

**UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

In re:	:	
	:	
BRASOTA MORTGAGE COMPANY,	:	8:05-bk-06215-KRM
INC., and	:	(LEAD CASE)
	:	8:05-bk-06218-KRM
FUNDING MANAGEMENT	:	
CORPORATION,	:	(Substantively Consolidated)
	:	
Debtors	/	

JOINT PLAN OF LIQUIDATION

Dated: October 16, 2006

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INTRODUCTION

Gerard A. McHale, Jr., as Chapter 11 Trustee for the Debtor (the “Trustee”) and the Official Committee of Unsecured Creditors (the “Committee”), hereby jointly propose this plan of liquidation in accordance with Chapter 11 of the U.S. Bankruptcy Code.

ARTICLE I.

DEFINITIONS AND INTERPRETATION

1.1. Definitions.

The capitalized terms used herein and in the Disclosure Statement shall have the respective meanings set forth below:

(a) “Administrative Claim” means a Claim incurred by the Debtor or the Trustee on behalf of the Estate on or after the Petition Date and before the Effective Date for a cost or expense of administration in the Chapter 11 Case entitled to priority under sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, Fee Claims.

(b) “Affiliate” means, with respect to any Person, all Persons that would fall within the definition assigned to such term in section 101(2) of the Bankruptcy Code, if such Person was a debtor in a case under the Bankruptcy Code.

(c) “Allowed,” when used

(1) with respect to any Claim, except for a Claim that is an Administrative Claim, means such Claim (A) to the extent it is listed in the Schedules as undisputed, liquidated and not contingent and is not a Contested Claim as of the Effective Date; (B) to the extent it is set forth pursuant to any stipulation or agreement that has been approved by Final Order of the Bankruptcy Court; (C) to the extent it is a Contested Claim as of the Effective Date, proof of which was filed timely with the Bankruptcy Court, and (I) as to which no objection was filed by the Objection Deadline, unless the Bankruptcy Court determines that such Claim is to be determined in a forum other than the Bankruptcy Court, in which case such Claim shall not become Allowed until determined by Final Order of such other forum and allowed by Final Order of the Bankruptcy Court, or (II) as to which an objection was filed by the Objection Deadline, to the extent allowed by a Final Order; or (D) which otherwise becomes an Allowed Claim as provided in the Plan; and

(2) with respect to an Administrative Claim, means an Administrative Claim that has become “Allowed” pursuant to the procedures set forth in Article XI of the Plan.

(d) “Assets” means all of the Debtor’s right, title and interest of any nature in property, wherever located, as specified in section 541 of the Bankruptcy Code.

(e) “Assigned Causes of Action” means all claims, rights, actions, causes of action, liabilities, obligations, suits, debts, remedies, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages or judgments, whether known or unknown and whether asserted or unasserted, held or owned by Investors that are being assigned to the Trustee pursuant to Section 7.5 of this Plan.

(f) “Avoidance Actions” means all claims, rights, and Causes of Action in favor of the Estate that arise under the Bankruptcy Code, including, but not limited to, all preference, fraudulent transfer, and other avoidance claims, rights, and Causes of Action arising under chapter 5 of the Bankruptcy Code.

(g) “Bankruptcy Code” means the Bankruptcy Reform Act of 1978, as amended and codified at title 11 of the United States Code and as applicable to the Chapter 11 Case.

(h) “Bankruptcy Court” means the Bankruptcy Court for the Middle District of Florida, Tampa Division or such other court having jurisdiction over this Chapter 11 Case.

(i) “Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as prescribed by the United States Supreme Court pursuant to section 2075 of title 28 of the United States Code and as applicable to the Chapter 11 Case.

(j) “Bar Date” means the deadline for filing proofs of claim as established by the Bankruptcy Court, i.e. October 31, 2005.

(k) “Bar Date Order” means the Order Granting Chapter 11 Trustee’s Motion to Establish Deadline for Filing Proofs of Claim and Permitting Notice of Publication (Doc. 398).

(l) “BMC Realty” means BMC Realty, Inc.

(m) “Borrower” means any Person (as that term is defined in Section 101 of the Bankruptcy Code) that has borrowed money from the Debtor.

(n) “Borrower Mortgage” means any mortgage given by a Borrower to the Debtor to secure repayment of a Borrower Note.

(o) “Borrower Note” means any promissory note issued by a Borrower to the Debtor in connection with a loan from the Debtor.

(p) “Brasota Mortgage” means Brasota Mortgage Company, Inc., a Florida Corporation.

(q) “Brasota Partnership” means Brasota Mortgage Company, a Florida general partnership.

(r) “Business Day” means any day on which commercial banks are open for business in New York, New York.

(s) “Case” means the case under chapter 11 of the Bankruptcy Code pending before the Bankruptcy Court with respect to the Debtor.

(t) “Cash” means legal tender of the United States of America or readily marketable direct obligations of, or obligations guaranteed by, the United States of America, commercial paper of domestic corporations carrying a Moody’s Rating of “A” or better, or equivalent rating of any other nationally recognized rating service, or interest-bearing certificates of deposit or other similar obligations of domestic banks or other financial institutions having a shareholders’ equity or equivalent capital of not less than Two Hundred Million Dollars (\$200,000,000), having maturities of not more than one (1) year, at the then best generally available rates of interest for like amounts and like periods.

(u) “Causes of Action” means all claims, rights, actions, causes of action, liabilities, obligations, suits, debts, remedies, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages or judgments, whether known or unknown and whether asserted or unasserted.

(v) “Claim” means (i) any right to payment from the Debtor, whether or not such right is known or unknown, reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; (ii) any right to an equitable remedy for breach of performance if such breach gives rise to a right of payment from a Debtor, whether or not such right to an equitable remedy is known or unknown, reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured; or (iii) any right under section 502(h) of the Bankruptcy Code.

(w) “Committee” means the Official Committee of Unsecured Creditors appointed in the Case by the U.S. Trustee.

(x) “Confirmation Date” means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order.

(y) “Confirmation Hearing” means the hearing held by the Bankruptcy Court, as it may be continued from time to time, on confirmation of the Plan.

(z) “Confirmation Order” means the order of the Bankruptcy Court confirming the Plan.

(aa) “Contested Claim” means a Claim (A) to the extent it is listed in the Schedules as disputed, contingent, or unliquidated, in whole or in part; (B) that is listed in the Schedules as undisputed, liquidated, and not contingent and as to which a proof of claim has been filed with the Bankruptcy Court, to the extent the proof of claim amount exceeds the scheduled amount; (C) that is not listed in the Schedules, but as to which a proof of claim has been filed with the Bankruptcy Court; or (D) as to which an objection has been filed on or before the Effective Date; provided, that a Claim that is Allowed by Final Order or pursuant to the Plan on or before the Effective Date shall not be a Contested Claim.

(bb) “Debtor” means, collectively, the substantively consolidated entities Brasota Mortgage Company, Inc., Funding Management Corporation, Brasota Mortgage Company and BMC Realty, Inc.

(cc) “Disallowed” when used with respect to a Claim, means a Claim, or such portion of a Claim, that has been disallowed by a Final Order of the Bankruptcy Court.

(dd) “Disclosure Statement” means the disclosure statement respecting the Plan, as approved by the Bankruptcy Court as containing adequate information in accordance with section 1125 of the Bankruptcy Code, all exhibits and annexes thereto and any amendments or modifications thereof.

(ee) “Distribution” means the payments or distributions under the Plan of property or interests in property to the holders of Allowed Claims. Unless otherwise agreed by the holder of an Allowed Claim any payment in Cash to be made by the Trustee shall be made, at the election of the Trustee, by check drawn on a domestic bank or by wire transfer from a domestic bank.

(ff) “Distribution Date” means, with respect to any Claim, the Effective Date, if such Claim is then an Allowed Claim, and such later dates as determined by the Trustee.

(gg) “Effective Date” means the date on which all of the conditions specified in Section 12.2 of the Plan have been satisfied or waived.

(hh) “Equity Interest” means any ownership or equity interest in any of the Debtor.

(ii) “Estate” means the estate of the Debtor created by section 541 of the Bankruptcy Code upon the commencement of the Case.

(jj) “Estimated Claims Order” means any order of the Bankruptcy Court estimating any Claim or the aggregate amount of all Claims in any class created under the Plan to aid in the confirmation of the Plan, or the calculation of distributions under the Plan.

(kk) “Existing Brasota Stock” means all issued and outstanding shares of common stock of the Debtor.

(ll) “Fee Application” means an application of a Professional Person under section 330 or 503 of the Bankruptcy Code for final allowance of compensation and reimbursement of expenses incurred in the Case from the Petition Date to the Effective Date.

(mm) “Fee Claim” means a Claim that is the subject of a Fee Application filed in the Case.

(nn) “Final Order” means (i) an order or judgment of the Bankruptcy Court or any other court or adjudicative body as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending, or (ii) in the event that an appeal, writ of certiorari, reargument, or rehearing thereof has been sought, such order of the Bankruptcy Court or any other court or adjudicative body shall have been affirmed by the highest court to which such order was appealed, or certiorari has been denied, or from which reargument or rehearing was sought, and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired; provided, that no order shall fail to be a Final Order solely because of the possibility that a motion pursuant to Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 may be filed with respect to such order.

(oo) “Funding Management” means Funding Management Corporation, a Florida corporation.

(pp) “Insider” shall have the meaning assigned to it under Section 101 of the Bankruptcy Code and shall include the following Persons: William J. Morrison, Gloria Morrison, Lisa Morrison, William Manfull, Robert Coey, Mosalene Hottman, Jeffrey Hottman, A. Claire Thibodeau, George Thibodeau, MTS Partnership, Carolyn Thibodeau, Mary Freeman, Tyglo Services, Inc. and any of their estates, successors, assigns, relatives, Insiders or Affiliates.

(qq) “Internal Revenue Code” means the Internal Revenue Code of 1986, as amended, and any applicable rulings, regulations (including temporary

and proposed regulations) promulgated thereunder, judicial decisions, and notices, announcements, and other releases of the United States Treasury Department or the IRS.

(rr) “Investor” means any holder of an Unsecured Claim who deposited with or provided funds to the Debtor with the expectation that the Debtor might use the funds to make mortgage loans or other investments and with the expectation, based on the Debtor’s written or oral promise, of receiving monthly “interest” payments based on the amount of funds deposited or provided without regard to the form of documentation actually used.

(ss) “Investor Note” means the document(s) issued or provided by the Debtor to an Investor evidencing the funds invested with the Debtor.

(tt) “Involuntary Case” means the Chapter 7 involuntary bankruptcy commenced as a result of the involuntary petition filed on February 18, 2005.

(uu) “IRS” means the United States Internal Revenue Service.

(vv) “Lien” means any charge or interest in property to secure payment or performance of a claim, debt or obligation.

(ww) “Morrison Estate” means the probate estate of William J. Morrison opened on September 15, 2006, in the Twelfth Judicial Circuit in and for Manatee County, Florida, as case number 2006-CP-001294.

(xx) “Objection Deadline” means the deadline for filing objections to Claims as set forth in Section 11.1 of the Plan.

(yy) “Order” means an order, judgment or decree made by the Bankruptcy Court.

(zz) “Person” means an individual, corporation, partnership, joint venture, trust, estate, unincorporated association, unincorporated organization, governmental entity, or political subdivision thereof, or any other entity.

(aaa) “Petition Date” means February 18, 2005.

(bbb) “Plan” means this plan of liquidation, either in its present form or as it may be amended, supplemented, or otherwise modified from time to time, and the exhibits and schedules to the foregoing, as the same may be in effect at the time such reference becomes operative.

(ccc) “Priority Claim” means any Claim to the extent such Claim is entitled to priority in right of payment under section 507(a) of the Bankruptcy Code, other than the Secured Claims, Administrative Claims, and Tax Claims.

(ddd) “Pro Rata Share” means the proportion that the amount an Allowed Claim bears to the aggregate amount of all Claims in a particular class, including Contested Claims, but not including Disallowed Claims, (i) as calculated by the Trustee on or before any Distribution Date; or (ii) as determined by the Bankruptcy Court in an Estimated Claims Order, if such an order is sought and obtained.

(eee) “Professional Person” means a Person retained or to be compensated for services rendered or costs incurred on or after the Petition Date and on or prior to the Effective Date pursuant to section 327, 328, 330, 503(b), or 1103 of the Bankruptcy Code in this Case.

(fff) “REO” means real estate owned by the Debtor.

(ggg) “Receiver” means John J. Ray, III of Avidity Partners, LLC, in his capacity as court-appointed receiver of Brasota Mortgage, Brasota Partnership and Funding Management in the Receivership.

(hhh) “Receivership” means the proceedings in the Twelfth Judicial Circuit in and for Manatee County, Florida as case number 2005-CA-723.

(iii) “Schedules” means the schedules of assets and liabilities and the statements of financial affairs filed by the Trustee with the Bankruptcy Court, as required by section 521 of the Bankruptcy Code and the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements may be amended by the Trustee from time to time in accordance with Bankruptcy Rule 1009.

(jjj) “Tax Claims” means a Claim against any of the Debtor that is of a kind specified in Section 507(a)(8) of the Bankruptcy Code.

(kkk) “Unsecured Claim” means any Claim other than Secured Claims, (up to the Allowed amount subject to recoupment or setoff as provided in section 506(a) of the Bankruptcy Code), Administrative Claims, Priority Claims, and Tax Claims.

(lll) “U.S. Trustee” means the Office of the United States Trustee, Region 21, Tampa, Florida.

(mmm) “Voluntary Cases” means those Chapter 11 bankruptcy cases commenced by the filing of voluntary petitions on April 4, 2005.

1.2. Interpretation.

Unless otherwise specified, all section, article, and exhibit references in the Plan are to the respective section in, article of, or exhibit to, the Plan, as the same may be amended, waived, or modified from time to time. The headings in the Plan are for

convenience of reference only and shall not limit or otherwise affect the provisions of the Plan. Words denoting the singular number shall include the plural number and vice versa, and words denoting one gender shall include the other gender. The Disclosure Statement may be referred to for purposes of interpretation to the extent any term or provision of the Plan is determined by the Bankruptcy Court to be ambiguous.

1.3. Application of Definitions and Rules of Construction Contained in the Bankruptcy Code.

Words and terms defined in section 101 of the Bankruptcy Code shall have the same meaning when used in the Plan, unless a different definition is given in the Plan. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan.

1.4. Other Terms.

The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained in the Plan. A term used herein that is not defined herein shall have the meaning ascribed to that term, if any, in the Bankruptcy Code.

ARTICLE II.

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

2.1. Claims and Equity Interests Classified.

For purposes of organization, distribution, voting and all confirmation matters, except as otherwise provided herein, all Claims (except for Administrative Claims and Tax Claims) and all Equity Interests shall be classified as set forth in this Article of the Plan.

2.2. Administrative Claims and Tax Claims.

As provided in section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Tax Claims shall not be classified for purposes of voting or receiving distributions under the Plan. Rather, all such Claims shall be treated separately as unclassified Claims on the terms set forth in Article V of the Plan.

2.3. Claims and Equity Interests.

The Plan classifies the Claims against and Equity Interests in the Debtor as follows:

- (a) Class 1: Secured Claims
- (b) Class 2: Priority Claims

- (c) Class 3: Unsecured Claims
- (d) Class 4: Insider Claims
- (e) Class 5: Equity Interests

ARTICLE III.

IDENTIFICATION OF IMPAIRED CLASSES OF CLAIMS AND EQUITY INTERESTS

3.1. Impaired Classes of Claims and Equity Interests.

Class 1 (Secured Claims) and Class 2 (Priority Claims) are unimpaired under the Plan. Class 3 (Unsecured Claims), Class 4 (Insider Claims) and Class 5 (Equity Interests) are impaired under the Plan.

3.2. Impairment Controversies.

If a controversy arises as to whether any Claim or Equity Interest, or any class of Claims or Equity Interests, is impaired under the Plan, the Bankruptcy Court shall determine such controversy.

ARTICLE IV.

PROVISIONS FOR TREATMENT OF CLAIMS AND EQUITY INTERESTS UNDER THE PLAN

4.1. Treatment of Claims and Equity Interests.

The classes of Claims against and Equity Interests in the Debtor shall be treated under the Plan as follows:

(a) Class 1 –Secured Claims

(1) Classification. Class 1 consists of the Allowed Secured Claims of any Creditor.

(2) Treatment. Holders of Allowed Secured Claims shall be entitled to pursue their *in rem* rights against their collateral, if any, but shall receive no Distribution under this Plan.

(3) Impairment and voting. Class 1 is unimpaired by this Plan and the holders are deemed to have accepted the Plan.

(b) **Class 2 – Priority Claims**

(1) Classification. Class 2 consists of all Allowed Priority Claims.

(2) Treatment. Each holder of an Allowed Priority Claim shall receive on the Distribution Date cash in full satisfaction of its Allowed Priority Claim or such other treatment as may be agreed upon in writing by such holder.

(3) Impairment and voting. Class 2 is unimpaired by this Plan and the holders are deemed to have accepted the Plan.

(c) **Class 3 – Unsecured Claims**

(1) Classification. Class 3 consists of all Unsecured Claims, except Insider Claims.

(2) Treatment. Each holder of an Allowed Unsecured Claim in Class 3 shall receive a Pro Rata Share of all funds generated from the sale, liquidation or collection of Assets, any property of the Estate or Causes of Action after payment or satisfaction of Claims in Classes 1 and 2, Administrative Claims (including operating expenses and post-confirmation fees and expenses) and Tax Claims.

(3) Impairment and voting. Class 3 is impaired by this Plan and the holders are entitled to vote to accept or reject the Plan.

(d) **Class 4 – Insider Claims**

(1) Classification. Class 4 consists of all Claims held by Insiders.

(2) Treatment. Each holder of an Allowed Insider Claim in Class 4 shall receive a Pro Rata Share of all funds remaining, if any, after the payment in full of Allowed Unsecured Claims in Class 3.

(3) Impairment and voting. Class 4 is impaired by this Plan and the holders are entitled to vote to accept or reject the Plan.

(e) **Class 5 – Equity Interests**

(1) Classification. Class 5 consists of all Equity Interests in the Debtor.

(2) Treatment. On the Effective Date, all Equity Interests shall be terminated and effectively cancelled and such holder shall receive nothing on account of their Equity Interest.

(3) Impairment and voting. Class 5 is impaired by this Plan and deemed to have rejected the Plan.

ARTICLE V.

PROVISIONS FOR TREATMENT OF UNCLASSIFIED CLAIMS UNDER THE PLAN

5.1. Treatment of Administrative Claims.

All Administrative Claims shall be treated as follows:

(a) Time for Filing Administrative Claims. The administrative claims bar date is (TBD) as fixed by the Bankruptcy Court's Order Scheduling Hearing on Disclosure Statement, Establishing Disclosure Hearing Procedures, Setting Times for Filing Fee Applications and Establishing Administrative Claims Bar Date entered (TBD) [Document No. ___].

(b) Time for Filing Fee Claims. Each Professional **Person** shall be required to file with the Bankruptcy Court, and serve on all parties required to receive notice, a Fee Application on or before (TBD).

(c) Allowance of Administrative Claims. An Administrative Claim with respect to **which** notice has been properly filed and given pursuant to Section 5.1(a) of the Plan shall become an Allowed Administrative Claim. If an objection is filed, the Administrative Claim shall become an Allowed Administrative Claim only to the extent allowed by Final Order after a hearing to be held on or after the date of the Confirmation Hearing. An Administrative Claim with respect to which a Fee Application has been properly filed pursuant to Section 5.1(b) of the Plan shall become an Allowed Administrative Claim only to the extent allowed by Final Order at a hearing established by the Bankruptcy Court.

(d) Payment of Allowed Administrative Claims. On the Effective Date, each holder of an Allowed Administrative Claim shall receive (i) the amount of such holder's Allowed Claim in one Cash payment, or (ii) such other treatment as may be agreed upon in writing by the Trustee and such holder; provided, that an Administrative Claim representing a liability incurred in the ordinary course of business may be paid at the Trustee's election in the ordinary course of business.

5.2. Treatment of Tax Claims.

On the Effective Date, each holder of an Allowed Tax Claim shall receive one Cash payment in full satisfaction of such holder's Allowed Tax Claim or shall receive such other treatment as may be agreed upon in writing by such holder.

ARTICLE VI.

**ACCEPTANCE OR REJECTION OF THE PLAN;
EFFECT OF REJECTION BY ONE OR MORE
CLASSES OF CLAIMS OR EQUITY INTERESTS**

6.1. Classes Entitled to Vote.

Holders of a Claim in classes 1 or 2 of the Plan are unimpaired and are deemed to have accepted the Plan. Holders of an Equity Interest in Class 5 will receive nothing as a result of their Equity Interest and are therefore deemed to have rejected the Plan. Each holder of a Claim in Classes 3 or 4 of the Plan is impaired and entitled to vote.

6.2. Class Acceptance Requirement.

Only holders of Claims that are of record and as to which an objection is not pending shall be entitled to accept or reject the Plan. A class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount and more than one-half (1/2) in number of the Allowed Claims in such class that have voted on the Plan.

ARTICLE VII.

MEANS FOR IMPLEMENTATION OF THE PLAN

7.1. Liquidation of the Debtor.

The Trustee shall remain in place. All Equity Interests of the Debtor will be terminated and effectively cancelled as of the Effective Date. The Assets, all property of the Estate and all Causes of Action will be liquidated and collected by the Trustee under the supervision of the Bankruptcy Court for distribution in accordance with this Plan.

7.2. Funding of the Plan

This Plan will be funded through the continued liquidation of the Assets including REO, the Debtor's mortgage portfolio and through the recovery of assets from Insiders, recipients of fraudulent and preferential transfers and any other parties or sources of recovery.

7.3. Rescission of Instruments and Agreements.

Upon the occurrence of the Effective Date, except as otherwise expressly provided herein, all promissory notes, instruments, indentures, or agreements, including Investor Notes and related assignments of mortgage, evidencing, giving rise to, or governing any Claim shall be deemed revoked, rescinded, voided and annulled without further act or action under any applicable agreement, law, regulation, order, or rule, and the obligations of the Debtor, if any, under such promissory notes, instruments, indentures, or agreements, including Investor Notes and related assignments of mortgage, shall be void *ab initio*. This provision shall not have any affect or impact on any Borrower Notes or Borrower Mortgages.

7.4. The Debtor's Causes of Action.

Except as otherwise provided in the Plan, all Causes of Action assertable by the Debtor and any non-Debtor affiliates, including, but not limited to, Avoidance Actions, shall be irrevocably vested in and assertable by the Trustee. The failure to specifically identify any Causes of Action in the Disclosure Statement or otherwise shall not in any way estop the Trustee or the Estate from asserting such Causes of Action.

7.5. Assigned Causes of Action/Investor Release

On the Effective Date, all Assigned Causes of Action against any of the Debtor's officers, any Insiders, Gloria Morrison, or the estate of William J. Morrison, arising out of any Investor's investment with the Debtor, shall be assigned to the Trustee to pursue such Assigned Causes of Action for the benefit of all creditors and the Estate. No separate assignment documents shall be required and the Order confirming this Plan shall act as the operative assignment document. Nothing further shall be required to effectuate the assignment of Assigned Causes of Action to the Estate.

In exchange for the involuntary assignment of the Assigned Causes of Action, any Investor with an Allowed Claim in this Case shall be released from any unfiled proceeding or cause of action based upon preference or fraudulent transfer for any payments made by the Debtor on account of any investment. Consistent with such release, the Trustee waives any related objection under section 502(d) of the Bankruptcy Code with respect to such Investors.

7.6. Distributions under the Plan.

The Trustee shall make all Distributions required under the Plan. Whenever any Distribution to be made under this Plan shall be due on a day other than a Business Day, such Distribution shall instead be made, without interest, on the immediately succeeding Business Day, but shall be deemed to have been made on the date due. For federal income tax purposes, a Distribution will be allocated to the principal amount of a Claim first and then, to the extent the Distribution exceeds the principal amount of the Claim, to the portion of the Claim representing accrued but unpaid interest.

7.7. Timing of Distributions under the Plan.

Unless set forth herein otherwise, the Trustee shall distribute all Cash Assets, less a reasonable reserve to be determined by the Trustee and the Committee, on or about the Effective Date, with subsequent Distribution to be made as additional Cash Assets become available and as agreed by the Trustee and the Committee.

7.8. Address for Delivery of Distributions under the Plan.

Subject to Bankruptcy Rule 9010, any Distribution or delivery to a holder of an Allowed Claim shall be made at the address of such holder as set forth on the Proof of Claim filed by such holder (or at the last known address of such holder if no Proof of Claim is filed or if the Trustee has been notified of a change of address). If any holder's Distribution or payment is returned to the Trustee as undeliverable, no further Distributions or payments to such holder shall be made unless and until the Trustee is notified of such holder's then current address within three (3) months after such Distribution or payment was returned, at which time any missed Distribution or payment shall be made to such holder without interest.

7.9. Distributions under Fifteen Dollars.

No Distribution of less than fifteen dollars (\$15.00) shall be made by the Trustee to the holder of any Claim unless a request therefor is made in writing to the Trustee. If no request is made as provided in the preceding sentence, all such Distributions shall revert to the Trustee for distribution to holders of Unsecured Claims in accordance with the Plan.

7.10. Time Bar to Cash Payments.

Checks issued in respect of Allowed Claims shall be null and void if not negotiated within ninety (90) days after the date of issuance thereof. Requests for reissuance of any check shall be made directly to the Trustee by the holder of the Allowed Claim with respect to which such check originally was issued. Any request in respect of such a voided check shall be made on or before one hundred eighty (180) days from the date of issuance of such check. If no claim is made as provided in the preceding sentence, all Claims in respect of void checks shall be discharged and forever barred and such unclaimed Distributions or payments shall revert to the Estate for the benefit of holders of Unsecured Claims.

7.11. Manner of Payment under the Plan.

Unless the Person receiving a Distribution agrees otherwise, any Distribution to be made in Cash under the Plan shall be made, at the election of the Trustee, by check drawn on a domestic bank or by wire transfer from a domestic bank.

7.12. Expenses Incurred on or after the Effective Date and Claims of the Trustee and Committee.

Except as otherwise ordered by the Bankruptcy Court or as provided herein, the amount of any reasonable expenses incurred by the Trustee or Committee on or after the Effective Date (including, but not limited to, taxes) to be paid to or by the Trustee shall be withheld from the amounts to be distributed by the Trustee until such compensation and expenses are satisfied in full. Consequently, amounts actually received by holders of Allowed Claims may be less than the gross distributions provided for under the Plan by the amount of distributions to the Trustee, or its agents, for the payment of reimbursement claims of the Trustee or the Committee. Professional fees and expenses incurred by the Trustee or the Committee from and after the Effective Date in connection with the effectuation of the Plan shall be paid in the ordinary course after ten (10) days notice to the Trustee, Committee and U.S. Trustee. Formal fee applications shall not be required. Any dispute regarding compensation or expenses shall be resolved by agreement of the parties (Trustee, Committee and U.S. Trustee) or if the parties are unable to agree, as determined by the Bankruptcy Court.

7.13. Fractional Distributions.

Notwithstanding anything to the contrary contained herein, no cash payments of fractions of cents will be made. Fractional cents shall be rounded to the nearest whole cent (with any amount of .5 cent or less to be rounded down).

7.14. Effectuating Documents and Further Transactions.

The Trustee shall be authorized to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan and any notes or securities issued pursuant to the Plan.

ARTICLE VIII.

EFFECT OF CONFIRMATION

8.1. Discharge of the Debtor.

Confirmation of the Plan does not discharge the Debtor because (a) the Plan is a liquidating plan; (b) the Debtor will not engage in business after consummation of the Plan; and (c) the Debtor would not be entitled to a discharge if this were a case under chapter 7. However, the rights afforded in the Plan and the treatment of all Claims and Equity Interests herein shall be the exclusive method of enforcing any Claim or Equity Interest against the Estate or the property or Assets of the Estate. Except as otherwise expressly set forth herein, all Persons, whether holding an Allowed Claim in this Case or not, shall be permanently enjoined and forever barred from taking any action against the Estate or any property or Assets of the Estate with respect to any Claim against the Debtor or the Estate that arose before the Effective Date.

With respect to Investors, section 7.5 of this Plan contains a compromise which contemplates and implements an involuntary assignment of certain claims to the Estate in

exchange for a release of certain causes of action or objections in favor of the Estate. Without such compromise and the corresponding release, the Claims of Investors in this Case would remain disputed and contingent. In light of the compromise and the anticipated Distributions, the Claims of such Investors are deemed fully satisfied.

8.2. Automatic Stay

Notwithstanding confirmation of this Plan, the automatic stay shall remain in full force and effect and all property and Assets of the Estate shall remain property of this Estate and shall not revert in the Debtor.

ARTICLE IX.

THE TRUSTEE

9.1. Powers and Duties.

Pursuant to the terms and provisions of the Plan, the Trustee shall be empowered and directed to (a) take all steps and execute all instruments and documents necessary to make Distributions to holders of Allowed Claims; (b) make distributions contemplated by the Plan; (c) comply with the Plan and the obligations thereunder; (d) employ, retain, or replace professionals to represent it with respect to his responsibilities; (e) object to Claims as specified in Article XI hereof, and prosecute such objections; (f) compromise and settle any issue or dispute regarding the amount, validity, priority, treatment, or Allowance of any Claim as provided in Article XI hereof; (g) make annual and other periodic reports regarding the status of Distributions under the Plan to the holders of Allowed Claims that are outstanding against the Debtor at such time, such reports to be made available upon request to the holders of any Contested Claim; and (h) exercise such other powers as may be vested in the Trustee pursuant to any agreement, order of the Bankruptcy Court, or the Plan.

Notwithstanding that the Case is a case under Chapter 11 of the Bankruptcy Code, upon the Confirmation Date, the Trustee shall have all powers granted to a debtor-in-possession, Chapter 7 trustee or Chapter 11 trustee under the Bankruptcy Code, including but not limited to, all powers, rights and privileges under Sections 363, 364, 365, 505, 510, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 723, 1107, 1141, 1142 and 1146 of the Bankruptcy Code. Any and all sales of Assets after the Confirmation Date shall be deemed sales under this Plan and shall be exempt from any stamp tax or documentary tax pursuant to section 1146(c) of the Bankruptcy Code.

9.2. Distributions.

Pursuant to the terms and provisions of the Plan, the Trustee shall on the Distribution Date, make the required Distributions specified under the Plan. To the extent all or a portion of a Contested Claim becomes an Allowed Claim subsequent to the Effective Date, the Trustee shall distribute to the holder of such Contested Claim the applicable interim or initial distributions within thirty (30) days of such Contested Claim becoming an Allowed Claim.

9.3. Exculpation.

Except as otherwise provided in this Section, the Trustee, together with his officers, directors, employees, agents, professionals and representatives, are hereby exculpated by all Persons, holders of Claims and Equity Interests, and all other parties in interest, from any and all Causes of Action, and other assertions of liability (including breach of fiduciary duty) arising out of the discharge of the powers and duties conferred upon the Trustee by the Plan, any Final Order of the Bankruptcy Court entered pursuant to or in the furtherance of the Plan, or applicable law, except solely for actions or omissions arising out of the Trustee's willful misconduct or gross negligence. No holder of a Claim or an Equity Interest, or representative thereof, shall have or pursue any claim or cause of action (a) against the Trustee or his employees, agents, or representatives for making payments or Distributions in accordance with the Plan, or for liquidating the remaining Estate Assets to make Distributions under the Plan, or (b) against any holder of a Claim for receiving or retaining payments or transfers of assets as provided for by the Plan. Nothing contained in this Section shall preclude or impair any holder of an Allowed Claim from bringing an action in the Bankruptcy Court against the Trustee to compel the making of Distributions contemplated by the Plan on account of such Claim

ARTICLE X.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

10.1. Rejection of Executory Contracts and Unexpired Leases.

Any executory contracts or unexpired leases of the Debtor that (a) have not been approved by the Bankruptcy Court prior to the Confirmation Date for assumption and assignment or rejected by the Trustee, and (b) are not the subject of pending motions to assume or reject on the Confirmation Date, shall be deemed to have been rejected by the Trustee. The Plan shall constitute a motion to reject such executory contracts and unexpired leases, and the Estate shall have no liability thereunder except as is specifically provided in the Plan. Entry of the Confirmation Order by the Clerk of the Bankruptcy Court shall constitute approval of such rejections pursuant to section 365(a) of the Bankruptcy Code and a finding by the Bankruptcy Court that each such rejected executory contract or unexpired lease is burdensome, and that the rejection thereof is in the best interest of the Debtor, the Estate, and all parties in interest in the Case.

10.2. Claims Arising from Rejection or Termination.

Claims created by the rejection of executory contracts or unexpired leases or the expiration or termination of any executory contract or unexpired lease prior to the Confirmation Date must be filed with the Bankruptcy Court and served on the Trustee (a) in the case of an executory contract or unexpired lease rejected by the Debtor or Trustee prior to the Confirmation Date, in accordance with the Bar Date Order or the respective Order authorizing such rejection, or (b) in the case of an executory contract or unexpired lease that (i) was terminated or expired by its terms prior to the Confirmation Date, or (ii) is deemed rejected pursuant to Section 10.1 of the Plan, no later than thirty (30) days after the Confirmation Date, or (c) in the case of an executory contract or unexpired lease that is rejected by the Trustee after the Confirmation Date, within thirty (30) days after the entry of an order of the Bankruptcy Court authorizing and approving such rejection. Any such Claims for which a proof of claim is not filed and served within such time will be forever barred from assertion and shall not be enforceable against the Debtor, the Estate, or any of their Assets, properties, or interests in property. Unless otherwise ordered by the Bankruptcy Court, all such Claims that are timely filed as provided herein shall be treated as Unsecured Claims under the Plan subject to objection by the Trustee or Committee.

ARTICLE XI.

**PROCEDURES FOR RESOLVING
AND TREATING CONTESTED CLAIMS**

11.1. Objection Deadline.

As soon as practicable, but in no event later than ninety (90) days after the Effective Date (subject to being extended by the Bankruptcy Court upon motion of the Trustee without notice or a hearing), objections to Claims shall be filed with the Bankruptcy Court and served upon the holders of each of the Claims to which objections are made.

11.2. Prosecution of Contested Claims.

The Trustee or Committee may object to the allowance of Claims filed with the Bankruptcy Court with respect to which liability is disputed in whole or in part. All objections that are filed and prosecuted as provided herein shall be litigated to Final Order or compromised and settled in accordance with Section 11.3 of the Plan.

11.3. Claims Settlement Guidelines.

Notwithstanding any requirements that may be imposed pursuant to Bankruptcy Rule 9019, from and after the Effective Date, all Claims and all claims that the Trustee or Committee has asserted against other parties may be compromised and settled according to the following procedures:

(a) Subject to subsection 11.3(b) hereof, the following settlements or compromises do not require the **review** or approval of the Bankruptcy Court or any other party in interest:

(1) The settlement or compromise of a Claim pursuant to which such Claim is Allowed in an amount of \$50,000 or less; and

(2) The settlement or compromise of a Claim where the difference between the amount of the Claim listed on the Schedules and the amount of the Claim proposed to be Allowed under the settlement is \$50,000 or less; and

(3) The settlement or compromise of a claim in favor of the Trustee where the difference between the Trustee's demand and the amount of the settlement is less than \$50,000.

(b) The following settlements or compromises shall be submitted to the Bankruptcy Court for approval:

(1) Any settlement or compromise not described in subsection 11.3(a) hereof; and

(2) Any settlement or compromise of a Claim or a claim asserted by the Trustee or Committee that involves an "Insider."

11.4. No Distributions Pending Allowance.

Notwithstanding any other provision of the Plan, no payment or Distribution shall be made with respect to any Claim to the extent it is a Contested Claim unless and until such Contested Claim becomes an Allowed Claim, subject to the Estate's setoff rights as provided in Section 14.10 of the Plan.

11.5. Distributions After Allowance.

Payments and Distributions to each holder of a Contested Claim, to the extent that such Claim ultimately becomes Allowed, shall be made in accordance with the provision of the Plan governing the class of Claims to which the respective holder belongs.

11.6. Estimation of Claims.

The Trustee or Committee may, at any time, request that the Bankruptcy Court estimate any Contested Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Trustee has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Contested Claim, that estimated

amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Trustee may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

ARTICLE XII.

CONDITIONS PRECEDENT TO CONFIRMATION OF THE PLAN AND THE OCCURRENCE OF THE EFFECTIVE DATE

12.1. Conditions Precedent to Confirmation.

The Clerk of the Bankruptcy Court shall have entered an order or orders, including the Confirmation Order, authorizing the Trustee to execute, implement, and to take all actions otherwise necessary or appropriate to give effect to, the transactions contemplated by the Confirmation Order.

12.2. Conditions Precedent to the Occurrence of the Effective Date.

The Confirmation Order shall have been entered by the Clerk of the Bankruptcy Court, be in full force and effect and not be subject to any stay or injunction.

12.3. Waiver of Conditions.

The Trustee and the Committee, together, may waive any of the conditions set forth in Sections 12.1 or 12.2 of the Plan.

ARTICLE XIII.

RETENTION OF JURISDICTION

13.1. Pursuant to sections 105(a) and 1142 of the Bankruptcy Code and Bankruptcy Rule 9027, the Bankruptcy Court shall retain and shall have the broadest jurisdiction over any and all matters related to this Case or in any way effecting the liquidation, including any issue, matter or proceeding (a) arising under the Bankruptcy Code, (b) arising in or related to the Case or the Plan, (c) relating to property of the Estate, Causes of Action, or Assigned Causes of Action, (d) relating to Insiders, or (e) that relates to or has any effect upon any of the following:

- (1) To hear and determine any and all motions or applications pending on the Confirmation Date or thereafter brought in accordance with Article X hereof for the rejection of executory contracts or unexpired leases to which any of the Debtor is a party, or with respect to which the Debtor may be liable, and to

hear and determine any and all Claims resulting therefrom or from the expiration or termination of any executory contract or unexpired lease;

(2) To determine any and all adversary proceedings, applications, motions, and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Trustee, or the Committee after the Effective Date, including, without express or implied limitation, any application to the Bankruptcy Court relating to any proceedings to avoid or recover any preferences, fraudulent transfers, or other voidable transfers, or otherwise to recover assets for the benefit of the creditors;

(3) To hear and determine any objections to the allowance of Claims, whether filed, asserted, or made before or after the Effective Date, including, without express or implied limitation, to hear and determine any objections to the classification of any Claim and to allow, disallow or estimate any Contested Claim in whole or in part;

(4) To issue such orders in aid of execution of the Plan to the extent authorized or contemplated by section 1142 of the Bankruptcy Code;

(5) To consider any modifications of the Plan, remedy any defect or omission, or reconcile any inconsistency in any order of the Bankruptcy Court, including, without limitation, the Confirmation Order;

(6) To hear and determine all applications for allowances of compensation and reimbursement of expenses of professionals under sections 330 and 331 of the Bankruptcy Code and any other fees and expenses authorized to be paid or reimbursed under the Plan or the Bankruptcy Code;

(7) To hear and determine all controversies, suits, and disputes that may relate to, impact upon, or arise in connection with the Plan (and all documents, instruments, agreements, schedules, and exhibits thereto) or their interpretation, implementation, enforcement, or consummation;

(8) To hear and determine all controversies, suits, and disputes that may relate to, impact upon, or arise in connection with the Confirmation Order (and all exhibits to the Plan) or its interpretation, implementation, enforcement, or consummation;

(9) To the extent that Bankruptcy Court approval is required, to consider and act on the compromise and settlement of any Claim or cause of action by or against the Estate;

(10) To determine such other matters that may be set forth in the Plan, or the Confirmation Order, or that may arise in connection with the Plan, or the Confirmation Order;

(11) To hear and determine matters concerning state, local, and federal taxes, fines, penalties, or additions to taxes for which the Trustee, or the Estate may be liable, directly or indirectly, in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

(12) To hear and determine all controversies, suits, and disputes that may relate to, impact upon, or arise in connection with any setoff and/or recoupment rights of the Trustee or any Person;

(13) To hear and determine all controversies, suits, and disputes that may relate to, impact upon, or arise in connection with Causes of Action in favor of the Estate (including Avoidance Actions and Assigned Causes of Action) commenced by the Trustee before, or the Trustee or the Committee, as the case may be, after the Effective Date;

(14) To enter an order or final decree closing the Case;

(15) To determine such other issues or matters and for such other purposes as may be provided in the Confirmation Order;

(16) To issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person with consummation, implementation or enforcement of the Plan or the Confirmation Order; and

(17) To hear and determine any other issues or matters related hereto and not inconsistent with the Bankruptcy Code.

Confirmation of this Plan shall not be construed so as to narrow or limit the jurisdiction of the Bankruptcy Court in any way.

ARTICLE XIV.

MISCELLANEOUS PROVISIONS

14.1. Payment of Statutory Fees.

All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing on confirmation of the Plan, shall be paid by the Trustee on or before the Effective Date. Any such fees accrued after the Effective Date will constitute an Allowed Administrative Claim, be treated in accordance with Section 5.1 of the Plan, and be paid in the ordinary course.

14.2. Dissolution of the Committee

The Committee shall remain in existence after the Effective Date to assist the Trustee and perform the same duties as required of an official committee of unsecured

creditors as provided in Section 1103 of the Bankruptcy Code. The Committee shall be dissolved on a date to be determined by agreement between the Committee and the Trustee.

14.3. Notices.

Any notices, requests, and demands required or permitted to be provided under the Plan, in order to be effective, shall be in writing (including, without express or implied limitation, by facsimile transmission), and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

IF TO THE TRUSTEE:
Gerard A. McHale, Jr., Trustee
c/o Angelina Lim, Esq.
Johnson Pope Bokor Ruppel & Burns LLP
P.O. Box 1368
Clearwater, FL 33757
Fax: (727) 443-6548

IF TO THE COMMITTEE:
W. Keith Fendrick, Esq.
FOLEY & LARDNER LLP
100 N. Tampa Street
Suite 2700
Tampa, Florida 33602
Fax: (813) 221-4210

14.4. Headings.

The headings used in the Plan are inserted for convenience only, and neither constitute a portion of the Plan nor in any manner affect the construction of the provisions of the Plan.

14.5. Governing Law.

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules), the laws of the State of Florida, without giving effect to the conflicts of laws principles thereof, shall govern the construction of the Plan and any agreements, documents, and instruments executed in connection with the Plan, except as otherwise expressly provided in such instruments, agreements or documents.

14.6. Notice of Entry of Confirmation Order and Relevant Dates.

Promptly upon entry of the Confirmation Order, the Trustee shall serve on all known parties in interest and holders of Claims, notice of the entry of the Confirmation Order and all relevant deadlines and dates under the Plan, including, but not limited to, any deadline for filing notice of Administrative Claims (Section 5.1 hereof), and any deadline for filing rejection damage claims (Section 10.2 hereof).

14.7. No Interest or Attorneys' Fees.

Except as expressly stated in the Plan, or as allowed by the Bankruptcy Court, no interest, penalty or late charge arising after the Petition Date, and no award or reimbursement of attorneys fees or related expenses or disbursements, shall be allowed on, or in connection with, any Claim.

14.8. Modification of the Plan.

As provided in section 1127 of the Bankruptcy Code, modification of the Plan may be proposed in writing by the Trustee or Committee at any time before confirmation provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code, and the Trustee and Committee shall have complied with section 1125 of the Bankruptcy Code. The Trustee or the Committee may modify the Plan at any time after confirmation and before substantial consummation, provided that the Plan, as modified, meets the requirements of sections 1122 and 1123 of the Bankruptcy Code and the Bankruptcy Court, after notice and a hearing, confirms the Plan as modified under section 1129 of the Bankruptcy Code, and the circumstances warrant such modifications. A holder of a Claim that has accepted or rejected the Plan shall be deemed to have accepted or rejected, as the case may be, such Plan as modified, unless, within the time fixed by the Bankruptcy Court, such holder changes its previous acceptance or rejection.

14.9. Revocation of Plan.

The Trustee and the Committee, together, reserve the right to revoke and withdraw the Plan prior to the occurrence of the Effective Date. If the Trustee and Committee revoke or withdraw the Plan or if the Effective Date does not occur, then the Plan and all settlements set forth in the Plan shall be deemed null and void and nothing contained herein shall be deemed to constitute a waiver or release of any Claims against or equity interests in the Debtor or to prejudice in any manner the rights of the Estate or any Person in any other further proceedings involving the Debtor.

14.10. Setoff Rights.

In the event that the Estate has a claim of any nature whatsoever against the holder of a Claim, the Trustee may, but is not required to, setoff against the Claim (and any payments or other Distributions to be made in respect of such Claim hereunder) the Estate's claim against the holder, unless any such Claim is or will be released under the Plan, subject to the provisions of section 553 of the Bankruptcy Code. Neither the failure

to setoff nor the allowance of any Claim under the Plan shall constitute a waiver or release of any claims that the Estate may have against the holder of a Claim.

14.11. Compliance with Tax Requirements.

In connection with the Plan, the Trustee shall comply with all withholding and reporting requirements imposed by federal, state, local, and foreign taxing authorities and all Distributions hereunder shall be subject to such withholding and reporting requirements. Notwithstanding the above, each holder of an Allowed Claim that is to receive a Distribution under the Plan shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any government unit, including income, withholding and other tax obligations, on account of such Distribution. The Trustee has the right, but not the obligation, to not make a Distribution until such holder has made arrangements satisfactory to the Trustee for payment of any such tax obligations. Pursuant to section 1146(c) of the Bankruptcy Code, the issuance, transfer, or exchange of promissory notes, equity securities, or other instruments under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any lease or sublease or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including, without limitation, any merger agreements or agreements of consolidation, deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax.

14.12. Recognition of Guaranty Rights.

The classification and manner of satisfying Claims under the Plan takes into consideration (a) the possible existence of guaranties by the Debtor of obligations of other Persons, and (b) the fact that the Debtor may be a joint obligor with other Persons with respect to an obligation. All Claims against the Debtor based upon any such guaranties or joint obligations shall be discharged and satisfied in the manner provided in the Plan; provided, that no creditor shall be entitled to receive more than one recovery with respect to any of its Allowed Claims.

14.13. Binding Effect.

The Plan shall be binding upon and inure to the benefit of the Estate and the Trustee, the holders of all Claims and Equity Interests, and their respective successors and assigns. To the extent any provision of the Disclosure Statement may be inconsistent with the terms of the Plan, the terms of the Plan shall be binding and conclusive.

14.14. Severability.

SHOULD THE BANKRUPTCY COURT DETERMINE THAT ANY PROVISION OF THE PLAN IS UNENFORCEABLE EITHER ON ITS FACE OR AS APPLIED TO ANY CLAIM OR EQUITY INTEREST OR TRANSACTION,

THE TRUSTEE AND COMMITTEE MAY MODIFY THE PLAN IN ACCORDANCE WITH SECTION 14.8 OF THE PLAN SO THAT SUCH PROVISION SHALL NOT BE APPLICABLE TO THE HOLDER OF ANY CLAIM OR EQUITY INTEREST. SUCH A DETERMINATION OF UNENFORCEABILITY SHALL NOT (A) LIMIT OR AFFECT THE ENFORCEABILITY AND OPERATIVE EFFECT OF ANY OTHER PROVISION OF THE PLAN OR (B) REQUIRE THE RESOLICITATION OF ANY ACCEPTANCE OR REJECTION OF THE PLAN.

Dated: October 16, 2006.

Respectfully submitted,

/s/ Michael C. Markham

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