Bankruptcy Court dated March 5, 2008 (Docket No. 380), the Bankruptcy Court established April 10, 2008 as the deadline for parties, including governmental units, to file proofs of claim. In mid-2008, the Debtors commenced claims review and objections. The Debtors intend to file additional claim objections. As a result of the claims objection process, the Debtors believe that the total of Allowed Claims against SCO Group should be no more than approximately \$500,000 and the total of Allowed Claims against SCO Operations should be no more than approximately \$1,885,000. The Debtors' analysis excludes: (i) Claims filed by parties to the Pending Litigation; (ii) the \$3 million contingent claim filed by Citi Financial, Inc. (Claim No. 169), (ii) Claims that have or will be objected to on the basis that they are duplicative or have been paid (including Claim Nos. 8, 84, 109, 133 and 170), and (iii) intercompany claims. Intercompany claims are eliminated when the Debtors' books are consolidated in the ordinary course of business because SCO Group and its subsidiaries are considered one economic entity, even though they may be separate legal entities. When the Debtors' consolidated financial statements are prepared, intercompany transactions and/or balances are removed. Elimination of intercompany transactions is appropriate as it reduces management's ability to "window dress" the financial statements (for example, by creating a short-term receivable and payable in order to positively impact the Debtor's current ratio). Accordingly, despite the information contained in SCO Group's bankruptcy schedules, there are no debts owed by SCO Group to Operations, and so no provision is made in the Plan to deal with such debts.

On or about September 19, 2008, the Debtors settled the largest Claim against the estates (Claim No. 20) filed in an amount in excess of \$59,700,000, by agreeing to modification of the automatic stay permitting the claimant, representatives of a class of plaintiffs suing the Debtors in the United States District Court, Southern District of New York, for alleged securities law violations in connection with an initial public offering, in return for the plaintiffs' agreement to seek satisfaction of any judgment(s) obtained against any of the defendant Debtors from any

available insurance coverage as well as plaintiffs' agreement to waive any distributions from the Debtors' estates. *See* Docket Nos. 568, 606 and 615. Accordingly, such Claim is not included in the calculation of Claims against the Debtors.

#### **(G) York Capital Management**

On October 23, 2007, the Debtors filed the *Emergency Motion of the Debtors for an Order (A) Approving Asset Purchase Agreement, (B) Establishing Sale and Bidding Procedures, and (C) Approving the Form and Manner of Notice of Sale* (Docket No. 149), attaching a copy of a term sheet by and between SCO Group and York Capital Management ("York") providing for, among other things, a proposed purchase of certain assets of the Debtors and a loan to support the Debtors in the Pending Litigation. The negotiations between SCO Group and York did not reach a mutually satisfactory conclusion, the transaction failed, and the Bankruptcy Court never entered an order approving the transaction or any of the documents that contemplated the transaction.

Pursuant to the terms of the Asset Purchase Agreement between York and the Debtors, SCO agreed to pay York up to \$150,000 as an expense reimbursement if the transaction did not close. Since it did not close, the Debtors moved on February 29, 2008 for Bankruptcy Court approval to pay the expense reimbursement. *See* Docket No. 367. Objections were received to that motion, and, at the Debtors' request, the Bankruptcy Court continued the hearing to consider the motion from time to time. As of the date of this Disclosure Statement, the motion has not yet been heard or resolved.

#### **(H) Stephen Norris Capital Partners, LLC**

Stephen Norris & Co. Capital Partners, L.P. is a private equity investment partnership formed to (i) "co-invest" alongside well established and successful private equity and leveraged buyout firms, (ii) take advantage of the business experience and relationships of its Investment Committee, including Stephen Norris' long-standing relationships and substantial private equity experience. Steven Norris Capital Partners, LLC ("SNCP") is the investment vehicle used by Stephen Norris & Co. Capital Partners, L.P. for the purposes of this transaction.

Mr. Norris co-founded The Carlyle Group, a private equity and LBO firm in Washington, D.C, where he served as a founder and managing director until 1995.

Mr. Norris' partner, Mark Robbins, has extensive experience in structured finance and private equity as co-founder and managing partner of Peninsula Advisors. Mr. Robbins has served as Investment Director and lead negotiator with several leading financial institutions.

On February 14, 2008, the Debtors filed *Debtors' Motion To Approve Settlement Compensation Or Sale Compensation And Expense Reimbursement To Plan Sponsor* (Docket No. 346), attaching a copy of a memorandum of understanding by and between SCO Group and SNCP providing for, among other things, a proposed purchase of certain assets of the Debtors and a loan to support the Debtors in the Pending Litigation. In conjunction with that proposed transaction, the Debtors filed a Joint Plan of Reorganization (Docket No. 368) to implement the SNCP proposal. The negotiations between SCO Group and SNCP did not reach a mutually



satisfactory conclusion, the transaction failed, and the Bankruptcy Court never entered an order approving the transaction or any of the documents that contemplated the transaction.

## **V. CHAPTER 11 PLAN**

### **(A) Overview**

Chapter 11 is the chapter of the Bankruptcy Code primarily used for business reorganization. The fundamental purpose of a Chapter 11 case is to formulate a plan to restructure a debtor's finances so as to maximize recoveries to its creditors. With this purpose in mind, businesses sometimes use Chapter 11 as a means to conduct asset sales and other forms of liquidation. Whether the aim is reorganization or liquidation, a Chapter 11 plan sets forth and governs the treatment and rights to be afforded to creditors and stockholders with respect to their claims against and equity interests in a debtor's bankruptcy estate.

In formulating the Plan, the Debtors have conducted legal and factual diligence regarding the terms of a Chapter 11 plan and related issues. In particular, the Debtors responded to the concerns expressed by the Bankruptcy Court on the difficulties in consummating a transaction of a plan before a final determination in the Novell/IBM Litigation. The Debtors therefore focused their efforts on a plan that could be confirmed and consummated regardless of any outcome in the Novell/IBM Litigation. As noted above, the Debtors have tried, twice, to formulate a plan that would pay all of the Debtors' debts and allow the stockholders to retain their interests in the Debtors via complicated transactions with third parties.

### **(B) Summary of the Terms of the Plan**

As set forth in this Disclosure Statement and in the accompanying materials, the Plan provides for the following: (i) sale by public auction of the Mobility and OpenServer businesses, with proceeds of such sale being used to pay Allowed Claims in full on the Effective Date; and/or in addition, if the sale does not generate an amount deemed sufficient by the Debtors, in their sole discretion, to pay all Allowed Claims other than the Allowed Claims subject of the Pending Litigation in full on the Effective Date, (ii) the Debtors will pursue a go-forward business model of, among other things: (a) launching two products; (b) implementing an improved pricing and discount strategy; (c) continuing a "true-up" licensing program; (d) working with customers to deliver feature enhancements to customers through a non-recurring engineering revenue model; and (e) reducing operating expenses by approximately 20-30% (comparing FY 2008 with projected operating expenses for FY 2009).

#### ***(i) Auction of Mobility and OpenServer Businesses***

The Debtors will conduct an auction of selected SCO assets, giving prospective purchasers the right to bid on both or on individual assets summarized as follows:

- (a) Mobility and OpenServer Businesses – minimum aggregate bid of \$6,000,000
- (b) Mobility Business – minimum bid of \$2,000,000

FCmobilelife (or Me Inc. mobile) – minimum bid of \$1,000,000

HipCheck – minimum bid of \$500,000

Shout Postcard – minimum bid of \$250,000

Shout Marketing – minimum bid of \$250,000

SCO Cloud Server (a/ka SCO Mobile Server) – minimum bid of \$1,000,000

(c) OpenServer Business – minimum bid of \$5,000,000

The Debtors will file a motion seeking to approve sale and bidding procedures for the Asset Sale. After the Bankruptcy Court schedules a hearing date(s) and approves the procedures, parties will receive notice of thereof.

(ii) ***Go Forward Business Strategy***

Thirty years ago, in the dawn of the personal computing industry, SCO became an important industry player by acquiring the rights and going to market with the XENIX operating system. XENIX was a version of the powerful UNIX operating system that was modified to run on commodity Intel-based hardware. With this strategic change, SCO UNIX became a more affordable platform for small to medium sized businesses. With the tremendous growth in the Intel-based server market, SCO's strategy contributed significantly to the growth of the computer industry. SCO's strategy was an application development environment which quickly signed up thousands of application software developers. These developers then created thousands of XENIX-based applications and SCO became the volume leader of UNIX shipments with 43% market share in 1998. Over time, the XENIX product line became known as OpenServer.

SCO has a long history in the personal computing industry and has been an important supplier of secure, stable UNIX operating systems for thousands of customers throughout the world. These customers have relied on SCO to run their mission critical business applications and range from small to medium businesses, replicated sites and franchises to Fortune 1000 companies in over 80 countries. SCO has used a large network of distributors, resellers, OEM's, vertical solution providers and integrators to deliver SCO platform solutions.

As part of its go-forward business strategy, SCO will continue to sell and provide basic support for its core UnixWare, OpenServer and mobile products. SCO plans to deliver on its promise of a Virtualization initiative which will allow SCO customers to run their legacy applications on modern hardware, thus giving them a path forward with SCO. SCO will be releasing SCO UNIX Virtual, virtualization solutions for both VMware and Microsoft's Hyper-V. SCO will also promote its next-generation Web 3.0 platform called the SCO Cloud Server. It is a cross-platform environment that allows application developers to write an application and then deploy it within their own company or to publish it for distribution in application portals such as Apple's App Store. The SCO Cloud Server will serve up personal and business applications running on any Web browser, Java, Windows Mobile or iPhone devices such as

Fcmobilelife by FranklinCovey. All of these initiatives and products are either available today or are nearing final completion.

**(a) *SCO UNIX Virtual – Protecting SCO Customers’ Investments***

The Company’s near-term business proposition and opportunity is in providing virtualization technology to our customers. SCO UNIX Virtual is a virtualization technology that is being built into SCO OpenServer and Unixware that will greatly enhance the hardware compatibility upon which SCO UNIX will run. SCO is seeing strong demand from its customer base for this product line and will bring SCO UNIX Virtual to market in the first half of 2009. It will be compatible with major virtualization environments such as VMware and Hyper-V. SCO UNIX Virtual will add a high performance engine to SCO’s venerable legacy UNIX product and is scheduled to be backward compatible to OpenServer and even early versions of Xenix. SCO UNIX will also be bundled with SCO Cloud Server as an optional OS that developers can use for their SCO Cloud Server networked applications.

Over the history of SCO Group, it has sold more than 2.5 million servers to customers throughout the world. This customer base relies on the UNIX platform to run their proprietary and mission critical software applications. By providing strong virtualization support for SCO UNIX with VMware and Hyper V, the SCO customer will be able to upgrade its aging server hardware without moving to a new application platform by running its SCO application on modern hardware. This allows the customer to not incur substantial costs to modify its existing proprietary business and mission critical applications.

**(b) *SCO Cloud Server – Launching a New “Anytime, Anywhere” Application Platform***

At the Seoul Digital Forum in May, 2007, someone asked Eric Schmidt, the CEO of Google what the future of the internet was. Specifically, the question was “How do you define Web 3.0?” Schmidt answered as follows:

But if I were to guess what Web 3.0 is, I would tell you that it’s a different way of building applications... My prediction would be that Web 3.0 will ultimately be seen as applications which are pieced together. There are a number of characteristics: the applications are relatively small, the data is in the cloud, the applications can run on any device, PC or mobile phone, the applications are very fast and they’re very customizable. Furthermore, the applications are distributed virally: literally by social networks, by email. You won’t go to the store and purchase them... That’s a very different application model than we’ve ever seen in computing.

Eric Schmidt

In 2004, SCO launched a cloud server-based product initiative which has now delivered this kind of application development platform. SCO Cloud Server (formerly SCO Mobile Server) is in fact the Web 3.0 application platform that Schmidt speaks of. Significantly, SCO Cloud

Server is not some future vision of what we want to build, SCO Cloud Server is built and ready for market deployment today.

SCO Cloud Server is a cross-platform environment that allows application developers to write an application and then deploy it within their own company or to publish it for distribution in application portals such as Apple's App Store. A key competitive advantage of SCO Cloud Server is that it is not bound to one type of client side device. SCO Cloud Server applications will run on any smartphone (i.e.; iPhone, BlackBerry, Windows Mobile Phones etc.) or browser of the user's choosing. Apple, Microsoft, RIM and Google have published developer kits that are limited to the footprint of their proprietary devices. The mobile middleware component of SCO Cloud Server has been recognized by IDC in their leadership quadrant of industry leaders. SCO Cloud Server applications run on .Net, Java or iPhone mobile devices and also have cross-platform compatibility with UNIX and Windows servers on the back end. SCO Cloud Server applications are carrier-independent and will work with any mobile service provider worldwide. SCO Cloud Server will come packaged with a SCO Cloud Server application called HipCheck, which is an application that allows an IT professional to monitor and control Windows and UNIX servers, cloud infrastructure, applications and services in real time.

The opportunity to make money with both the SCO UNIX Virtual and the SCO Cloud Server product lines is significant given the high market demand for such solutions and the relatively small number of companies that have operating system platform expertise. Just as SCO UNIX has been the backbone for thousands of customers over the last 30 years, the SCO Cloud Server platform strategy is designed to become the foundation of the reorganized SCO for the next 30 years.

If one were to think about the landscape of UNIX-based application platforms, SCO would be the clear leader in the first wave with 43% market share in the 1990's. The second wave would see Linux at the forefront being led by IBM. SCO has been building the requisite technologies and is now going to market with the goal of becoming the leader of the third wave of business application platforms with its SCO Cloud Server and SCO UNIX Virtualization products. The results of SCO's auction will dictate the pace at which various products are released into the market.

#### **(c) Revised Pricing Model**

SCO Group has nearly completed an extensive pricing analysis and will be implementing a revised pricing and discount strategy to generate incremental revenue for the UNIX and Virtualization products while offering additional value to our customers. New pricing strategies include product bundles, paid in full licenses, annual maintenance and subscription agreements and updated OEM (original equipment manufacturer) and VSP (vertical solution provider) license programs. Pricing changes for FCmobilelife (mobile team productivity application) takes effect January 1, 2009.

#### **(d) *SCO UNIX Licensing***

License true-ups are paid by customers who have inadvertently or intentionally been running versions of SCO software without making timely license payments. SCO UNIX is often

used for new systems when SCO's customers open new stores or offices. In some cases, SCO Unix products have been installed but the corresponding licenses have not been purchased from SCO. Every major software company has a licensing division to ensure that licenses are up-to-date. SCO has not been active in its licensing division for a number of years. In 2008, SCO had two customers contact it for SCO UNIX license true-ups which resulted in \$800,000 of revenue to SCO. Reorganized SCO will include a licensing division to ensure that proper license arrangements and payments are in place.

SCO will put a dedicated team on this initiative to true-up license revenue where applicable.

**(e) Engineering and Professional Services Revenue**

Engineering and Professional Service Revenues will include a full range of pre- and post-sale technical support for UNIX-based products including technical support to the Debtors' partners, including resellers, hardware and software vendors and solution providers, as well as directly supporting our end-user customers. Technical support services include a range of options from single incident e-mail and telephone support to dedicated "enterprise" level support agreements. Customers seeking additional technical support directly may enter into service agreements that best suit their needs. Other services will include software development and programming, migration tools and services, assisting customers with modernizing, and integrating legacy applications with web services. SCO will continue to deliver updates to the UNIX roadmap, but will work with individual customers to deliver feature enhancements through an NRE non-recurring engineering revenue model.

**(f) Restructured Operations**

SCO will reduce its internal operating costs by reshaping the structure of various functions, reducing base salaries by 10% for senior management and reducing other operating expenses. SCO will preserve the core engineering and sales teams but will also increase external partnerships with third-party development organizations in the U.S. and around the world to increase its ability to deliver the next-generation UNIX operating system and cloud-based platform solutions. SCO will leverage the power of the Internet for the distribution of its cloud-based applications through portals such as Apple's App Store.

**(C) Classification and Treatment of Claims and Interests**

**(i) Administrative Expense Claims.** Each Holder of an Allowed Administrative Expense Claim will receive the full amount thereof, without interest, in Cash (except to the extent that any Holder of an Allowed Administrative Expense Claim agrees to less favorable treatment thereof) as soon as practicable after the later of (i) the Effective Date or as soon as practicable thereafter, (ii) the date that the Bankruptcy Court allowing such Administrative Expense Claim becomes a Final Order, or (iii) as mutually agreed by the Disbursing Agent and the Holder of such Allowed Administrative Expense Claim.

**(ii) Professional Fee Claims.** Each Holder of an Allowed Professional Fee Claim will receive the full amount thereof, without interest, in Cash (except to the extent that any

Holder of an Allowed Professional Fee Claim agrees to less favorable treatment thereof) as soon as practicable after the later of (i) the Effective Date (ii) the date that is 11 days after an order of the Bankruptcy Court allowing such Professional Fee Claim becomes a Final Order, or (iii) as mutually agreed by the Disbursing Agent and the Holder of such Allowed Professional Fee Claim.

(iii) **Priority Claims.** Each Holder of an Allowed Priority Claim will receive, on account of such Claim, Cash equal to the amount of such Allowed Priority Claim, without post-petition interest or penalty, as practicable after the later of: (i) the Effective Date, or (ii) the date that an order of the Bankruptcy Court allowing such Priority Claim becomes a Final Order.

(iv) **Statutory Fees.** On or before the Effective Date, the Debtors will pay or have paid in full in Cash all Allowed Statutory Fees payable pursuant to 28 U.S.C. § 1930 and any fees payable to the Bankruptcy Court which are due and payable on or before the Effective Date. All fees payable pursuant to 28 U.S.C. § 1930 after the Effective Date will be paid by the Disbursing Agent.

(v) **Classification and Treatment of Claims and Equity Interests.** All Claims and Equity Interests, except Administrative Expense Claims, Priority Claims and Statutory Fees, are placed in Classes as set forth below. A Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and is classified in other Classes to the extent that any remainder of the Claim or Equity Interest qualifies within the description of such other Classes. A Claim also is classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class, and such Claim has not been Disallowed, paid or released prior to the Effective Date.

<u><b>Class</b></u>	<u><b>Type of Claim</b></u>	<u><b>Treatment</b></u>	<u><b>Voting Rights</b></u>
1	Priority Claims against SCO Group	Unimpaired. Paid in full on the Effective Date or as soon thereafter as practicable.	Not entitled to vote
1A	Priority Claims against Operations	Unimpaired. Paid in full on the Effective Date or as soon thereafter as practicable.	Not entitled to vote
2	Miscellaneous Secured Claims against SCO Group (Debtors believe that there are more)	Unimpaired. On the Effective Date, each Holder of an Allowed Secured Claim shall, at the election of SCO Group, either: (a) receive the collateral securing such Claim in full satisfaction, release and discharge of such Claim; or (b) (i) retain the Liens securing such Claim to the extent of its Allowed Claim, and (ii) receive deferred Cash payments totaling the Allowed amount of its Claim as of the Effective Date, or, if	Not entitled to vote

		any such Claim becomes Allowed after the Effective Date, as soon as practicable after such Claim becomes Allowed; or (c) receive such other treatment as the Debtors and the Holder of such Claim shall agree upon in writing.	
2A	Miscellaneous Secured Claims against Operations  (Debtors believe that there are more)	Unimpaired. On the Effective Date, each Holder of an Allowed Secured Claim shall, at the election of Operations, either (a) receive the collateral securing such Claim in full satisfaction, release and discharge of such Claim; or (b) (i) retain the Liens securing such Claim to the extent of its Allowed Claim, and (ii) receive deferred Cash payments totaling the Allowed amount of its Claim as of the Effective Date, or, if any such Claim becomes Allowed after the Effective Date, as soon as practicable after such Claim becomes Allowed; or (c) receive such other treatment as the Debtors and the Holder of such Claim shall agree upon in writing.	Not entitled to vote
3	General Unsecured Claims against SCO Group Other than Claims Subject of Pending Litigation  (approximately \$500,000)	Impaired. Commencing on the Effective Date or as soon thereafter as is practicable, the Disbursing Agent shall disburse to each Holder of an Allowed Class 3 Claim 100% of the principal amount of such Allowed Claim, either: (a) in one installment payable from the proceeds of the Asset Sale(s) or (b) if the proceeds of the Asset Sale(s) are insufficient, in the Debtors' business judgment, to fully pay the Allowed Claims in this Class, then, in two installments with the first distribution on: (i) the later of the Effective Date or the date upon which the Claim is Allowed, and (ii) the second distribution to be made on October 31 <sup>st</sup> (or as soon as practicable thereafter) of the calendar year following the initial distribution, together with 5% per annum simple interest accrued from the Effective Date to the date of the second distribution.	Entitled to vote
3A	General Unsecured	Impaired. Commencing on the Effective Date or as soon thereafter as is practicable,	Entitled to vote

	<p>Claims against Operations</p> <p>(approximately \$1,885,000)</p>	<p>the Disbursing Agent shall disburse to each Holder of an Allowed Class 3A Claim 100% of the principal amount of such Allowed Claim, either: (a) in one installment payable from the proceeds of the Asset Sale(s) or (b) if the proceeds of the Asset Sale(s) are insufficient, in the Debtors' business judgment, to fully pay the Allowed Claims in this Class, then, in two installments with the first distribution on: (i) the later of the Effective Date or the date upon which the Claim is Allowed, and (ii) the second distribution to be made on October 31<sup>st</sup> (or as soon as practicable thereafter) of the calendar year following the initial distribution, together with 5% per annum simple interest accrued from the Effective Date to the date of the second distribution.</p>	
4	<p>General Unsecured Claims against SCO Group subject of Pending Litigation</p> <p>(unliquidated)</p>	<p>Impaired. Commencing on the later of the Effective Date or the date any of the respective Claims asserted against the Debtors in any Pending Litigation become an Allowed Claim, Reorganized SCO shall pay either: (i) 100% of the principal amount of such Allowed Claim plus applicable interest in five equal installments with the first distribution on: (a) the later of the Effective Date or the date the Claim asserted against the Debtor in a Pending Litigation becomes an Allowed Claim, and (b) four annual distributions to be made on October 31<sup>st</sup> (or as soon as practicable thereafter) of each year following the initial distribution; <u>or</u> (ii) if the Allowed Claim exceeds an amount that Reorganized SCO can pay in full with interest over a period of 5 years following the date the Claim is Allowed, Reorganized SCO will cancel its existing shares and issue new shares which will be interpled to the Bankruptcy Court for the benefit of those holders of Allowed Class 4 Claims.</p>	Entitled to vote
5	<p>Equity Interests in SCO Group</p>	<p>Impaired. Holders of Allowed Equity Interests in SCO Group shall retain their Interests subject, however, to the following proviso. If any Class 4 Claim is not paid in</p>	Entitled to vote



		full within 5 years after its Allowance, or Reorganized SCO Group should determine that it will be unable to satisfy such Allowed Class 4 Claim in full, then all such Interests will be extinguished and cancelled within 10 business days after the Claim is Allowed by Final Order and such determination or nonpayment occurs.	
5A	Equity Interests in Operations	Unimpaired. Equity Interests in Operations shall be retained by Reorganized SCO.	Not entitled to vote

**(D) Modification to 2004 Omnibus Stock Incentive Plan**

As of the Effective Date, by action of the Board of Directors or the Compensation Committee thereof, the Reorganized Debtors will modify their 2004 Omnibus Stock Incentive Plan and the terms of options issued thereunder, (a) to reduce the exercise prices of outstanding stock options to a price equal to \$0.02 per share above the fair market value of the common stock of SCO Group on the Effective Date, and (b) to extend the period in which the outstanding stock options may be exercised for up to 18 months. Presently, the only outstanding stock options are non-qualified stock options and there are no incentive stock options outstanding.

**(E) Extinguishment of Existing Common Stock and Common Stock Equivalents of SCO Group and Issuance of New Shares Depending On Outcome of Pending Litigation**

If a Claim subject of the Pending Litigation becomes an Allowed Claim in an amount that, in the determination of Reorganized SCO cannot be paid from cash on hand or revenues generated by Reorganized SCO's operations in accordance with Article 3 of the Plan, then, within 10 business days after the Claim becomes an Allowed Claim by Final Order: (i) the existing common stock and common stock equivalents of SCO Group shall be cancelled and extinguished; and (ii) new shares of Reorganized SCO will be issued in favor of the Holders of the Allowed Claims subject of the Pending Litigation and will be interpled to the Bankruptcy Court.

**(F) Vesting of Property of the Estates**

Pursuant to section 1141(b) and (c) of the Bankruptcy Code, all of the Property of the Estate of SCO Group and Operations shall vest in Reorganized SCO and Reorganized Operations, respectively, free and clear of all Claims and interests of Creditors, and of Holders of Equity Interests.

**(G) Corporate Governance**

Upon the occurrence of the Effective Date, Reorganized SCO's Board of Directors will consist of the following individuals whose compensation will as follows:

Name of Board Member	Compensation
Ralph J. Yarro III, chairman	Award of 1,000 Options per quarter
J. Kent Millington	Award of 1,000 Options per quarter
Darcy G. Mott	Award of 1,000 Options per quarter
Omar T. Leeman	Award of 1,000 Options per quarter
Daniel W. Campbell	Award of 1,000 Options per quarter
R. Duff Thompson	Award of 1,000 Options per quarter
Darl McBride	Award of 1,000 Options per quarter

Upon the occurrence of the Effective Date, Reorganized SCO's officers will consist of the following individuals, whose compensation will be as follows:

Name of Officer and Title	Compensation (annual base salary)
Darl McBride, Chief Executive Officer	\$265,000
Ryan Tibbitts, Secretary and General Counsel	\$210,000
Jeff Hunsaker, Chief Operating Officer	\$210,000
Ken Nielsen, Chief Financial Officer	\$210,000

\*If the Asset Sale does not generate sufficient funds to satisfy Allowed Claims, Reorganized SCO shall reduce the annual base compensation paid to the referenced officers by 10% as part of the go-forward business strategy.

On the Effective Date, the Reorganized SCO's certificate of incorporation will be amended to the extent necessary to implement the Plan.

#### **(H) Intent to Prosecute Causes of Action After Confirmation**

Except as otherwise provided in the Plan and Plan Documents, all Causes of Action will automatically be retained and preserved by the Debtors' Estate until all property of the Estate vests in the Reorganized Debtors. Except as otherwise provided in the Plan, the Debtors' Estates and thereafter the Reorganized Debtors will retain and have the exclusive right to enforce and prosecute these Causes of Action. The Debtors' Estates and the Reorganized Debtors intend to complete the investigation of, and as appropriate, commence or continue litigation or other proceedings of, various Causes of Action, whether or not these Causes of Action have been asserted or filed. The Causes of Action that may be prosecuted include, **but are not limited to:**

(i) any Cause of Action arising out of any accounts receivable listed in the exhibits to the Debtors' Schedules (and any amended schedules) filed in the Chapter 11 Cases, a copy of which is attached hereto as **Exhibit 1**; and (ii) any Cause of Action, including, but not limited to, the Novell Litigation, the IBM Litigation and the AutoZone Litigation and potential counterclaims in the Red Hat litigation. Any person, entity or other party subject to a Cause of Action based on any of the accounts or transactions referenced above, should assume that the Reorganized Debtor may take any action appropriate to prosecute or enforce such Cause of Action against it, regardless of how such person, entity or other party may have voted on the Plan. The Causes of Action have been described and identified with as much particularity as is practicable and appropriate at this time. **Because all investigations and inquiries have not yet been completed, it is likely that there will be additional Causes of Action not mentioned above, and no party should assume that any release or discharge provision contained in the Plan, or the Confirmation Order, will bar or otherwise inhibit the Debtors or Reorganized Debtors from taking any action to prosecute or enforce such additional Causes of Action.**

#### **(I) Retention of Jurisdiction**

Notwithstanding entry of the Confirmation Order or the Effective Date having occurred, the Chapter 11 Cases having been closed, or Final Decrees having been entered, the Bankruptcy Court shall have jurisdiction of matters arising out of, and related to the Chapter 11 Cases and the Plan under, and for the purposes of, sections 105(a), 1127, 1142, and 1144 of the Bankruptcy Code and for, among other things, the following purposes:

(i) if applicable, to determine the rights of Holders of Allowed Claims subject of the Pending Litigation to shares of stock issued and interpled to the Bankruptcy Court in accordance with the Plan;

(ii) allow, disallow, determine, liquidate, classify, or establish the priority, or status of any Claim, including the resolution of any request for payment of any Administrative Expense Claim, and the resolution of any and all objections to the allowance or priority of Claims;

(iii) to estimate any Claim, including, without limitation, at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection;

(iv) grant or deny any applications for allowance of compensation or reimbursement of expenses authorized, pursuant to the Bankruptcy Code, order of the Bankruptcy Court, or the Plan, for periods ending on or before the Effective Date;

(v) resolve any proceedings, matters or disputes regarding the compensation and reimbursement of expenses of any Person or Entity acting pursuant to this Plan, including (without limitation) compensation and reimbursement of expenses for the Disbursing Agent(s), and Professionals.

(vi) resolve any matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which Debtors are parties, or

with respect to which Debtors may be liable, and to hear, determine and, if necessary, liquidate, any Claims arising therefrom;

(vii) ensure that Distributions to Holders of Allowed Claims and Equity Interests are accomplished pursuant to the provisions of the Plan;

(viii) decide or resolve any motions, adversary proceedings, contested or litigated matters and any other proceedings and matters, and grant or deny any applications involving the Debtors, the Reorganized Debtors, U.S. Trustee, or their affiliates, directors, officers, employees, agents, members, Professionals that may be pending on or after the Effective Date;

(ix) enter such orders, as may be necessary or appropriate to implement or consummate the provisions of the Plan, and all contracts, instruments, waivers, releases, indentures and other agreements or documents created, in connection with the Plan or described in the Disclosure Statement;

(x) resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan, or any Person's or Entity's obligations incurred, in connection with the Plan, including, among other things, any avoidance or subordination actions under sections 510, 544, 545, 547, 548, 549, 550, 551, 553(b) and/or 724(a) of the Bankruptcy Code;

(xi) issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with Consummation or enforcement of the Plan, except as otherwise provided herein;

(xii) resolve any cases, controversies, suits or disputes with respect to the exculpations, releases, injunction and other Plan provisions, and enter such orders as may be necessary or appropriate to implement such exculpations, releases, injunction and other provisions;

(xiii) enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated in whole or in part;

(xiv) determine any other matters that may arise in connection with, or relate to, the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, waiver, release, indenture, or other agreement or document created, in connection with the Plan or the Disclosure Statement;

(xv) enter an order and/or final decree concluding the Chapter 11 Cases;

(xvi) to protect the Property of the Estates from adverse claims or interference inconsistent with the Plan, including to hear actions to quiet or otherwise clear title to such property based upon the terms and provisions of the Plan, or to determine a Debtors' exclusive ownership of claims and Causes of Action retained under the Plan;

(xvii) to hear and determine matters pertaining to abandonment of Property of the Estates;

(xviii) to consider any modifications of the Plan, to interpret, clarify, remedy and/or cure any defect, error, mistake, ambiguity and/or omission, or reconcile any inconsistency in the Plan or any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(xix) to interpret and enforce any orders previously entered in the Chapter 11 Cases to the extent such orders are not superseded or inconsistent with the Plan or the Confirmation Order;

(xx) to recover all Assets of Debtors and property of the Estates, wherever located;

(xxi) to hear and determine matters concerning state, local, and federal taxes, in accordance with sections 345, 505, and 1146 of the Bankruptcy Code.

(xxii) to consider and act on the compromise and settlement of any litigation, Claim against or Causes of Action on behalf of the Estates;

(xxiii) to interpret and enforce the Confirmation Order; and

(xxiv) to hear and act on any other matter not inconsistent with the Bankruptcy Code.

## **VI. VOTING REQUIREMENTS, ACCEPTANCE AND CONFIRMATION OF THE PLAN**

Under the Bankruptcy Code, in order to confirm a plan, the Bankruptcy Court must make a series of findings concerning the plan and the debtors, including that (i) the plan has classified claims and equity interests in a permissible manner, (ii) the plan complies with applicable provisions of the Bankruptcy Code, (iii) the plan proponent has complied with applicable provisions of the Bankruptcy Code, (iv) the plan proponent has proposed the plan in good faith and not by any means forbidden by law, (v) the disclosure required by section 1125 of the Bankruptcy Code has been made, (vi) the plan has been accepted by the requisite votes of creditors and equity interest holders (except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code) (see “*Acceptance of Plan*” and “*Confirmation Without Acceptance of All Impaired Classes*,” in Section (C) below), (vii) the plan is feasible and confirmation is not likely to be followed by the liquidation or the need for further financial reorganization of the debtor, unless such liquidation or reorganization is proposed in the plan, (viii) the plan is in the “best interests” of all holders of claims or equity interests in an impaired class by providing to such holders on account of their claims or equity interests property of a value, as of the effective date, that is not less than the amount that such holder would receive or retain in a Chapter 7 liquidation, unless each holder of a claim or equity interest in such class has accepted the plan and (ix) all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the confirmation hearing, have been paid or the plan provides for the payment of such fees on the effective date.

**(A) Parties in Interest Entitled to Vote**

Pursuant to the Bankruptcy Code, only classes of claims and equity interests that are “impaired” (as defined in the Plan and in section 1124 of the Bankruptcy Code), under a plan are entitled to vote to accept or reject the plan. A class is impaired if the legal, equitable or contractual rights to which the claims or equity interests of that class entitled the holders of such claims or equity interests are modified, other than by curing defaults and reinstating the debt. Classes of claims and equity interests that are not impaired are not entitled to vote on a plan and are conclusively presumed to have accepted the plan. In addition, classes of claims and equity interests that are expected to receive no distributions under the plan are not entitled to vote on the plan and are deemed to have rejected the plan.

**(B) Classes Impaired Under the Plan**

The Plan will leave unimpaired and provide for full payment (with interest, if applicable) of all Allowed Claims of on the Effective Date or as soon thereafter as such Claims become Allowed Claims with the exception of Classes 3, 3A and 4. Classes 3, 3A and 4 are Impaired because the Holders of Claims in these Classes will not necessarily be paid in full upon allowance. Class 5 Equity Interests are also Impaired under the Plan. Acceptances of the Plan are being solicited only from the Holders of Claims in Classes 3, 3A and 4 and Equity Interests in Class 5 because all other Classes are Unimpaired.

**(C) Voting Procedures and Requirements**

**VOTING ON THE PLAN BY EACH HOLDER OF AN IMPAIRED CLAIM OR INTEREST ENTITLED TO VOTE ON THE PLAN IS IMPORTANT. ONLY HOLDERS OF CLASS 3, 3A AND 4 CLAIMS AND CLASS 5 EQUITY INTERESTS WILL RECEIVE BALLOTS. YOU SHOULD COMPLETE, SIGN AND RETURN EACH BALLOT YOU RECEIVE.**

*(i) Ballots*

In voting for or against the Plan, please use only the Ballot or Ballots sent to you with this Disclosure Statement. If you are a member of Class 3, 4A, 4 or of Class 5, and did not receive a Ballot, if your Ballot is damaged or lost or if you have any questions concerning voting procedures, please contact Debtors’ voting agent, Epiq.

*(ii) Returning Ballots*

YOU SHOULD COMPLETE AND SIGN YOUR BALLOT AND RETURN IT IN THE ENCLOSED ENVELOPE TO:

**THE SCO GROUP, INC. BALLOT PROCESSING  
EPIQ BANKRUPTCY SOLUTIONS, LLC  
FDR STATION  
P.O. BOX 5012  
NEW YORK, NY 10150-5012.**

HAND DELIVERY OR OVERNIGHT MAIL OF BALLOTS MUST BE SENT TO:

**EPIQ BANKRUPTCY SOLUTIONS, LLC  
ATTN: THE SCO GROUP, INC. BALLOT PROCESSING  
757 THIRD AVENUE, 3<sup>RD</sup> FLOOR  
NEW YORK, NY 10017**

**VOTES CANNOT BE TRANSMITTED ORALLY. FACSIMILE BALLOTS WILL NOT BE ACCEPTED. TO BE COUNTED, ORIGINAL SIGNED BALLOTS MUST BE ACTUALLY RECEIVED ON OR BEFORE \_\_\_\_\_, 2009 AT 4:00 P.M., PREVAILING EASTERN TIME. IT IS OF THE UTMOST IMPORTANCE TO THE DEBTORS THAT YOU VOTE PROMPTLY TO ACCEPT THE PLAN.**

*(iii) Confirmation Hearing*

The Bankruptcy Code requires the Bankruptcy Court, after notice, to conduct a hearing regarding whether the Plan and the Debtors have fulfilled the confirmation requirements of section 1129 of the Bankruptcy Code. The Confirmation Hearing has been scheduled for \_\_\_\_\_, 2009 before the Honorable Kevin Gross, United States Bankruptcy Judge, United States Bankruptcy Court, 824 North Market Street, 6th Floor, Courtroom #3, Wilmington, Delaware. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement at the Confirmation Hearing of the date to which the Confirmation Hearing has been adjourned.

*(iv) Confirmation*

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the requirements of section 1129(a) of the Bankruptcy Code are met. Among the requirements for Confirmation are that the Plan (i) is accepted by the requisite holders of Claims and Equity Interests or, if not so accepted, is "fair and equitable" and "does not discriminate unfairly" as to the non-accepting Classes of Claims or Equity Interests, (ii) is in the "best interests" of each Holder of a Claim or Interest that does not vote to accept the Plan in each Impaired Class under the Plan, (iii) is feasible and (iv) complies with the applicable provisions of the Bankruptcy Code.

*(v) Acceptance of Plan*

As a condition to plan confirmation, the Bankruptcy Code requires that each class of impaired claims or equity interests vote to accept the plan, except under certain circumstances. See "*Confirmation Without Acceptance of All Impaired Classes*" in Section (C)(vi) below. Because, except for Claims in Class 3, 3A and 4 and Equity Interests in Class 5, all Claims and Equity Interests of both Debtors are not Impaired, the Classes of Claims and the Class 5A Equity Interests in Operations are conclusively presumed to have accepted the Plan. A plan is accepted by an impaired class of equity interests if holders of at least two-thirds of the number of shares in such class vote to accept the plan. Only those Holders of Claims and of Equity Interests who actually vote count in these tabulations. Holders of Claims in Class 3, 3A and 4 or Equity

Interests in Class 5 of SCO Group who fail to vote are not counted as either accepting or rejecting the Plan.

In addition to this voting requirement, section 1129 of the Bankruptcy Code requires that a plan be accepted by each holder of a claim or interest in an impaired class or that the plan otherwise be found by the Bankruptcy Court to be in the best interests of each holder of a claim or interest in such class. See “*Best Interests Test*” in subsection (vii) below. In addition, each impaired class must accept the plan for the plan to be confirmed without application of the “fair and equitable” and “unfair discrimination” tests in section 1129(b) of the Bankruptcy Code discussed below. See “*Confirmation Without Acceptance of All Impaired Classes*” in subsection (vi) below.

(vi) *Confirmation Without Acceptance of All Impaired Classes*

The Bankruptcy Code contains provisions for confirmation of the plan even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. These so-called “cramdown” provisions are set forth in section 1129(b) of the Bankruptcy Code.

A plan may be confirmed under the cramdown provisions if, in addition to satisfying all requirements of section 1129(a) of the Bankruptcy Code but for subsection (8) thereof, it: (a) “does not discriminate unfairly” and (b) is “fair and equitable,” with respect to each class of claims or equity interests that is impaired under, and has not accepted, the plan. The phrases “discriminate unfairly” and “fair and equitable” have meanings unique to bankruptcy law.

If a class of unsecured claims rejects a plan, the proponent of the plan may obtain cramdown over the rejecting vote of the class if “the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim,” or “the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property.”

As noted above, there is one Impaired class of Claims in the Operations case (Class 3A). Classes 3, 4 and 5 in the SCO Group case are Impaired. So long as at least one Class of Impaired Claims has accepted the Plan, the Plan may nevertheless be confirmed over the rejection by other Impaired Classes because the Plan does not discriminate unfairly and is fair and equitable. Furthermore, if a disputed Claim in Class 4 is ultimately Allowed, Reorganized SCO will pay it in full from (i) the proceeds of the Asset Sale; (ii) profits derived from the Reorganized SCO’s post-confirmation operations over a period of not more than 5 years post-allowance; (iii) proceeds of litigation in which SCO is successful; (iv) the proceeds of recapitalization; or (v) any combination of these options. And, if Reorganized SCO should determine within the five-year period after the last of the Claims in Class 4 are ultimately Allowed or Disallowed that it is unable to pay in full any Class 4 Claim or all Class 4 Claims ultimately Allowed, Reorganized SCO will cancel all of the shares of SCO Group’s stock and issue new shares for the benefit of the Holders of unpaid Class 4 Allowed Claims, which it may deliver to the Clerk of the Bankruptcy Court in full satisfaction of its obligations with respect to these Claims, such stock to be further administered as the Bankruptcy Court should subsequently determine.



If the only class that rejects a plan is an impaired class of equity interests, the plan can nevertheless be confirmed if either: (i) each holder of an interest of such class will receive or retain on account of such interest property of a value, equal to the greater of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled or the value of such interest, or (ii) the holder of any interest that is junior to the interest of such class will not receive or retain any property on account of such junior interest.

In these Chapter 11 Cases, both tests will be satisfied with respect to Claims and/or Equity Interests because each Holder of an Allowed Claim or Allowed Equity Interest will receive on account of such Claim or Interest property of a value, as of the Effective Date of the Plan, equal to either the Allowed amount of such Claim or equal to the greater of the allowed amount of the Holder's final liquidation preference or any fixed redemption price to which such Holder is entitled or the value of such interest. Further, as to Class 5, there are no Equity Interests that are junior to the Interests in Class 5.

*(vii) Best Interests Test*

For a plan to be confirmed, the Bankruptcy Court must determine that the plan is in the best interests of each holder of a claim or interest in any impaired class entitled to vote who has not voted to accept the plan. Accordingly, if an impaired class does not unanimously accept the plan, the best interests test requires the Bankruptcy Court to find that the plan provides to each member of such impaired class a recovery on account of the class member's claim or equity interest that has a value, as of the effective date, at least equal to the value of the distribution that each such member would receive if the debtor were liquidated under Chapter 7 of the Bankruptcy Code on such date. The Plan so provides.

*(viii) Liquidation Under Chapter 7*

After considering the effect that a Chapter 7 liquidation would have on the value of the Debtors' estates, including the costs of and claims resulting from a Chapter 7 liquidation, the adverse effect of a forced sale on the prices of the Debtors' assets, the adverse impact resulting from the departure of the Debtors' employees, and the delay in the distribution of liquidation proceeds, the Debtors have determined that confirmation of the Plan will provide each Holder of an Allowed Claim or Interest with a recovery that is no less than such Holder would receive pursuant to liquidation of the Debtors' assets under Chapter 7 liquidation.

The Debtors also believe that the value of any distributions to each Class of Allowed Claims and Allowed Interests in a Chapter 7 case would be less than the value of distributions under the Plan because such distributions in a Chapter 7 case would not occur for a substantial period of time. Distribution of the proceeds of the liquidation could be delayed. The Debtors have attached as **Exhibit 2** an unaudited liquidation analysis (the "Liquidation Analysis") demonstrating the basis for the Debtors' belief as stated herein.

The Liquidation Analysis was prepared in conjunction with developing the Plan. The Liquidation Analysis has not been audited or reviewed by an independent public accountant, and accordingly, no opinion, or any other form of assurance, has been expressed in connection

therewith. Capitalized terms not otherwise defined herein, in the Plan or in the Disclosure Statement have been italicized to indicate that such terms reflect line item captions in the Liquidation Analysis.

The Liquidation Analysis reflects the Debtors' estimate of the value that may be realized by the Estate and the potential recoveries that may be available to the holders of Allowed Claims and Allowed Equity Interests if the Debtors' assets were liquidated and the proceeds distributed in accordance with Chapter 7 of the Bankruptcy Code. Underlying the Liquidation Analysis are a number of estimates and assumptions that, although developed and considered reasonable by the Debtors, are subject to significant inherent economic and competitive uncertainties and contingencies beyond the control of the Debtors, and are based upon assumptions with respect to liquidation decisions that are subject to change. Accordingly, there can be no assurance that the values and the costs reflected in the Liquidation Analysis would be realized if the Debtors' assets were, in fact, to undergo such a liquidation.

For purposes of the Liquidation Analysis, it is assumed hypothetically that a plan of reorganization could not ultimately be confirmed at the Confirmation Hearing and, on or about that date ("Hypothetical Conversion Date"), the Chapter 11 Cases are converted to cases under Chapter 7. In connection with the hypothetical commencement of the Chapter 7 case, it is assumed that the role of the debtors in possession terminates on or about the Hypothetical Conversion Date and a Chapter 7 trustee is appointed to, among other things, manage the liquidation process, pursue various causes of action belonging to the debtors, defend against causes of action brought against the debtors and distribute liquidation proceeds and other assets ultimately realized (if any) in accordance with the priorities established by the Bankruptcy Code. In such a case, the Chapter 7 trustee would have to consider, and ultimately pursue, one or more recovery strategies other than the Plan.

The Plan is premised upon a combination of the Asset Sale and a go-forward business strategy. Obviously, a going concern price is generally far higher than a sale by a Chapter 7 trustee once a company ceases operations, which is the common method of sale in Chapter 7 cases. If the Plan is not confirmed, and the Chapter 11 Cases were to be converted to Chapter 7, the going concern auction to be conducted by the Debtors would not go forward. Moreover, if the proposed going concern auction proves unsuccessful, in the Debtors' business judgment, the Reorganized Debtors will continue their operations with the unsold assets and repay the remaining debts, if any (those in Classes 3, 3A and 4) over time in full. In contrast, the Chapter 7 trustee would have to consider, and ultimately pursue, one or more alternative recovery strategies, most likely involving a piecemeal auction of assets unattached to an operating business platform.

Costs that have been specifically identified in connection with the recovery and/or liquidation of individual asset classes have been deducted in order to arrive at the amounts reflected in the Liquidation Analysis. The classification and dollar amounts of estimated Allowed Claims and Allowed Equity Interests incorporated within the Liquidation Analysis are subject to modification pending further analysis and the receipt of additional information with respect to such Claims and Equity Interests. **Claims and Equity Interests that are disputed by SCO or which SCO believes are unlikely to be Allowed are not reflected in the Liquidation Analysis.**

Based upon the Debtors' analysis of the impact and distributions under Chapter 7, the Debtors believe that the Plan meets the requirements of section 1129(a)(7) of the Bankruptcy Code because, under the Plan, all Holders of Claims and of Class 5 Equity Interests will receive distributions that have a value at least equal to the value of the distribution that each such Person would receive if the Debtors' assets were liquidated under Chapter 7 of the Bankruptcy Code.

In contrast, if the Cases were to be converted to Chapter 7 cases, the Debtors' estates would incur the costs of a commission, allowed by statute, to the Chapter 7 trustee(s), as well as the costs of counsel and other professionals retained by such trustee(s). The Debtors believe that such costs would exceed the amount of Plan expenses that will be incurred in implementing the Plan since the Estates also would be obligated to pay all unpaid expenses incurred by the Debtors during these Chapter 11 Cases (such as compensation for Professionals) which are allowed in the Chapter 7 cases. In addition, if the Debtors' assets were liquidated under Chapter 7 and a judgment were entered awarding the sufficiently large amounts of damages as asserted by Novell or IBM in the Novell/IBM Litigation, or by Red Hat in the Red Hat Litigation, Equity Interests could be wiped out and creditors holding Claims in Classes 3, 3A or 4 would not recover 100% of their Allowed Claims.

Accordingly, the Debtors believe that Holders of Claims in Classes 3, 3A and 4 and Equity Interests in Class 5 will receive more than they would receive if the Chapter 11 Cases were converted to Chapter 7 cases.

(ix) *Projections Considering the Effect of a Successful Auction*

The Debtors attach as **Exhibit 3** unaudited projections (the "Asset Sale Projections") relating to the Asset Sale. The Asset Sale Projections have not been audited or reviewed by an independent public accountant, and accordingly, no opinion, or any other form of assurance, has been expressed in connection therewith.

The Asset Sale Projections reflect the Debtors' estimate of the value that may be realized by the Estates and the potential recoveries that may be available to the holders of Allowed Claims and Allowed Equity Interests if the Debtors' Mobility and OpenServer business assets were sold through an asset auction and the proceeds distributed to satisfy the Allowed Claims against the Debtors' Estates. Underlying the Asset Sale Projections are a number of estimates and assumptions that, although developed and considered reasonable by the Debtors, are subject to significant inherent economic and competitive uncertainties and contingencies beyond the control of the Debtors, and are based upon assumptions with respect to Asset Sale decisions that are subject to change. One assumption is that the Debtors' remaining assets after the Asset Sale are the pursuit of its legal claims against Novell, IBM, AutoZone and others, as well as UnixWare and the balance of its Unix-based business(es). Accordingly, there can be no assurance that the values and the costs reflected in the Asset Sale Projections would be realized if the Debtors' Mobility and OpenServer Assets were, in fact, to undergo such a sale.

The Asset Sale Projections presume that the sale of the Mobility and OpenServer assets will generate \$6 million, which is the minimum aggregate amount the Debtors propose as a baseline bid.

Based upon the Debtors' projections of the impact and distributions emanating from the Asset Sale, the Debtors believe that the Holders of Equity Interests would receive an aggregate distribution of approximately \$568,400. This would allow SCO Group to retain approximately \$1,550,000 to pursue its legal claims in the Pending Litigation and other legal claims.

(x) *Projections Related to Go-Forward Business Strategy*

The Debtors attach as **Exhibit 4** unaudited projections (the "Go Forward Projections") relating to their go-forward business strategy. The Go Forward Projections have not been audited or reviewed by an independent public accountant, and accordingly, no opinion, or any other form of assurance, has been expressed in connection therewith.

With the go-forward business strategy, SCO will continue to sell and provide basic support for its core UnixWare, OpenServer and mobile products.

The projections attached as Exhibit 4 are based upon the following key assumptions:

## UNIX AND MOBILITY REVENUES

UNIX and Mobility revenues are projected from existing traditional UNIX installed servers and customers and new mobility partnerships. Below are the following revenue streams:

- Legacy UnixWare and OpenServer
- Mobility Revenue with SCO Cloud Server, FCmobilelife and FCtasks for iPhone
- SCO UNIX Virtual featuring VMware and Hyper-V
- True-up License Revenue
- Engineering and Professional Services Revenue
- Revised Pricing Model

### Legacy UnixWare and OpenServer

Revenues from the Debtors' ongoing customer base have been diminishing over the past several years. This has been the result of strong competition in the marketplace, primarily from Linux. However, demand for SCO's products continues to exist due to the products stability and the customer's proprietary and mission critical software applications which run on these platforms.

Revenue projections for the traditional UnixWare and OpenServer products are estimated to decline at 20% rate as customers move to a virtualization offering. The following represents estimated revenues from the traditional UnixWare and OpenServer products.

Legacy UnixWare and OpenServer	Quarters for the Fiscal Yr 2009				FY 2009	FY 2010	FY 2011
	Q1-2009	Q2-2009	Q3-2009	Q4-2009			
	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>
	\$ 2,957	\$ 3,696	\$ 3,696	\$ 3,696	\$ 14,043	\$ 11,235	\$ 8,988

## SCO Mobile Business Revenue

The SCO Mobile products revenue will come from the SCO Cloud Server solution and two promising web and mobile based applications: FCmobilelife and FCtasks for iPhone. FCmobilelife is hosted on the SCO Cloud Server. FCmobilelife by FranklinCovey is a mobile and web task management, appointment scheduling, and goal setting application for a single person or a group which will run on any web browser, Java, Windows mobile or iPhone Smartphone.

FCtasks for iPhone by FranklinCovey is a simple task management utility using the FranklinCovey methodology for the iPhone. Users can create and prioritize tasks using text or voice. The millions of iPhone users are potential customers. FCtasks will be an ideal upgrade path to the more robust, collaborative FCmobilelife application. Anticipated selling price for FCtasks is \$5 on the iTunes App Store.

SCO Mobile revenues are projected at:

	SCO Mobile revenues						
	Q1-2009	Q2-2009	Q3-2009	Q4-2009	FY 2009	FY 2010	FY 2011
	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>
Estimated revenues (in thousands)	\$ -	\$ 137	\$ 158	\$ 188	\$ 483	\$ 579	\$ 695

## SCO UNIX Virtual

A viable near term business opportunity for SCO is in providing virtualization solutions to our customers. The SCO customer base relies on the UNIX platform to run their proprietary and mission critical business applications. Through virtualization solutions such as VMware and Hyper V, the SCO customer would be able to upgrade their aging server hardware without moving to a new application platform. This allows the customer to run its legacy applications on modern hardware without incurring substantial costs to modify its existing proprietary applications.

Revenues for SCO UNIX Virtual (i.e.: OpenServer V or UnixWare V) utilizing either VMware or Hyper-V are based on the following assumptions:

- 2.5 million UNIX installed servers which include a significant number of active and potential candidates for virtualization.
- SCO UNIX Virtual becomes available in Q3 FY
- SCO UNIX Virtual is priced at a one-time license upgrade of approximately \$500 per server.
- SCO UNIX Virtual penetration on servers is projected at 1% in FY 2009 and ramping to 23.5% in FY 2011.
- SCO UNIX Virtual projected revenues are \$3.0 million in FY 2009 growing to \$18.0 million in FY 2011

UNIX Operating System Virtualization							
	Q1-2009	Q2-2009	Q3-2009	Q4-2009	FY 2009	FY 2010	FY 2011
	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>
Estimated revenues (in thousands)	\$ -	\$ -	\$ 750	\$ 750	\$ 1,500	\$ 13,500	\$ 18,000

## True-Up License Revenue

Projected true-up license revenue is as follows:

True-up License Fees							
	Q1-2009	Q2-2009	Q3-2009	Q4-2009	FY 2009	FY 2010	FY 2011
	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>
Estimated True-up License Fees (in thousands)	\$ -	\$ 400	\$ 500	\$ 600	\$ 1,500	\$ 9,925	\$ 15,138

## Engineering and Professional Services Revenue

UNIX Service Revenues are projected based upon at 15% of UNIX product revenues. Projected service revenues are \$2.6 million for FY 2009 growing to \$4.0 million for year FY 2011.

UNIX Professional Service Revenues							
	Q1-2009	Q2-2009	Q3-2009	Q4-2009	FY 2009	FY 2010	FY 2011
	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>
Estimated revenues (in thousands)	\$ 443	\$ 554	\$ 667	\$ 667	\$ 2,332	\$ 3,710	\$ 4,048

## Revised Pricing Model

The revised pricing and discount strategy will generate incremental revenue for the UNIX and Virtualization products while offering additional value to our customers. New pricing strategies include product bundles, paid in full licenses, annual maintenance and subscription agreements and updated OEM (original equipment manufacturer) and VSP (vertical solution provider) license programs. Pricing changes for FCMobileLife (mobile team productivity application) takes effect January 1, 2009.

## OPERATING EXPENSES

Projected operating expenses are based upon reducing the Debtors' operating costs by approximately 20-30% (comparing FY 2008 with projected operating expenses for FY 2009). The company has current leased facilities in New Jersey, Utah, France, England, Germany, and India.

UNIX operating expenses are based on the following assumptions:

- Cost of products sold is projected to be at 8% of sales.
- Cost of services sold is projected to be 46% of service revenues

### **Sales and marketing expense**

In order to achieve the projected revenues, it is projected that for every \$1 million of additional revenues, an additional sales head count is required. Accordingly, sales personnel are hired each year to facilitate the projected sales growth. As revenues grow, marketing activities and budget will increase.

### **Research and development expense**

Research and development hires will be made based on incremental revenues to the business to deliver both UNIX and Mobile solutions.

### **SCOsource expense**

The company will continue to incur costs as it pursues its legal claims in the Pending Litigation and other matters. The legal fees for the Pending Litigation, including the appeal in the Novell Litigation, have been paid in full.

### **General and Administrative Expense**

General and administrative expense is budgeted for nine employees covering functions for the CEO, CFO, IT, human resources, accounting, and finance. General and administrative include IT infrastructure costs, corporate office facility expense, telecommunication expense, office and supplies expense, public company costs such as SEC reporting, independent auditor, legal counsel, D&O insurance and other costs.

	Quarters for the Fiscal Yr 2009				FY 2009	FY 2010	FY 2011
	Q1-2009	Q2-2009	Q3-2009	Q4-2009			
	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>	<i>Estimated</i>
(In thousands) General and administrative	\$ (1,242)	\$ (1,381)	\$ (904)	\$ (868)	\$ (4,060)	\$ (4,264)	\$ (4,477)

### **Depreciation and Amortization expense**

Depreciation and amortization expense are projected from the Debtors' fixed asset system as well as new capital expenditure requirements. The Debtors estimate capital expenditures of \$60,000 for FY 2009 and \$100,000 for each of FY 2010 and FY 2011.

### **Tax Provision**

Taxes are projected to be at an effective rate of 4.3% based upon historical experience for foreign taxes. Federal taxes are not projected as the company has significant net operating loss carry forwards that would eliminate that tax liability.

## **Pre-Petition Claims**

The Debtors have projected that through execution of the Plan, that the pre-petition claims of \$2,373,261 excluding claims associated with the Pending Litigation will be satisfied by end of FY 2010, if not earlier. It is further projected that in the event that SCO Group is unsuccessful in its appeal of the Novell judgment that the cash flows generated from the business will be able to satisfy the Novell judgment of \$2,547,817 plus all accrued interest at the end of FY 2011.

### *(xi) Feasibility*

Confirmation of a Chapter 11 plan requires the plan proponent to show that the completion of the Plan is feasible. In the words of the statute, "Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan." 11 U.S.C. § 1129(a)(11). To address this requirement, a disclosure statement for a plan of reorganization typically includes information (including relevant financial information) about the debtor's future business operations, including projections for future profits, and the assumptions that underlie those projections. As referenced above, these projections are attached in pro forma format, as Exhibits 3 and 4.

### *(xii) Compliance with the Applicable Provisions of the Bankruptcy Code*

Section 1129(a)(1) of the Bankruptcy Code requires that the Plan comply with the applicable provisions of the Bankruptcy Code. The Debtors have considered each of these issues in the development of the Plan and believe that the Plan complies with all applicable provisions of the Bankruptcy Code.

### *(xiii) Effect of Confirmation of the Plan*

The Plan will be binding upon and inure to the benefit of the Debtors, all present and former Holders of Claims and Equity Interests, and their respective successors and assigns.

Except as otherwise provided in the Plan or in the Confirmation Order, confirmation of the Plan discharges the Debtors from any debt that arose before the date of Confirmation, in addition to any debt of a kind that arose under section 502(g), 502(h), or 502(i) of the Bankruptcy Code whether or not a proof of claim on such debt was filed or is deemed filed; whether or not the Claim is or was Allowed; and whether or not the Holder of the Claim accepted the Plan. As of the Confirmation Date, except as otherwise provided in the Plan or the Confirmation Order, all Persons that have held, currently hold or may hold a Claim, Equity Interest or other debt or liability that is treated pursuant to the terms of the Plan are enjoined from taking any of the following actions on account of any such Claims, Equity Interests, debts or liabilities, other than actions brought to enforce any rights or obligations under the Plan, against the Debtors, the Debtors' Estates, or Property of the Estates: (i) commencing or continuing in any manner any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff or right of recoupment of any kind



against any debt, liability or obligation; and (v) 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.

## **VII. ALTERNATIVES TO CONFIRMATION OF THE PLAN**

The Debtors believe that the Plan affords Holders of Claims and Equity Interests the potential for the greatest realization on the Debtors' assets and, therefore, is in the best interests of such Holders. If the Plan is not confirmed, the only viable alternatives are dismissal of the Chapter 11 Cases or conversion to Chapter 7 of the Bankruptcy Code. Neither of these alternatives is preferable to confirmation of the Plan.

If the Chapter 11 Cases were dismissed, Creditors would revert to a "race to the courthouse", the result being that Creditors would not receive a fair and equitable distribution of the Remaining Assets of the Debtors. As set forth in the Debtors' liquidation analysis above, the Debtors believe that this Plan provides a greater recovery to Creditors than would be achieved in a Chapter 7 since, at the very least, conversion to Chapter 7 necessarily imposes an additional layer of expenses on the Debtors' estates, reduces the funds available for unsecured Creditors and may result in a substantial delay in payment to Creditors. Therefore, a Chapter 7 case is not an attractive or superior alternative to the Plan.

## **VIII. RISK FACTORS**

### **(A) Failure to Satisfy Vote Requirement**

The Debtors are seeking the required 2/3 majority vote by amount of Claims and the simple majority by number of Claims in Classes 3, 3A and 4 and the 2/3 majority of the Holders of Equity Interests in Class 5. If the Plan does not receive sufficient votes for Confirmation pursuant to section 1129(a) of the Bankruptcy Code, then the Debtors will seek to have the Plan confirmed under the "cramdown" procedures set forth in section 1129(b) of the Bankruptcy Code.

### **(B) The Plan May Not Be Accepted or Confirmed**

While the Debtors believe that the Plan is confirmable under the standards set forth in 11 U.S.C. § 1129, there can be no guarantee that the Bankruptcy Court will find the Plan to be confirmable. If the Plan is not confirmed, it is possible that an alternative plan can be negotiated and presented to the Bankruptcy Court for approval; however, there can be assurance that any alternative plan would be confirmed, that the Chapter 11 Cases would not be converted to a liquidation, or that any alternative plan of reorganization could or would be formulated on terms as favorable to the Creditors and holders of Equity Interests as the terms of the Plan.

### **(C) Outcome of Pending Litigation**

The SCO Group suffered a setback in the Novell Litigation in 2007 that has significantly limited the Company's claims and there can be no assurance that the Company will prevail in the appeal of the Novell Litigation or the other actions subject of the Pending Litigation. However, SCO believes it has a strong basis for its appeal as explained above.

## **IX. CERTAIN UNITED STATES FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN**

A summary description of certain United States (“U.S.”) federal income tax consequences of the Plan is provided below. The description of tax consequences below is for informational purposes only and, due to lack of definitive judicial or administrative authority or interpretation, substantial uncertainties exist with respect to various U.S. federal income tax consequences of the Plan as discussed herein. Only the potential material U.S. federal income tax consequences of the Plan to the Debtors and to a hypothetical investor typical of the holders of Claims and Interests who are entitled to vote to confirm or reject the Plan (i.e., the Holders of Class 3 Claims, the Holders of Class 3A Claims, the Holders of the Class 4 Claims and the Holders of Class 5 Equity Interests) are described below. No opinion of counsel has been sought or obtained with respect to any tax consequences of the Plan, and no tax opinion is being given in this Disclosure Statement. No rulings or determinations of the Internal Revenue Service (the “IRS”) or any other tax authorities have been obtained or sought with respect to any tax consequences of the Plan, and the discussion below is not binding upon the IRS or such other authorities. No representations are being made regarding the particular tax consequences of the confirmation and consummation of the Plan to the Debtors or to any holder of Class 3 Claims, Class 3A Claims, Class 4 Claims or Class 5 Equity Interests. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position from any discussed herein.

The discussion of the U.S. federal income tax consequences below is based on the Internal Revenue Code of 1986, as amended (the “Tax Code”), Treasury Regulations promulgated and proposed thereunder, judicial decisions, and administrative rulings and pronouncements of the IRS and other applicable authorities, all as in effect on the date hereof. Legislative, judicial or administrative changes or interpretations enacted or promulgated in the future could alter or modify the analyses and conclusions set forth below. It cannot be predicted at this time whether any tax legislation will be enacted or, if enacted, whether any tax law changes contained therein would affect the tax consequences to the holders of Class 3 Claims, Class 3A Claims, Class 4 Claims or Class 5 Equity Interests. Any such changes or interpretations may be retroactive and could significantly affect the U.S. federal income tax consequences discussed below.

**THIS DISCUSSION DOES NOT ADDRESS FOREIGN, STATE OR LOCAL TAX CONSEQUENCES OF THE PLAN, NOR DOES IT PURPORT TO ADDRESS THE U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN TO SPECIAL CLASSES OF TAXPAYERS (SUCH AS FOREIGN ENTITIES, NONRESIDENT ALIEN INDIVIDUALS, PASS-THROUGH ENTITIES SUCH AS PARTNERSHIPS AND HOLDERS THROUGH SUCH PASS-THROUGH ENTITIES, S CORPORATIONS, MUTUAL FUNDS, INSURANCE COMPANIES, FINANCIAL INSTITUTIONS, SMALL BUSINESS INVESTMENT COMPANIES, REGULATED INVESTMENT COMPANIES, CERTAIN SECURITIES TRADERS, BROKER-DEALERS AND TAX-EXEMPT ORGANIZATIONS). FURTHERMORE, ESTATE AND GIFT TAX ISSUES ARE NOT ADDRESSED HEREIN AND TAX CONSEQUENCES RELATING TO THE ALTERNATIVE MINIMUM TAX ARE GENERALLY NOT DISCUSSED HEREIN.**

**NO REPRESENTATIONS ARE MADE REGARDING THE PARTICULAR TAX CONSEQUENCES OF THE PLAN TO ANY HOLDER OF CLASS 3 CLAIMS, CLASS 3A CLAIMS, CLASS 4 CLAIMS OR CLASS 5 EQUITY INTERESTS. EACH HOLDER OF A CLASS 3 CLAIM, A CLASS 3A CLAIM, A CLASS 4 CLAIM OR A CLASS 5 EQUITY INTEREST IS STRONGLY URGED TO CONSULT ITS OWN TAX ADVISOR REGARDING THE U.S. FEDERAL, STATE, LOCAL AND FOREIGN TAX CONSEQUENCES OF THE TRANSACTIONS DESCRIBED HEREIN AND IN THE PLAN.**

**(A) U.S. Federal Income Tax Consequences to the Debtors**

*(i) Cancellation of Indebtedness Income*

Generally, the discharge of a debt obligation owed by a debtor for an amount less than the “adjusted issue price” (in most cases, the amount the debtor received on incurring the obligation, with certain adjustments) gives rise to cancellation of indebtedness (“COD”) income to the debtor, subject to certain rules and exceptions. However, when the discharge of indebtedness occurs pursuant to a plan approved by the Bankruptcy Court in a case under Title 11 of the Bankruptcy Code (e.g., a Chapter 11 case), there is a special rule under the Tax Code which specifically excludes from a debtor’s income the amount of such discharged indebtedness (the so-called “bankruptcy exception”). Instead, certain of the debtor’s tax attributes otherwise available generally must be reduced by the amount of the COD income that is excluded from the debtor’s income. Such reduction of tax attributes generally occurs in the following order: (i) net operating losses and net operating loss carryovers (collectively, “NOLs”), (ii) general business credits, (iii) minimum tax credits, (iv) capital loss carryovers, (v) the tax basis of debtor’s property (both depreciable and non-depreciable), (vi) passive activity loss and credit carryovers, and (v) foreign tax credit carryovers (although there is a special rule in the Tax Code which allows the debtor to elect to first reduce the tax basis of depreciable property before having to reduce NOLs and other attributes).

Under current Income Tax Regulations, the availability of the “bankruptcy exception” in the context of a consolidated group is made on a “separate entity” basis and not on a “consolidated group” basis. In addition, with regard to tax attribute reduction in the context of a consolidated group, recently adopted Income Tax Regulations (1.1502-28) suggest a “hybrid” method of attribute reduction. Under these regulations, the tax attributes of the separate member having excluded COD income is first reduced, followed by a reduction of the tax attributes of the subsidiary members (to the extent of any stock basis reduction). Then, to the extent a member’s excluded COD income exceeds that member’s separate entity tax attributes, the consolidated tax attributes allocated to the other members are proportionately reduced.

It is not clear to what extent, if any, the Debtors will have COD income under the Plan since there is no certainty as to whether the Class 4 Claims ultimately Allowed will be paid in full, although the Debtors believe that any such COD income generated by the debt cancellation occurring at that time pursuant to the Plan should be excluded from their income under the so-called “bankruptcy exception” assuming that the Plan is confirmed with respect to the Debtors.

It is also not clear to what extent, if any, the Debtors' tax attributes (including its NOLs) will be reduced pursuant to the application of these rules.

(ii) *Net Operating Losses ("NOLs") – Tax Code Section 382*

With regard to NOLs, Section 382 of the Tax Code provides certain limitations on a corporation's utilization of its NOLs to offset its post-Effective Date taxable income if there has been a more than 50% ownership change in the corporation involving one or more 5% shareholders (as that term is defined in that Section) over a statutorily prescribed period of time ("ownership change"). Under this limitation ("Section 382 limitation"), a corporation which undergoes an "ownership change" [and which satisfies certain "continuity of business" requirements for a 2-year period following the ownership change (i.e., either continues the old loss corporation's historic business or uses a significant portion of the old loss corporation's assets in a business)] may utilize a portion of its pre-"ownership change" NOLs against its post-"ownership change" income each year in an amount equal to the value of the corporation at the time of the ownership change (subject to special rules which may apply in determining such value) multiplied by the long-term tax-exempt bond rate prescribed by the IRS. Special rules apply to "built-in" gains and "built-in" losses. The failure to satisfy this "2-year continuity of business" requirement would result in a Section 382 limitation of zero, resulting in a complete loss of utilization of pre-"ownership change" NOLs against post-"ownership change" income (subject to the special rules dealing with "built-in gains" and "built-in losses").

In the case of a consolidated group, NOLs and Section 382 limitation are determined on a "consolidated group" basis. The value of the loss group for purposes of determining the Section 382 limitation is the value, immediately before the ownership change, of the stock of each member (excluding stock of a member owned by another member), subject to adjustment as provided in Section 382 of the Tax Code. Likewise, continuity of business enterprise is determined on a "consolidated group" basis (i.e., a single-entity basis). If a member of the consolidated group leaves the group, a portion of the consolidated NOL is allocated to the departing member under certain rules set forth in the Income Tax Regulations.

Section 382(l)(5) of the Tax Code provides an exception that allows corporations that undergo an "ownership change" in a Chapter 11 plan of reorganization to avoid the general Section 382 limitation on their NOLs. Rather, corporations that qualify under Section 382(l)(5) of the Tax Code are subject to special rules. To qualify for this exception, the shareholders and "qualified creditors" of the corporation (i.e., creditors whose claims were held at least 18 months before the petition filing date or "ordinary course" trade creditors) must own 50% or more of the value and voting power of the reorganized company after the "ownership change."

If the Plan is confirmed, the Debtors anticipate that there will not be an "ownership change" (within the meaning of Section 382 of the Tax Code) on the Effective Date of the Plan. However, there can be no assurance that there will not be an "ownership change" (within the meaning of Section 382 of the Tax Code) at such time, if any, that the shares of the SCO Group's stock are delivered to the Holders of Allowed Class 4 Claims in which case the Debtors' ability to use any pre-"ownership change" NOLs to offset their income in any post-"ownership change" taxable year (and in the portion of the taxable year of the "ownership change" following said "ownership change") to which such a carryover is made generally (subject to various exceptions

and adjustments) will be limited, unless the Holders of the Allowed Class 4 Claims qualify as “qualified creditors” (as that term is described in the immediately preceding paragraph) of SCO Group in which case the special Section 382(l)(5) rules of the Tax Code (described in the immediately preceding paragraph) may apply. **The Holders of Class 4 Claims should consult with their own tax advisors regarding the U.S. federal income tax consequences to the Debtors and to them in the event that new shares of SCO Group stock are issued to them.**

(iii) *Gain or Loss on Sale of Debtors’ Assets*

The Debtors will generally recognize gain or loss on the sale of the selected SCO assets referenced herein (i.e., the Mobility and OpenServer businesses) in an amount equal to the difference between the amount realized (generally, the amount of cash and the fair market value of any other property received by the Debtors plus any liabilities of the Debtors’ assumed by the purchasers) and the Debtors’ tax basis in the assets sold. Such gain, if any may be reduced (or eliminated) to the extent that the Debtors have sufficient NOLs.

**(B) U.S. Federal Income Tax Consequences to the Holders of Class 3 and 3A Claims**

(i) *No Gain or Loss Upon Confirmation of the Plan*

The Holders of the Class 3 and 3A Claims will generally not recognize any gain or loss with respect to their Claims at the time the Plan is confirmed. **The Holders of Class 3 and 3A Claims should consult with their own tax advisors regarding the U.S. federal income tax consequences to them resulting from the confirmation of the Plan.**

(ii) *Gain or Loss Upon Payment of Allowed Class 3 and 3A Claims*

The Holders of the Class 3 and 3A Claims will generally recognize gain or loss with respect to their Claims equal to the difference between the amount realized (generally, the amount of cash and the fair market value of any other property received, but excluding any interest) with respect to their Class 3 or 3A Claims and their respective tax bases in their Class 3 or 3A Claims. In general, the character of any gain or loss recognized by any such Holder of a Class 3 or 3A Claim (“Class 3 Claimholder”) as capital or ordinary will depend on whether the Class 3 or 3A Claim constitutes a capital asset in the hands of such Claimholder. The Holders of the Class 3 and 3A Claims will recognize ordinary income on any portion of the payment representing interest in accordance with their respective method of tax accounting. **The Holders of Class 3 and 3A Claims should consult with their own tax advisors regarding the U.S. federal income tax consequences to them resulting from the payment of Allowed Class 3 and 3A Claims.**

**(C) U.S. Federal Income Tax Consequences to the Holders of Class 4 Claims**

(i) *No Gain or Loss Upon Confirmation of the Plan*

The Holders of the Class 4 Claims will generally not recognize any gain or loss with respect to their Claims at the time the Plan is confirmed. **The Holders of Class 4 Claims should**

**consult with their own tax advisors regarding the U.S. federal income tax consequences to them resulting from the confirmation of the Plan.**

- (ii) *Gain or Loss Upon Payment of Allowed Class 4 Claims or Upon Delivery of New Shares of SCO Group's Stock to the Holders of Allowed Class 4 Claims*

The Holders of the Class 4 Claims will generally recognize gain or loss with respect to their Class 4 Claims equal to the difference between the amount realized (generally, the amount of cash and the fair market value of any other property received) with respect to their Class 4 Claims and their respective tax bases in their Class 4 Claims. In general, the character of any gain or loss recognized by any such Holder of a Class 4 Claim ("Class 4 Claimholder") as capital or ordinary will depend on whether the Class 4 Claim constitutes a capital asset in the hands of such Claimholder. In addition, there may be additional U.S. federal income tax consequences to the Class 4 Claimholders resulting from the cancellation of the old shares of stock of SCO Group and the issuance of new shares of stock of SCO Group to or for the benefit of any of the Class 4 Claimholders. **The Holders of Class 4 Claims should consult with their own tax advisors regarding the U.S. federal income tax consequences to them resulting from the payment of Allowed Class 4 Claims or their receipt of any shares of SCO Group's stock.**

**(D) U.S. Federal Income Tax Consequences to the Holders of Class 5 Equity Interests**

- (i) *No Gain or Loss Upon Confirmation of the Plan*

The Holders of the Class 5 Equity Interests will generally not recognize any gain or loss with respect to their Class 5 Equity Interests at the time the Plan is confirmed. **The Holders of Class 5 Equity Interests should consult with their own tax advisors regarding the U.S. federal income tax consequences to them resulting from the confirmation of the Plan.**

- (ii) *The Cancellation of the Existing Shares of SCO Group's Stock and the Issuance of New Shares of SCO Group's Stock to the Holders of Unpaid Class 4 Allowed Claims*

The Holders of the Class 5 Equity Interests will generally recognize a loss with respect to the cancellation of their shares of SCO Group stock to the extent that their tax basis in such shares exceeds the amount realized upon the cancellation of these shares. In general, the character of any such loss recognized by any such Holder of a Class 5 Equity Interest ("Class 5 Equity Interest Holder") will depend on whether the Class 5 Equity Interest constitutes a capital asset in the hands of such Class 5 Equity Interest Holder. Assuming that the loss qualifies as a capital loss, such loss would either be a long-term capital loss or a short-term capital loss depending on the holding period for such Class 5 Equity Interest. **The Holders of Class 5 Equity Interests should consult with their own tax advisors regarding the U.S. federal income tax consequences to them resulting from any cancellation of their shares of SCO Group's stock.**

*(iii) Modification of Existing Stock Options*

The modification of the existing Stock Options in SCO Group, as of the Effective Date of the Plan, should be treated for U.S. federal income tax purposes as a new grant of Stock Options (“New Stock Options”), effective as of the effective date of the Plan. The Stock Options are non-qualified stock options for U.S. federal income tax purposes (i.e., they are not Incentive Stock Options as defined in Section 422 of the Tax Code). Since these New Stock Options will be “out-of-the-money” Stock Options at the time of this new grant (i.e., the exercise price of the New Stock Options will not be less than the then fair market value of the underlying shares of the stock of SCO Group), and assuming that these New Stock Options will not have a “readily ascertainable fair market value” at the time they are granted (i.e., at the effective date of the Plan) within the meaning of Section 83 of the Tax Code and the Treasury Regulations promulgated thereunder, there should be no adverse U.S. income tax consequences to the holders of the Stock Options at the time of modification, provided that all requirements of Section 409A of the Tax Code and the Treasury Regulations promulgated thereunder are otherwise complied with. Rather, the U.S. federal income tax consequences to such holders under Section 83 of the Tax Code and the Treasury Regulations promulgated thereunder shall generally apply at the time the New Stock Options are exercised or otherwise disposed of, i.e., for example, if any of the New Stock Options are exercised, the holder(s) of the New Stock Options which are exercised will realize, generally at the time of exercise, compensation income (ordinary income) in such amount as determined under Section 83 of the Tax Code and the Treasury Regulations thereunder, subject to applicable income tax withholding. **The holders of the New Stock Options should consult with their own tax advisors regarding the U.S. federal income tax consequences to them resulting from the transactions described in this paragraph.**

**(E) Information Reporting and Backup Withholding**

Certain payments, including payments in respect of accrued interest or market discount, are generally subject to information reporting by the payor to the IRS. Moreover, such reportable payments are subject to backup withholding under certain circumstances. Under the Tax Code’s backup withholding rules, a U.S. holder may be subject to backup withholding at the applicable rate with respect to certain distributions or payments pursuant to the Plan, unless the holder: (i) comes within certain exempt categories (which generally include corporations) and, when required, demonstrates this fact or (ii) provides a correct U.S. taxpayer identification number and certifies under penalty of perjury that the holder is a U.S. person, the taxpayer identification number is correct and that the holder is not subject to backup withholding because of a failure to report all dividend and interest income.

Backup withholding is not an additional tax. Amounts withheld under the backup withholding rules may be credited against a holder’s U.S. federal income tax liability, and a holder may obtain a refund of any excess amounts withheld under the backup withholding rules by filing an appropriate claim for refund with the IRS.

**(F) Importance of Obtaining Professional Tax Assistance**

THE FOREGOING DISCUSSION IS INTENDED ONLY AS A SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING WITH A TAX PROFESSIONAL. THE ABOVE DISCUSSION IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT TAX ADVICE. THE TAX CONSEQUENCES ARE IN MANY CASES UNCERTAIN AND MAY VARY DEPENDING ON A HOLDER'S PARTICULAR CIRCUMSTANCES. ACCORDINGLY, HOLDERS ARE STRONGLY URGED TO CONSULT THEIR OWN TAX ADVISORS ABOUT THE U.S. FEDERAL, STATE, LOCAL AND FOREIGN INCOME AND OTHER TAX CONSEQUENCES OF THE PLAN, INCLUDING WITH RESPECT TO TAX REPORTING AND RECORD KEEPING REQUIREMENTS.

**(G) Circular 230 Disclaimer**

THE IRS REQUIRES WRITTEN ADVICE REGARDING ONE OR MORE U.S. FEDERAL TAX ISSUES TO MEET CERTAIN STANDARDS. THOSE STANDARDS INVOLVE A DETAILED AND CAREFUL ANALYSIS OF THE FACTS AND APPLICABLE LAW WHICH WE EXPECT WOULD BE TIME CONSUMING AND COSTLY. THE DEBTORS HAVE NOT MADE AND HAVE NOT BEEN ASKED TO MAKE THAT TYPE OF ANALYSIS IN CONNECTION WITH ANY ADVICE GIVEN IN THE FOREGOING DISCUSSION. AS A RESULT, ANY U.S. FEDERAL TAX ADVICE RENDERED IN THE FOREGOING DISCUSSION IS NOT INTENDED OR WRITTEN TO BE USED AND CANNOT BE USED FOR THE PURPOSE OF AVOIDING PENALTIES THAT MAY BE IMPOSED BY THE IRS.

**X. RECOMMENDATION**

The Debtors strongly recommend that all Holders of Claims entitled to vote and Equity Interests receiving a Ballot vote in favor of the Plan. The Debtors believe that this Plan is in the best interests of Creditors and Equity Interests. The Plan as structured, among other things, allows Creditors to be paid in full (with accrued interest if applicable), and Equity Interests to obtain at least the present value of their stock or stock equivalents (i.e., options).

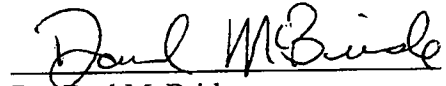
**XI. CONCLUSION**

FOR ALL THE REASONS SET FORTH IN THIS DISCLOSURE STATEMENT, THE DEBTORS BELIEVE THAT CONFIRMATION OF THE PLAN IS PREFERABLE TO ALL OTHER ALTERNATIVES. THE DEBTORS URGE ALL CREDITORS AND EQUITY INTERESTS ENTITLED TO VOTE TO ACCEPT THE PLAN AND TO EVIDENCE SUCH ACCEPTANCE BY RETURNING THEIR BALLOTS SO THAT THEY WILL BE ACTUALLY RECEIVED BY 4:00 P.M., PREVAILING EASTERN TIME, ON \_\_\_\_\_, 2009.



Dated: January 8, 2009

THE SCO GROUP, INC. &  
SCO OPERATIONS, INC.

A handwritten signature in cursive script, reading "Darl McBride", written over a horizontal line.

By: Darl McBride

Their: Chief Executive Officer

## **EXHIBITS TO DISCLOSURE STATEMENT**

- Exhibit A:** Debtors' Amended Joint Plan of Reorganization
- Exhibit 1:** List of Debtors' Accounts Receivable Derived from Debtors' Schedules
- Exhibit 2:** Liquidation Analysis
- Exhibit 3:** Asset Sale Projections
- Exhibit 4:** Go Forward Projections