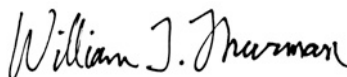


The below described is **SIGNED**.

Dated: November 21, 2012



WILLIAM T. THURMAN  
U.S. Bankruptcy Chief Judge



**LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.**

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH**

IN RE:

WESTERN UTAH COPPER COMPANY,

Debtor.

Cases No. 10-29159-WTT  
(Jointly Administered with  
Cases No. 10-30002)

Chapter 11

Honorable William T. Thurman  
United States Bankruptcy Judge

**Filed Electronically**

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IN RE:

COPPER KING MINING CORPORATION,

Debtor.

Cases No. 10-30002-WTT  
(Jointly Administered with  
Cases No. 10-29159)

Chapter 11

Honorable William T. Thurman  
United States Bankruptcy Judge

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**ORDER CONFIRMING JOINT PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE  
PROPOSED BY DEBTORS,  
AS AMENDED ON SEPTEMBER 10, 2012**

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ORDER SIGNED

A hearing was held on October 30, 2012 at 2:00 p.m. (the "Confirmation Hearing") before the Honorable William T. Thurman, United States Bankruptcy Judge for the District of Utah, for the Court to consider the confirmation of the "Joint Plan Of Reorganization Under Chapter 11 Of The Bankruptcy Code Proposed By Debtors, As Amended On September 10, 2012" (the "Plan") [Docket No. 914], which was proposed by Western Utah Copper Company ("WUCC") and Copper King Mining Corporation ("CK" and collectively with WUCC, "Debtors"). All capitalized terms which are not defined herein shall have the same meanings as such terms are ascribed to them in the Plan. Appearances were made at the Confirmation Hearing as set forth on the record of the Court.

The Court, having considered the Plan, the Declaration of Stephanie Reichert regarding voting on the Plan [Docket No. 931], the memorandum filed by the Debtor in support of Plan confirmation [Docket No. 929], the Declaration of A. John A Bryan, Jr. filed in support of the Plan [Docket No. 930] the statements, arguments and representations made at the Confirmation Hearing, all other evidence presented to the Court and the entire record of these Cases,

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Core Proceeding (28 U.S.C. §157(h)(2)). Confirmation of the Plan is a core proceeding under 28 U.S.C. §157(b)(2), and this Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

B. Notice. The Disclosure Statement Order, the Disclosure Statement, the Plan and ballots for accepting or rejecting the Plan were duly and timely transmitted and served in accordance with the Court's orders and in accordance with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules

for the District of Utah. Adequate and sufficient notice of the Confirmation Hearing and the other deadlines and hearing dates was provided, and no further notice is required.

C. Solicitation. The solicitation of votes for acceptance or rejection of the Plan has complied with Bankruptcy Code §§1125 and 1126, Federal Rules of Bankruptcy Procedure 3017 and 3018, and the Disclosure Statement order, all other applicable provisions of the Bankruptcy Code, and all of the rules, laws, regulations and the soliciting procedures as set forth in the Disclosure Statement Order. Based upon the record before the Court, Debtors have acted in good faith in the solicitation of votes and are entitled to the protections afforded by Bankruptcy Code §1125(e).

D. Distribution. All procedures used to distribute the solicitation materials to the applicable holders of Claims and Equity Interests and to tabulate the ballots were fair and conducted in substantial compliance with the Disclosure Statement order, the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules for the District of Utah and all other rules, laws and regulations.

E. Burden of Proof. Debtors, as the proponents of the Plan, have met their burden of proving all of the elements of §1129(a) of the Bankruptcy Code for confirmation of the Plan.

F. Compliance with Bankruptcy Code (§1129(a)(1)). The Plan complies with the applicable provisions of the Bankruptcy Code, thereby satisfying §1129(a)(1) of the Bankruptcy Code.

G. Classification of Claims (§§1122-1123(a)(1)). The Plan designates four Classes of Claims and two Classes of Equity Interests. The Claims and Equity Interests placed in each Class are substantially similar to other Claims or Equity Interests, as the case may be, in each such Class, and such classification is therefore consistent with §1122 of the Bankruptcy Code.

Valid business and legal reasons exist for the various Classes of Claims and Equity Interests created under the Plan, and such Classes do not unfairly discriminate between holders of Claims or Equity Interests. Thus, the Plan satisfies §§1122 and 1123(a)(1).

H. Specification of Unimpaired Classes (§1123(a)(2)). The Plan specifies that Classes 1, 2, 3 and 5a are unimpaired. The Plan thereby satisfies §1123(a)(2) of the Bankruptcy Code.

I. Specified Treatment of Impaired Classes (§1123(a)(3)). The Plan specifies that Classes 4 and 5b are impaired. The Plan specifies the treatment of those Classes thereby satisfying §1123(a)(3) of the Bankruptcy Code.

J. No Discrimination (§1123(a)(4)). The Plan provides for the same treatment for each Claim or Equity Interest in each respective Class unless the holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest, thereby satisfying §1123(a)(4) of the Bankruptcy Code.

K. Implementation of the Plan (§1123(a)(5)). The Plan provides adequate and proper means for implementation of the Plan, thereby satisfying §1123(a)(5) of the Bankruptcy Code.

L. Provisions Prohibiting The Issuance Of Nonvoting Equity Securities (§1123(a)(6)). To the extent required, the Plan provides for all appropriate provisions required under §1123(a)(6) of the Bankruptcy Code.

M. Disclosure of Officers and Directors (§1123(a)(7)). The provisions of the Plan regarding the disclosure of officers and directors of Debtors are consistent with the interests of creditors and equity security holders and with public policy, thereby satisfying §1123(a)(7) of the Bankruptcy Code.

N. Additional Plan Provisions (11 USC §1123(b)). In accordance with Section

1123(b)(6) of the Bankruptcy Code, the Plan does not include any provision inconsistent with the applicable provisions of the Bankruptcy Code. The provisions of the Plan are appropriate and consistent with the applicable provisions of the Bankruptcy Code including, without limitation, provisions for (a) certain Classes of Claims to be unimpaired; (b) distribution to creditors; (c) the release and exculpation of various persons, and permanent injunctions prohibiting certain actions against the Debtors, (d) the rejection or assumption of certain executory contracts and expired leases, and (e) the retention of and right to enforce, sue on, settle or compromise (or refuse to do any of the foregoing with respect to) certain Claims or causes of action against third parties, to the extent not waived or released under the Plan.

O. Federal Rule of Bankruptcy Procedure 3016(a). The Plan is dated and identifies the Debtors as the Plan Proponents, thereby satisfying Federal Rule of Bankruptcy Procedure 3016(a).

P. Debtors' Compliance With The Bankruptcy Code (§1129(a)(2)). Debtors have complied with the applicable provisions of the Bankruptcy Code, thereby satisfying §1129(a)(2) of the Bankruptcy Code. Specifically:

i. Debtors are proper Debtors under 11 USC §109 and filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code.

ii. The Court has jurisdiction over these chapter 11 Cases pursuant to 11 U.S.C. §1334.

iii. Venue of these Cases is proper in this district pursuant to 28 U.S.C. §1408.

iv. Debtors are the proper proponents of the Plan pursuant to Section 1121(a) of the Bankruptcy Code.

v. Debtors have acted in accordance with all orders of the Court entered during these

Chapter 11 Cases.

vi. Debtors have complied with the applicable provisions of the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure, and the Local Bankruptcy Rules for the District of Utah in transmitting the Disclosure Statement, the Plan and ballots for accepting or rejecting the Plan and in soliciting and tabulating votes on the Plan.

Q. Plan Proposed in Good Faith (§1129(a)(3)). The Plan has been proposed in good faith and not by any means forbidden by law, thereby satisfying §1129(a)(3) of the Bankruptcy Code.

R. Payments for Services or Costs and Expenses (§1129(a)(4)). All payments made or to be made by Debtors, Litigation Trustee, Disbursing Agent, or Reorganized Debtors, for services or for costs and expenses in, or in connection with the Debtors' Chapter 11 Cases, or in connection with the Plan and incident to these Chapter 11 Cases, have been fully disclosed to the Court and are reasonable or, if to be fixed after confirmation of the Plan, will be subject to the approval of the Court, thereby satisfying §1129(a)(4).

S. Directors, Officers and Insider (§1129(a)(5)). Debtors have complied with Section 1129(a)(5) of the Bankruptcy Code. Specifically:

i. Debtors have disclosed in the Plan and the Disclosure Statement the identity and affiliations of any individual proposed to serve, after confirmation of the Plan, as a director or officer of Reorganized Debtors and the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity security holders and with public policy. The Plan discloses that A. John A. Bryan, Jr. will serve as the Litigation Trustee of the Litigation Trusts and that Disbursement Services, LLC will serve as the Disbursing Agent under the Plan.

ii. To the extent known at this time, Debtors have disclosed the identity of any insider who will be employed or retained by Reorganized Debtors and the nature of such person's compensation, to the extent known.

T. No Rate Changes (§1129(a)(6)). The Plan does not provide for any rate changes over which any governmental regulatory commission has jurisdiction.

U. Best Interests of Creditors (§1129(a)(7)). The Plan satisfies section 1129(a)(7) of the Bankruptcy Code. As set forth in the Disclosure Statement and memorandum in support of the Plan, in Chapter 7 liquidation of Debtors' estates, liabilities would far exceed the value of Debtors' assets. Thus, under Chapter 7 liquidations, the holders of impaired Claims or Equity Interests would not be able to recover more than the amount that such holders will recover under the Plan on account of such impaired Claims and Equity Interests. Based on the evidence presented in connection with confirmation, the Court finds that the holders of Claims and Equity Interests in all Classes will receive at least as much under the Plan as they would have under a Chapter 7 liquidation. Accordingly, the Plan satisfies the "best interests of creditors" test of section 1129(a)(7) of the Bankruptcy Code.

V. Acceptance by All Classes of Claims (§1129(a)(8)). Each Class of Claims has accepted the Plan or is not impaired under the Plan.

X. Treatment of Administrative and Priority Claims (§1129(a)(9)). The treatment of Administrative Claims, Priority Claims, Bankruptcy Court and U.S. Quarterly Trustee Fees under the Plan satisfies the requirements of Sections 1129(a)(9) of the Bankruptcy Code, as follows:

i. Administrative Expense Claims. The Plan provides that, except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment,



on the Effective Date, or as soon thereafter as is reasonably practicable, the Disbursing Agent shall pay to each holder of an Allowed Administrative Expense Claim, in full satisfaction of such Claim, an amount in Cash equal to the Allowed amount of such Claim.

ii. Compensation and Reimbursement Claims of Professionals. The Plan provides that all Professionals or other Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code shall be paid in full by the Disbursing Agent from the appropriate Estate's assets on account of such Professional's Allowed Administrative Expense Claim. Such payments shall be made (A) on the Effective Date, (B) the date that an order relating to any such Administrative Expense Claim is entered, or (C) upon such other terms as have been mutually agreed upon in writing by and among the holder of such an Administrative Expense Claim, Debtors (or Reorganized Debtor as the case may be), the Committee (if still in existence) and the Disbursing Agent. Pursuant to the Bankruptcy Court's ruling at the Confirmation Hearing, the Debtors have entered into written agreements with the applicable Professionals regarding the payment of their Administrative Expense Claims (the "Professional Claims Agreements"), the terms of which are hereby incorporated herein by reference.

iii. Fees Under 28 U.S.C. §1930. The Plan provides that all fees payable in the Cases under 28 U.S.C. §1930, as agreed by Debtors and Committee or as determined by the Bankruptcy Court, will, if not previously paid in full, be paid in Cash on the Effective Date and will continue to be paid by the Disbursing Agent as required under 28 U.S.C. §1930 until such time as an order is entered by the Bankruptcy Court closing the Cases.

iv. Priority Tax Claims. The Plan provides that, except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, on the Effective Date, or as soon thereafter as is reasonably practicable, the Disbursing Agent shall pay to each holder of an Allowed Priority Tax Claim, in full satisfaction of such Claim, an amount in Cash equal to the Allowed amount of such Claim. To the extent that the holder of an Allowed Priority Tax Claim is not paid Cash equal to the Allowed Amount of such Claim on the Effective Date, such holder shall be entitled to interest at a rate determined under applicable non-bankruptcy Law. Notwithstanding the foregoing, any Allowed Priority Tax Claims arising from or relating to income taxes of Debtors shall be paid by Reorganized Debtors.

v. Priority Non-Tax Claims. The Plan provides that, except to the extent that a holder of an Allowed Priority Non-Tax Claim against Debtors agrees to a different treatment of such Claim, on the Effective Date, or as soon thereafter as is reasonably practicable, each holder of an Allowed Priority Non-Tax Claim shall receive either one hundred percent (100%) of the Allowed Amount of such Priority Non-Tax Claims or, if there is insufficient Cash to pay 100% on the Effective Date, a Pro Rata Share of all remaining Cash after payment, or treatment consistent with sections 7.3 and 7.5 of the Plan, of all Allowed Claims in sections 2.1, 2.2, 2.3, 4.1 and 4.2 of the Plan. If there is insufficient Cash to pay each Class 3 Claim in full on the Effective Date, the unpaid balance of such Claims shall be paid in full once sufficient funds are available.

Y. Acceptance by Impaired Classes (§1129(a)(10)). Classes 4 and 5b are each Classes of Claims that are Impaired under the Plan and have accepted the Plan, and at least one such Impaired Class has accepted the Plan without including any acceptance of the Plan by any insider of the Debtor holding a Claim in such Class, thereby satisfying Section 1129(a)(10) of the

Bankruptcy Code.

Z. Feasibility (§1129(a)(11)). Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of Reorganized Debtors.

AA. Payment of Fees (§1129(a)(12)). Any fee, charge or amount required to be paid before confirmation under 28 U.S.C. §1930 or by the Plan has been paid.

BB. Continuation of Retiree Benefits (§1129(a)(13)). Because the Plan does not modify any retiree benefits, as that term is defined in Section 1114 of the Bankruptcy Code, Section 1129(a)(13) of the Bankruptcy Code is inapplicable.

CC. Principal Purpose of the Plan (§1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933, and no governmental unit has objected to the confirmation of the Plan on such grounds.

DD. Good Faith Solicitation (§1125(e)). Solicitation of acceptances of the Plan has been in good faith and in compliance with the applicable provisions of the Bankruptcy Code.

EE. No Other Plan (§1129(c)). The Plan is the only plan of reorganization confirmed by this Court in Debtors' Chapter 11 Cases.

FF. Plan Modifications (§1127(b)). The modifications to the Plan proposed by Debtors are authorized by §1127(b) because such modifications were made before confirmation of the Plan and the Plan as modified satisfies the requirements of §§1122 and 1123 of the Bankruptcy Code. No additional disclosure to creditors is required of such modifications because Debtors do not intend to solicit votes from previously dissenting creditors and the modifications do not materially and adversely impact parties who previously voted for the Plan.

NOW THEREFORE, it is hereby ORDERED, ADJUDGED and DECREED that:

1. Plan Confirmation. The Plan, a copy of which is attached hereto as Exhibit "A",

as modified in the manner described below, is hereby confirmed and all of the terms of the Plan are herein incorporated by reference. The Effective Date of the Plan is the Business Day on or after the Confirmation Date specified by the Debtors on which (i) no stay of the Confirmation Order is in effect, and (ii) the conditions to the effectiveness of the Plan specified in section 10.2 of the Plan have been satisfied or waived.

2. Objections. To the extent that any pleading filed by any party constitutes an objection to confirmation of the Plan and has not been withdrawn, waived or settled, such objection is hereby overruled in its entirety, except that Debtors shall set aside the sum of \$28,022.44 in connection with the alleged Secured Claim asserted against Debtors by United Rentals Northwest, Inc. until further order of the Court.

3. Treatment of Allowed Claims and Interests and Distributions to Claim holders and Interest holders. All Allowed Claims and Allowed Equity Interests against Debtors shall be treated in the manner set forth in the Plan except as modified herein. All distributions shall be made in accordance with the terms of the Plan and, if so modified herein, by the terms of this Confirmation Order.

4. Plan Modifications. The Plan is hereby deemed modified in the following manners, all of which modifications are hereby approved by the Court:

i. Section 5.5 of the Plan is modified to provide as follows:

**5.5. De Minimus Distributions.** No payment of Cash less than \$50.00 shall be made by the Disbursing Agent. Holders of Allowed Claims who would otherwise be entitled to a distribution in an amount less than \$50.00 shall receive no distribution on account of such Allowed Claim because the value of such Allowed Claim would be de minimus and the administrative costs associated with processing and mailing the distribution to such holder of an Allowed Claim would likely exceed the amount of the distribution. No distribution of less than twenty-seven (27) shares of New Common Stock shall be made to any holder of an Allowed Claim or Equity Interest, as such distribution would be de minimus and the administrative costs associated with processing and mailing stock certificates to such holder of an Allowed Claim or Equity Interest would likely

exceed the amount of the distribution. Any Cash that is undistributable in accordance with this section 5.5 shall remain with the Disbursing Agent for redistribution.

ii. Section 6.3(i) of the Plan is modified to provide as follows:

(i) **Compensation of the Litigation Trustee and Disbursing Agent.** The Litigation Trustee shall be entitled to reasonable compensation on a contingency fee basis, which shall be on economic terms agreeable to the Committee and established prior to the Effective Date or the Disbursing Agent Oversight Committee if after the Effective Date. The compensation payable to the Litigation Trustee shall be treated consistent with section 6.3(h) hereunder. The Disbursing Agent shall be compensated on an hourly basis in the amount of \$265.

iii. Section 7.3(a) of the Plan is modified to provide as follows:

(a) **Establishment and Reserve for Disputed Claims.** The Disbursing Agent shall maintain the Disputed Claim Reserve at an amount equal to the aggregate of 100% of the distributable amounts to which holders of such Disputed Claims would be entitled under the Plan if such Disputed Claims were Allowed Claims in their Disputed Claim Amounts or such lesser amount as required by a Final Order. For purposes of effectuating the provisions of this section 7.3(a) and the distributions to holders of Allowed Claims, the Bankruptcy Court may fix or liquidate the amount of Disputed Claims pursuant to section 502(c) of the Bankruptcy Code, in which event the amounts so fixed or liquidated shall be deemed the amounts of the Disputed Claims for purposes of distribution under this Plan. In lieu of fixing or liquidating the amount of any Disputed Claim, the Bankruptcy Court may determine the amount to be reserved for such Disputed Claim or such amount may be fixed by agreement in writing between the Litigation Trustee or the Disbursing Agent and the holder of a Disputed Claim.

5. **Professional Claims Agreements.** The Professional Claims Agreements, copies of which are attached hereto as Exhibit "B" and Exhibit "C", are hereby APPROVED. The terms of the Plan are modified to the extent necessary to insure compliance with the Professional Claims Agreements, and distributions to such Professionals shall be made in accordance with the terms of the Plan, as modified, and the Professional Claims Agreements.

6. **Executory Contracts and Unexpired Leases.** On the Effective Date, all executory contracts and unexpired leases to which Debtors are a party shall be deemed rejected as of the Effective Date, except for an executory contract or unexpired lease that (i) has been assumed or rejected pursuant to Final Order of this Court prior to the Effective Date, or (ii) is subject to separate motion to assume or reject (or terminate or modify, as the case may be) filed under

sections 365, 1113 and/or 1114 of the Bankruptcy Code by Debtors prior to the Effective Date. In the event that the rejection of an executory contract or unexpired lease by Debtors pursuant to the Plan results in damages to the other party or parties to such contract or lease, a Claim for such damages, if not heretofore evidenced by a filed proof of claim, shall be forever barred and shall not be enforceable against Debtors, the Litigation Trusts or any property to be distributed under the Plan unless a proof of claim is filed with the Bankruptcy Court and served upon the Litigation Trustee and the Disbursing Agent on or before the date that is thirty (30) days after the Confirmation Date. The foregoing sentence shall not, however, be applicable to any separate pre-Confirmation Date order of the Bankruptcy Court authorizing rejection of an executory contract or unexpired lease wherein a separate deadline by which rejection damages claims was established.

7. Vesting of Assets. As of the Effective Date, Trust Assets shall vest in the Litigation Trusts, and shall constitute the Trust Assets. All property of CK constituting Trust Assets shall vest in the CK Litigation Trust and all property of WUCC constituting Trust Assets shall vest in the WUCC Litigation Trust. As of the Effective Date, all assets of the Estates shall be free and clear of all Claims and Liens, except as provided in the Plan or the Confirmation Order. As of the Effective Date, all of Debtors' existing Cash, all of Debtors' rights to Deferred Sale Consideration and all of Debtors' rights to/in the Reorganized CK Note shall be transferred to the Disbursing Agent and the Estates shall be deemed to assign, set over, transfer and convey the Deferred Sale Consideration to the Disbursing Agent. All Deferred Sale Consideration paid after the Effective Date shall be paid to the Disbursing Agent.

8. Retention of Jurisdiction. Until the Effective Date, the Bankruptcy Court shall retain jurisdiction of Debtors and their assets and properties. Thereafter, jurisdiction of the

Bankruptcy Court shall be limited to the subject matter set forth in Article XII of the Plan, which notwithstanding any language to the contrary, shall include jurisdiction related the Professional Claims Agreements .

9. Cancellation of Existing Securities and Security Agreements. On the Effective Date, except as expressly provided in the Plan, the securities, warrants, options, promissory notes, trust indentures, share certificates, security agreements, deeds of trust, collateral agency agreements and other instruments evidencing or securing a Claim or Equity Interest shall be deemed cancelled without further act or action under any applicable agreement or Law, and the obligations of Debtors and the Litigation Trustee, as successor to Debtors under the agreements, instruments, trust indentures and certificates governing and securing such Claims, as the case may be, shall be discharged. The holders of such canceled instruments, securities, and other documents shall have no rights arising from or relating to such instruments, securities or other documents or the cancellation thereof, except the rights provided pursuant to the Plan.

10. Amendments to Articles of Incorporation and Other Actions. On the Effective Date, the Board of Directors of the Reorganized Debtors shall be authorized to amend the Articles of Incorporation and Bylaws to accomplish the following:

- i. Authorize the issuance of one hundred million shares of New Common Stock and fifty million shares of Reorganized CK's preferred stock. The Board of Directors shall determine in their discretion the rights, privileges and restrictions granted or imposed on such shares.
  - ii. Effect a quasi-reorganization for accounting purposes.
  - iii. Issue shares to carry out any transaction contemplated in the Plan without solicitation of or notice to shareholders.
  - iv. Take all action necessary and appropriate to carry out the terms of the Plan.
  - v. Amend the Reorganized Debtors' Articles of Incorporation and/or Bylaws to provide the maximum indemnification or other protections to the Reorganized Debtors' officers and directors that is allowed under applicable law.
  - vi. In accordance with Section 1123(a)(6) of the Bankruptcy Code, include within their charters a provision prohibiting the issuance of nonvoting equity securities.
  - vii. Change the names of the Reorganized Debtors to such names as the Board of Directors selects.
11. Take Required Actions. Without shareholder approval, the Boards of Directors of Reorganized Debtors shall be authorized to take any and all action necessary or appropriate to effectuate any amendments to the Reorganized Debtors' Certificate of Incorporation and/or Bylaws called for under the Plan and the Board of Directors and officers of the Reorganized Debtors shall be authorized to execute, verify, acknowledge, file and publish any and all instruments or documents that may be required to accomplish same.



Reorganized CK shall amend its charter in conformance with Nevada General Corporation Law and pursuant to section 1123(a)(5)(I) of the Bankruptcy Code. The amended charter or bylaws shall, among other provisions: (i) authorize the issuance of the New Common Stock; (ii) prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a)(6) of the Bankruptcy Code; and (iii) provide that the first regular annual meeting of shareholders of Reorganized CK following the Effective Date shall take place on a date designated by the Board of Directors of Reorganized CK which shall occur no later than twelve (12) months following the Effective Date. The amended charter and bylaws will become effective upon (i) the occurrence of the Effective Date, and (ii) the filing with the Nevada Secretary of State of a certificate of amendment reflecting the amendments.

12. Exemption From Registration Under Section 1145 of the Bankruptcy Code. In reliance upon an exemption from the registration requirements of the Securities Act of 1933, as amended (the “Securities Act”), and of state and local securities laws afforded by Section 1145 of the Bankruptcy Code, except for the shares of New Common Stock to be issued to the Litigation Trustee for the CK Litigation Trust, New Common Stock to be issued pursuant to the Plan on and after the Effective Date need not be registered under the Securities Act or any state or local securities laws. The Reorganized CK’s common stock will not be subject to any statutory restrictions on transferability and may be resold by any holder without registration under the Securities Act or other federal securities laws pursuant to the exemption provided by section 4(1) of the Securities Act, unless the holder is an “underwriter” with respect to such securities, as that term is defined in Section 1145(b) of the Code.

13. Binding Effect. Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date the provisions of the Plan shall bind any

holder of a Claim against, or Equity Interest in, Debtors and their respective successors and assigns, including, but not limited to, the Litigation Trusts and the Litigation Trustee, whether or not the Claim or Equity Interest of such holder is Impaired under the Plan and whether or not such holder has accepted the Plan.

14. Term of Injunctions or Stays. Unless otherwise expressly provided herein, all injunctions or stays arising under or entered during the Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the closing of the Cases.

15. Causes of Action. Except as otherwise provided in the Plan, on and after the Effective Date, the Litigation Trustee will have the exclusive right to enforce any and all Causes of Action against any person. The Litigation Trustee may prosecute, defend, enforce, abandon, settle or release any or all Causes of Action as he deems appropriate, without the need to obtain approval or any other or further relief from the Bankruptcy Court, subject to and in accordance with section 6.3(1) of the Plan (requesting consent of the Disbursing Agent). The Litigation Trustee may, in his sole discretion, offset any such claim held against a person, against any payment due such person under the Plan; *provided, however*, that any claims of Debtors arising before the Petition Date shall first be offset against Claims against Debtors arising before the Petition Date, subject in each instance, however, to the limitations of section 5.7 of the Plan. All defenses and rights of avoidance of Debtors shall be retained and may be exercised by the Litigation Trustee. All of the Debtors' rights and interests in any Cause of Action against an insider, any Cause of Action currently pending, any Cause of Action arising from or relating to the securities/equity interests of the Debtors and any Cause of Action against a party that (i) received a payment that could be deemed as preferential under section 547 of the Bankruptcy

Code or (ii) was a direct, intermediate or indirect transferee of an asset of the Debtors prior to the Petition Date, are hereby expressly preserved.

16. Injunction. From and after the Effective Date, all Persons and Entities are permanently enjoined from commencing or continuing in any manner against Debtors, their Estates, the Litigation Trusts, the Litigation Trustee (in his role as Litigation Trustee), the Disbursing Agent, their successors and assigns, and/or their assets and properties, as the case may be, any suit, action, or other proceeding, on account of or respecting any Claim, demand, liability, obligation, debt, right, Cause of Action, interest or remedy released or to be released pursuant to the Plan or the Confirmation Order.

From and after the Effective Date, all Persons and Entities shall be precluded from asserting against Debtors, their Estates, the Litigation Trusts, the Litigation Trustee (in his role as Litigation Trustee), the Disbursing Agent, their successors and assigns, and their assets and properties, any other Claims or Equity Interests based upon any documents, instruments, or any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date except to the extent that any such any other Claim or Equity Interest based upon any documents, instruments, or any act or omission, transaction or other activity of any kind or nature is created by or provided for in the Plan.

The rights afforded in the Plan and treatment of Claims and Equity Interests in the Plan shall be in exchange for and in complete satisfaction and release of Claims and Equity Interests of any nature whatsoever, including any interest accrued on Claims from and after the Petition Date, against Debtors, their Estates, and any of their assets or properties, and the Litigation Trusts, as successor, and the Trust Assets. On the Effective Date, all such Claims against and Equity Interests in Debtors shall be satisfied and released in full, unless otherwise provided in the

Plan.

Except as otherwise provided in the Plan, all Persons and Governmental Units are permanently enjoined from and after the Effective Date, on account of any Claim or Equity Interests satisfied and released hereby from:

i. Commencing or continuing in any manner, any action or other proceeding of any kind against the Reorganized Debtors, their Estates, the Committee, the Litigation Trusts, the Trust Assets, the Litigation Trustee, the Disbursing Agent, their successors and assigns and their assets and properties;

ii. Enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against the Disbursing Agent, the Reorganized Debtors or the Litigation Trusts, their successors and assigns and their assets and properties,

iii. Creating, perfecting, or enforcing any encumbrance of any kind against the Reorganized Debtors, their Estates, the Committee, the Litigation Trusts, the Trust Assets and the Litigation Trustee, the Disbursing Agent, their successors and assigns and their assets and properties;

iv. Asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Reorganized Debtors, their Estates, the Committee, the Litigation Trusts, the Trust Assets, the Litigation Trustee, the Disbursing Agent, their successors and assigns and their assets and properties with respect to any such Claim or Equity Interest; or

v. Commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim or Cause of Action released or settled hereunder.

On and after the Confirmation Date, all Persons are permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly,

derivatively, or otherwise) on account of or respecting any claim, debt, right or cause of action of Debtors for which the Litigation Trustee retains sole and exclusive authority to pursue in accordance with the Plan.

17. Injunction Against Interference with Plan. Upon the entry of this Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

18. Disposition of Committees. The Committee and the Equity Committee shall disband and be released of their duties and obligations on the Effective Date. Any rights or duties of the Committee under the Agreements shall be exercised by the chair of the Committee as of the Confirmation Date, which Committee chair shall continue to take all actions required of the Committee as of the Effective Date.

19. Exemption from Transfer Taxes. Subject to orders entered by the Bankruptcy Court authorizing certain sales of real property in connection with any sale transaction, pursuant to section 1146(c) of the Bankruptcy Code, the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including any deeds, bills of sale or assignments executed in connection with any disposition of assets contemplated by the Plan shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use, or other similar tax.

20. Exculpation. Neither Debtors, the Equity Committee, the Committee nor any of their respective members, officers, directors, employees, advisors, professionals or agents, (collectively, "Exculpation Parties") shall have or incur any liability to any holder of a Claim or Equity Interest for any act or omission in connection with, related to, or arising out of the Cases,

including, without limitation, negotiations regarding or concerning the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of the Estates or the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence, and, in all respects, the Exculpation Parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

21. Discharge of Claims and Termination of Equity Interests. Debtors will receive a discharge under the Plan pursuant to and in accordance with the provisions of Section 1141 of the Bankruptcy Code. Except as otherwise specifically provided herein or in the Plan, the rights afforded in the Plan and the payments and distributions to be made hereunder shall discharge all existing debts and Claims, and terminate all Equity Interests of any kind, nature or description whatsoever, against or in Debtors, the Estates, or the Litigation Trusts, or any of their assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as otherwise provided in the Plan, upon the Effective Date, all existing Claims against Debtors, the Estates, or the Litigation Trusts shall be, and shall be deemed to be, discharged and terminated, and all holders of Claims and Equity Interests shall be precluded and enjoined from asserting against Debtors, the Estates, or the Litigation Trusts, or any of their assets or properties, any other or further Claim or Equity Interest based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of Claim or is listed in the Schedules.

22. Retained Jurisdiction. This Court shall retain all authority and jurisdiction as provided under the Bankruptcy Code and other applicable law and the Plan to enforce the provisions, purposes, and intent of the Plan or any modification thereof, or agreements entered in conjunction therewith, including, without limitation for the purposes set forth in the Plan.

23. Recordable Form. This Order is hereby declared to be in recordable form, and this Order or a certified copy thereof shall be accepted by any recording officer for filing and recording purposes without further or additional orders, certifications, or supporting documents.

24. Confirmation Hearing, Findings and Conclusions. All of the Court's subsidiary findings and conclusions dictated into the record at the Confirmation Hearing are incorporated herein by reference.

25. Professionals' Compensation and Fee Applications. All Professionals or other Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is thirty (30) days after the Confirmation Date, unless otherwise ordered by the Bankruptcy Court. Reorganized Debtors are authorized to retain professionals and pay compensation for professional services rendered and reimburse expenses incurred after the Effective Date in the ordinary course and without the need for Court approval.

26. Post-Confirmation Modifications to the Plan. Debtors may seek to modify the Plan at any time after confirmation of the Plan so long as (1) the Plan has not been substantially consummated and (2) this Court authorizes the proposed modifications after notice and a hearing.

27. Separate Confirmation Orders. This Confirmation Order is and shall be deemed a separate and final Confirmation Order with respect to each of Debtors in each of Debtors' separate Chapter 11 Cases for all purposes. The Confirmation Order is deemed entered

and docketed in the Chapter 11 Cases of each Debtor.

28. Final Decree. Pursuant to Section 1106(a)(7) of the Bankruptcy Code and Federal Rule of Bankruptcy Procedure 3022, Debtors, or Reorganized Debtors, as the case may be, shall file with the Clerk of this Court, and serve upon all interested parties, a motion for the entry of a final decree to close these Chapter 11 Cases.

**IT IS SO ORDERED.**

ORDER SIGNED



ORDER SIGNED

**EXHIBIT "A"**

**LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.**

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Debtors-in-Possession*

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH**

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IN RE: Cases No. 10-29159-WTT  
(Jointly Administered with  
WESTERN UTAH COPPER COMPANY, Cases No. 10-30002)  
  
Debtor. Chapter 11  
  
Honorable William T. Thurman  
United States Bankruptcy Judge

**Filed Electronically**

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IN RE: Cases No. 10-30002-WTT  
(Jointly Administered with  
COPPER KING MINING CORPORATION, Cases No. 10-29159)  
  
Debtor. Chapter 11  
  
Honorable William T. Thurman  
United States Bankruptcy Judge

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**JOINT PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE  
PROPOSED BY DEBTORS,  
AS AMENDED ON SEPTEMBER 10, 2012**

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH

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IN RE: Cases No. 10-29159-WTT  
WESTERN UTAH COPPER COMPANY, (Jointly Administered with  
Cases No. 10-30002)  
Debtors. Chapter 11  
Honorable William T. Thurman  
United States Bankruptcy Judge  
**Filed Electronically**

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IN RE: Cases No. 10-30002-WTT  
COPPER KING MINING CORPORATION, (Jointly Administered with  
Cases No. 10-29159)  
Debtor. Chapter 11  
Honorable William T. Thurman  
United States Bankruptcy Judge

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**JOINT PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE  
PROPOSED BY DEBTORS  
AS AMENDED ON SEPTEMBER 10, 2012**

---

Western Utah Copper Company and Copper King Mining Corporation, the above-captioned Chapter 11 debtors and debtors-in-possession, propose jointly the following chapter 11 plan of reorganization pursuant to section 1121(a) of title 11 of the United States Code:

**ARTICLE I.**

**DEFINITIONS AND INTERPRETATION**

**DEFINITIONS.** The following terms used herein shall have the respective meanings defined below (such meanings to be equally applicable to both the singular and plural):

**1.1 Administrative Expense Claim** means any right to payment constituting a cost or expense of administration of either of the Cases allowed under sections 503(b), 507(a)(2), and 1114(e) of the Bankruptcy Code, including, without limitation, any actual and necessary costs and expenses of preserving the Estates; any actual and necessary costs and expenses of operating Debtors' businesses; any

indebtedness or obligations incurred or assumed by Debtors, as debtor-in-possession, during the Cases, including, without limitation, for the acquisition or lease of property or an interest in property; or the rendition of services, any allowances of compensation and reimbursement of expenses to the extent allowed by Final Order under sections 328(a), 330 or 503 of the Bankruptcy Code, and any fees or charges assessed against the Estates under section 1930 of chapter 123 of title 28 of the United States Code.

**1.2 Agreements** means the WUCC Litigation Trust Agreement and the CK Litigation Trust Agreement.

**1.3 Allowed** means with reference to any Claim, (i) any Claim against Debtors that has been listed by Debtors in the Schedules, as such Schedules may be amended by Debtors from time to time in accordance with Bankruptcy Rule 1009, as liquidated in amount and not disputed or contingent and for which no contrary proof of claim has been filed, (ii) any timely filed Claim as to which no objection to allowance has been interposed in accordance with section 7.1 hereof or such other applicable period of limitation fixed by the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, or as to which any objection has been determined by a Final Order to the extent such objection is determined in favor of the respective holder, or (iii) any Claim expressly allowed by a Final Order or hereunder.

**1.4 Authorized Agent** means A. John A. Bryan, Jr. as to be approved by the Confirmation Order, and where the term is used with respect to rights, powers or obligations on or after the Effective Date it shall mean the Litigation Trustee.

**1.5 Avoidance Actions** means any actions commenced, or that may be commenced, before or after the Effective Date pursuant to sections 542, 544, 545, 547, 548, 549, 550, 551 or 553 of the Bankruptcy Code.

**1.6 Bankruptcy Code** means title 11 of the United States Code, as amended from time to time, as applicable to the Cases.

**1.7 Bankruptcy Court** means the United States District Court for the District of Utah, having jurisdiction over the Cases and, to the extent of any reference made under section 157 of title 28 of the United States Code, the unit of such District Court having jurisdiction over the Cases under section 151 of title 28 of the United States Code.

**1.8 Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as amended from time to time, applicable to the Cases, and any Local Rules of the Bankruptcy Court.

**1.9 Beneficiaries** means all Persons entitled to receive distributions from a respective Litigation Trust pursuant to the Plan and the Agreements.

**1.10 Business Day** means any day other than a Saturday, a Sunday, or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

**1.11 Camp Bird Investors** means Persons who have committed funds to finance start-up operations of Camp Bird Mine.

1.12 **Camp Bird Mine** means that certain mine and operations owned by Camp Bird Colorado, Inc. described as an approximately 1,100 acre property located in the San Juan Mountains of southwestern Colorado in the Sneffels Mining District.

1.13 **Camp Bird Newco** means an entity formed for the purpose of, among other things, owning the Camp Bird Mine.

1.14 **Cases** means the within captioned chapter 11 bankruptcy cases filed on the Petition Date by Debtors.

1.15 **Cash** means legal tender of the United States of America.

1.16 **Causes of Action** means any and all actions, causes of action, liabilities, obligations, suits, damages and judgments, whatsoever, including but not limited to Avoidance Actions, whether known or unknown, existing or hereafter arising, in law, equity, or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of these Cases, arising out of, relating to or in connection with the pre-bankruptcy and/or post-bankruptcy Debtors; provided, however, that the term "causes of action" does not include Deferred Sale Consideration or Reorganized CK Note, or any proceeds, claims, or rights arising therefrom.

1.17 **CK** means Copper King Mining Corporation, the debtor in the bankruptcy case no. 10-30002.

1.18 **CK Litigation Trust Agreement** means the CK Litigation Trust Agreement substantially in the form of Exhibit 1 hereto.

1.19 **CK Litigation Trust** means that certain trust that will come into existence upon the Effective Date into which all of the Trust Assets of CK will vest pursuant to the Plan, which trust shall be formed pursuant to and governed by the CK Litigation Trust Agreement.

1.20 **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code.

1.21 **Claims Register** means the list maintained by the Clerk of the Bankruptcy Court for the District of Utah listing all Claims filed in the Cases.

1.22 **Class** means any group of Claims or Equity Interests classified by the Plan in accordance with section 1122(a)(1) of the Bankruptcy Code.

1.23 **Collateral** means any property or interest in property of the Estates subject to a lien, charge or other encumbrance to secure the payment or performance of a Claim, which lien, charge or other encumbrance is not subject to avoidance under the Bankruptcy Code.

1.24 **Committee** means the statutory committee of unsecured creditors appointed by the Office of the United States Trustee in the Cases pursuant to section 1102 of the Bankruptcy Code, as the composition of the same has been or may be modified by the addition or removal of members from time to time.

1.25 **Confirmation Date** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order.

**1.26 Confirmation Hearing** means the hearing to be held by the Bankruptcy Court regarding confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

**1.27 Confirmation Order** means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

**1.28 Debtors** means WUCC and CK, collectively.

**1.29 Deferred Sale Consideration** means any proceeds of the Sale due to be paid to the Debtors or their designee by CS Mining, LLC after the closing date of the sale, irrespective of form, as well as any other form of consideration from the Sale.

**1.30 DIP Lender** means Equity Security Funders, LLC, a Utah limited liability company.

**1.31 DIP Loan** means that certain loan in an amount up to \$400,000.00 made to Debtors as debtors in possession by the DIP Lender approved by Bankruptcy Court order entered January 7, 2011, and increased to up to \$800,000 by subsequent order of the Bankruptcy Court.

**1.32 Disbursing Agent** means Disbursement Services, LLC for Cash distributions and the Litigation Trustee for distributions of New Common Stock under the Plan.

**1.33 Disbursing Agent Oversight Committee** means the committee appointed by the Plan to oversee the operations of the Disbursing Agent, which shall initially consist of (i) Terra Tek LLC; (ii) Quality Crushing; (iii) Rolling Construction & Trucking LLC; (iv) Welti & Call Advertising; and (v) Dave Hartshorn, Contract Geologist.

**1.34 Disclosure Statement** means the disclosure statement relating to the Plan, including, without limitation, all exhibits, schedules and attachments thereto, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.

**1.35 Disclosure Statement Order** means that certain Order (A) Approving Proposed Disclosure Statement, (B) Establishing Procedures for Solicitation and Tabulation of Votes to Accept or Reject Proposed Plan and (C) Scheduling Certain Dates in Connection Therewith entered by the Bankruptcy Court in these Cases together with any exhibits or documents attached thereto.

**1.36 Disputed** means, with respect to any Claim which has not been Allowed pursuant to the Plan or a Final Order:

(a) if no proof of claim has been filed by the applicable deadline: (i) a Claim that has been or hereafter is listed on the Schedules as disputed, contingent or unliquidated; or (ii) a Claim that has been or hereafter is listed on the Schedules as other than disputed, contingent or unliquidated, but as to which Debtors or any other party in interest has interposed an objection or request for estimation which has not been withdrawn or determined by a Final Order; or

(b) if a proof of claim or request for payment of an Administrative Expense Claim has been filed by the applicable deadline: (i) a Claim for which no corresponding Claim has been or hereafter is listed on the Schedules; (ii) a Claim for which a corresponding Claim has been or hereafter is listed on the Schedules as other than disputed, contingent or unliquidated, but the nature or amount of the Claim as asserted in the proof of claim varies from the nature and amount of such Claim as listed on the Schedules; (iii) a Claim for which a corresponding Claim has been or hereafter is listed on the Schedules

as disputed, contingent or unliquidated; or (iv) a Claim for which a timely objection or request for estimation is interposed by Debtors which has not been withdrawn or determined by a Final Order.

**1.37 Disputed Claim Amount** means the amount set forth in the proof of claim relating to a Claim that is Disputed or an amount estimated pursuant to an order of the Bankruptcy Court in respect of a Claim that is Disputed in accordance with section 502(a) of the Bankruptcy Code and Bankruptcy Rule 3018.

**1.38 Disputed Claim Reserve** shall have the meaning set forth in Section 7.3 hereof.

**1.39 Distribution Record Date** means the Confirmation Date.

**1.40 Effective Date** means a Business Day on or after the Confirmation Date specified by Debtors on which (i) no stay of the Confirmation Order is in effect, and (ii) the conditions to the effectiveness of the Plan specified in section 10.2 hereof have been satisfied or waived.

**1.41 Equity Interest** means the interest of any holder of an equity security of Debtors represented by any issued and outstanding shares of common or preferred stock or other instrument evidencing a present ownership interest in Debtors, whether or not transferable, or any option, warrant or right, contractual or otherwise, to acquire any such interest.

**1.42 Estates** means the bankruptcy estates of Debtors in the Cases pursuant to section 541 of the Bankruptcy Code.

**1.43 Final Order** means an order or judgment of the Bankruptcy Court entered by the Clerk of the Bankruptcy Court on the docket in the Cases that has not been reversed, vacated or stayed and as to which (i) the time to appeal, petition for certiorari or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for certiorari or other proceeding for a new trial, reargument or rehearing shall then be pending, or (ii) if an appeal, writ of certiorari, new trial, reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied or a new trial, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, reargument or rehearing shall have expired.

**1.44 General Unsecured Claim** means any Claim against Debtors that is (i) not a Secured Claim, Administrative Expense Claim, Priority Tax Claim, or Priority Non-Tax Claim, or (ii) otherwise determined by the Bankruptcy Court to be a General Unsecured Claim.

**1.45 Governmental Unit** shall have the meaning ascribed to it in section 101(27) of the Bankruptcy Code.

**1.46 Impaired** shall have the meaning ascribed to it in section 1124 of the Bankruptcy Code.

**1.47 Insurance Claim** means any claim of Debtors to the extent it may be covered and payable under any Insurance Policy of Debtors.

**1.48 Insurance Policy** means any policy of insurance and agreements relating thereto covering Debtors or that may be available to provide coverage for claims against Debtors.

**1.49 Insurer** means any entity that has issued an Insurance Policy to Debtors.

1.50 **Law** means any law, rule, regulation, order, decree or other requirement having the force of law and, where applicable, any interpretation thereof by an authority having jurisdiction with respect thereto or charged with administration thereof.

1.51 **Lien** means a judicial lien as defined in section 101(36) of the Bankruptcy Code; a lien as defined in section 101(37) of the Bankruptcy Code; a security interest as defined in section 101(51) of the Bankruptcy Code; a statutory lien as defined in section 101(53) of the Bankruptcy Code; and any other lien, interest, charge or encumbrance.

1.52 **Litigation Trustee** means A. John A. Bryan, Jr., the trustee of the Litigation Trusts appointed in accordance with the Agreements.

1.53 **Litigation Trusts** means the CK Litigation Trust and the WUCC Litigation Trust.

1.54 **Litigation Expense Reserve Account** means the bank account or investment(s) established by the Litigation Trustee to pay and reserve for all reasonable costs, expenses and fees incurred in connection with maintaining the Litigation Trusts and the Trust Assets.

1.55 **New Common Stock** means the common stock of Reorganized CK.

1.56 **Person** has the meaning set forth in section 101(41) of the Bankruptcy Code.

1.57 **Petition Date** means May 18, 2010.

1.58 **Plan** means this joint chapter 11 plan of reorganization, including exhibits, schedules and/or attachments annexed hereto, as the same may be amended or modified from time to time in accordance with the provisions of the Bankruptcy Code, the Bankruptcy Rules and the terms hereof.

1.59 **Plan Proponents** means Debtors.

1.60 **Priority Non-Tax Claim** means any Claim, other than an Administrative Expense Claim or a Priority Tax Claim, entitled to priority in payment as specified in section 507(a)(3), (4), (5), (6), (7) or (9) of the Bankruptcy Code.

1.61 **Priority Tax Claim** means any Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.62 **Pro Rata Share** means a proportionate share, so that the ratio of the consideration distributed on account of an Allowed Claim in a Class to the amount of such Allowed Claim is the same as the ratio of the amount of the consideration distributed on account of all Allowed Claims in such Class to the amount of all Allowed Claims in such Class.

1.63 **Professionals** means any Bankruptcy Court approved professional Person employed by the applicable entity in these Cases at any time before the Confirmation Date, including A. John A. Bryan, Jr., Debtors' chief executive officer.

1.64 **Record Date** means the date on which the Confirmation Hearing commences.

1.65 **Reorganized CK** means CK following the occurrence of the Effective Date.

**1.66 Reorganized CK Note** means that certain promissory note issued by Reorganized CK on the Effective Date in favor of the Disbursing Agent for the benefit of creditors of WUCC. The exact terms of the Reorganized CK Note shall be agreed upon by the Debtors and the Committee prior to the Confirmation Hearing and filed with the Bankruptcy Court prior to the Confirmation Hearing. The Reorganized CK Note shall be for a term of eight (8) years commencing January 1, 2013 in the principal sum of \$2,000,000.00 payable without interest from ten percent (10%) of gross revenues on an annual basis with a two (2) year grace period before the first payment is due. Additionally, there shall be an annual repayment cap of \$500,000.00. Reorganized CK may pay the balance of the note at a discount at any time during the first four (4) years. If the note is paid in year one, the discounted payment shall be \$1,300,000.00, for year two the discounted payment shall be \$1,400,000.00, for year three the discounted payment shall be \$1,600,000.00 and for year four the discounted payment shall be \$1,800,000.00. No dividends shall be paid to equity holders so long as the Reorganized CK Note remains outstanding.

**1.67 Reorganized Debtors** means Debtors following the occurrence of the Effective Date.

**1.68 Reorganized WUCC** means WUCC following the occurrence of the Effective Date.

**1.69 Reserve Income** means the interest earned on all funds maintained in the Disputed Claim Reserve on account of a Claim that is Disputed prior to the distribution of such funds (based upon the average rate of interest earned on all accounts and investments in which the Disputed Claim Reserve are invested as estimated by the Disbursing Agent).

**1.70 Sale** means the sale of substantially all of Debtors' assets to CS Mining, LLC, in accordance with the Sale Order.

**1.71 Sale Order** means that certain *Final Order Granting Debtors' Motion for Entry of An Order (A) Authorizing The Sale of Substantially All of The Debtors' Assets Free and Clear of Liens, Claims, Encumbrances and Interests; (B) Authorizing and Approving Assumption and Assignment of Executory Contracts and Leases and Determining Cure Amounts; (C) Waiving The 14-Day Stay Periods Set Forth In Bankruptcy Rules 6004(h) and 6006(d); and (D) Granting Related Relief* dated August 22, 2011 and filed at docket number 794 in the Cases.

**1.72 Sale Transaction** means the sale of any assets of the Estates approved by the Bankruptcy Court by a Final Order prior to the Effective Date pursuant to section 363 of the Bankruptcy Code.

**1.73 Schedules** means the schedules of assets and liabilities and the statement of financial affairs filed by Debtors under section 521 of the Bankruptcy Code, Bankruptcy Rule 1007 and the Official Bankruptcy Forms of the Bankruptcy Rules, as such schedules and statements have been or may be supplemented or amended from time to time through the Confirmation Date.

**1.74 Secured Claim** means a Claim (i) secured by Collateral, to the extent of the value of such Collateral (a) as set forth in the Plan, (b) as agreed to by the holder of such Claim and Debtors, or (c) as determined by a Final Order, including the Final DIP Order, in accordance with section 506(a) of the Bankruptcy Code; or (ii) secured by the amount of any rights of setoff of the holder thereof under section 553 of the Bankruptcy Code.

**1.75 Tax Code** means title 26 of the United States Code, as amended from time to time.

**1.76 Transaction** means the transaction whereby Reorganized CK raises sufficient capital to acquire an interest in, or signs a master services agreement to provide services and personnel to the Camp

Bird Mine or a similar type mining operation in consideration for up to 2,200,000 shares of New Common Stock.

**1.77 Trust Assets** means all of the assets of Debtors and property of the Estates, including the Causes of Action, all accounts and notes receivable, and the initial funding of the WUCC trust in the sum of \$35,000 and the initial funding of the CK Trust in the sum of \$70,000, but excluding all other Cash of the Debtors (which shall be transferred to the Disbursing Agent on the Effective Date), the Deferred Sale Consideration (which shall be transferred to the Disbursing Agent on and after the Effective Date), the Reorganized CK Note (which shall be executed in favor of the Disbursing Agent), and tax attributes including any net operating losses (which shall be retained by the Reorganized Debtors), all of which Trust Assets shall vest in the Litigation Trusts on the Effective Date pursuant to the Plan and in accordance with the Agreements.

**1.78 WUCC** means Western Utah Copper Company, the debtor in the bankruptcy case no. 10-29159.

**1.79 WUCC Litigation Trust Agreement** means the WUCC Litigation Trust Agreement substantially in the form of Exhibit 2 hereto.

**1.80 WUCC Litigation Trust** means that certain trust that will come into existence upon the Effective Date into which all of the Trust Assets of WUCC will vest pursuant to the Plan, which trust shall be formed pursuant to and governed by the WUCC Litigation Trust Agreement.

#### **INTERPRETATION; APPLICATION OF DEFINITIONS AND RULES OF CONSTRUCTION**

The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained therein. The words “including” and “include” and other words of similar import shall be deemed to be followed by the phrase “without limitation.” A term used herein that is not defined herein shall have the meaning assigned to that term in the Bankruptcy Code or Bankruptcy Rules. Wherever from the context it appears appropriate, each term stated shall include both singular and plural, and pronouns shall include the masculine, feminine and neuter regardless of how stated. The rules of construction contained in section 102 of the Bankruptcy Code shall apply to the Plan. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. The exhibits attached to this Plan are incorporated into and are part of this Plan as if fully set forth in this Plan.

### **ARTICLE II.**

#### **ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS**

**2.1 Administrative Expense Claims.** Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, on the Effective Date, or as soon thereafter as is reasonably practicable, the Disbursing Agent shall pay to each holder of an Allowed Administrative Expense Claim, in full satisfaction of such Claim, an amount in Cash equal to the Allowed amount of such Claim. Notwithstanding the forgoing, the DIP Loan shall remain an obligation of Reorganized CK, evidenced by a promissory note which shall accrue interest at the rate of 12% per annum and shall be payable one (1) year after the Effective Date, subject to extension by Reorganized CK for up to another one (1) year. In consideration for the delay in payment of the DIP Loan and as additional consideration



for funding the DIP Loan, the DIP Lender shall receive up to 1,000,000 shares of New Common Stock (estimated to be 10% of the issued and outstanding New Common Stock after the Transaction) on a proportionate basis based upon the total amount of the DIP Loan funded, provided, however, that notwithstanding any prior Final Order(s), the DIP Lender agrees that the DIP Loan shall be unsecured and shall be subordinate to all other Administrative Expense Claims. For example, if \$400,000 of the DIP Loan is funded, 500,000 shares of New Common Stock would be issued to the DIP Lender. Allowed Administrative Expense Claims of CK shall be paid from assets of CK and Allowed Administrative Expense Claims of WUCC shall be paid from assets of WUCC turned over to or collected by the Disbursing Agent.

**2.2 Compensation and Reimbursement Claims Of Professionals.** All Professionals or other Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code (i) shall file their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred by the date that is thirty (30) days after the Confirmation Date, unless otherwise ordered by the Bankruptcy Court; and (ii) shall be paid in full by the Disbursing Agent from the appropriate Estate's assets in such amounts as are allowed by the Bankruptcy Court (A) upon the date upon which the order relating to any such Administrative Expense Claim is entered, or (B) upon such other terms as may be mutually agreed upon by and among the holder of such an Administrative Expense Claim, Debtors (or Reorganized Debtor as the case may be), the Committee (if still in existence) and the Disbursing Agent. In consideration for the delay in payment to Professionals, those Professionals who agree in writing to defer payment in full in Cash upon Confirmation shall receive their Pro Rata Share of 1,500,000 shares of New Common Stock (estimated to be 15% of the issued and outstanding New Common Stock after the Transaction) based upon the amount of such deferred, unpaid Allowed Administrative Expense Claims of those Professionals. As Cash is received by the Disbursing Agent, such deferred Allowed Administrative Expense Claims of Professionals shall be paid on pro rata basis.

**2.3 Fees Under 28 U.S.C. §1930.** All fees payable in the Cases under 28 U.S.C. §1930, as agreed by Debtors and Committee or as determined by the Bankruptcy Court, will, if not previously paid in full, be paid in Cash on the Effective Date and will continue to be paid by the Disbursing Agent as required under 28 U.S.C. §1930 until such time as an order is entered by the Bankruptcy Court closing the Cases.

### ARTICLE III.

#### CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

The following table designates the Classes of Claims against and Equity Interests in Debtors and specifies which of those Classes are (i) impaired or unimpaired by the Plan, (ii) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code and (iii) deemed to reject the Plan:

<u>Class</u>	<u>Designation</u>	<u>Impairment</u>	<u>Entitled to Vote</u>
Class 1	Secured Claims	Unimpaired	No
Class 2	Priority Tax Claims	Unimpaired	No
Class 3	Priority Non-Tax Claims	Unimpaired	No
Class 4	General Unsecured Claims	Impaired	Yes
Class 5a	Equity Interests in WUCC	Unimpaired	No
Class 5b	Equity Interests in CK	Impaired	Yes

For convenience of identification, the Plan classifies the Allowed Secured Claims in Class 1 as a single Class. This Class is actually a group of subclasses, depending on the underlying property securing such Allowed Secured Claims, and each subclass is treated hereunder as a distinct Class for distribution purposes.

Moreover, for convenience of identification, the Plan classifies Allowed Claims against a respective Debtor in single Classes. Unless otherwise provided for in the Plan, Allowed Claims against CK shall be paid from assets of CK and in the form of New Common Stock issued pursuant to the terms of this Plan, and Allowed Claims against WUCC shall be paid from assets of WUCC and the Reorganized CK Note pursuant to the terms of this Plan.

#### ARTICLE IV.

##### TREATMENT OF CLAIMS AND EQUITY INTERESTS

**4.1 Class 1 - Secured Claims.** To the extent that the Secured Claims have not been indefeasibly paid, satisfied or assumed prior to the Effective Date in accordance with the Sale, on or as soon as reasonably practicable after the Effective Date, each holder of an Allowed Secured Claim shall receive, at the option of the Disbursing Agent, and in full satisfaction of such Claim, either (i) Cash in an amount equal to one hundred percent (100%) of the Allowed Secured Claim (taking into account sections 506(a)(1) and 506(b) of the Bankruptcy Code); (ii) the proceeds of the sale or disposition of the Collateral securing such Allowed Secured Claim to the extent of the value of the holder's secured interest in such Collateral, net of the costs of disposition of such Collateral; (iii) such other distribution as necessary to satisfy the requirements of the Bankruptcy Code, including the surrender of any such Collateral; or (iv) such other treatment as the Disbursing Agent and such Secured Claim holder may agree. The Liens securing such Allowed Secured Claims shall be deemed released at such time as the Secured Claims are paid in full.

**4.2 Class 2 - Priority Tax Claims.** Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a different treatment, on the Effective Date, or as soon thereafter as is reasonably practicable, the Disbursing Agent shall pay to each holder of an Allowed Priority Tax Claim, in full satisfaction of such Claim, an amount in Cash equal to the Allowed amount of such Claim. To the extent that the holder of an Allowed Priority Tax Claim is not paid Cash equal to the Allowed Amount of such Claim on the Effective Date, such holder shall be entitled to interest at a rate determined under applicable non-bankruptcy Law. Notwithstanding the foregoing, any Allowed Priority Tax Claims arising from or relating to income taxes of the Debtor shall be paid by the Reorganized Debtors.

**4.3 Class 3 - Priority Non-Tax Claims.** Except to the extent that a holder of an Allowed Priority Non-Tax Claim against Debtors agrees to a different treatment of such Claim, on the Effective Date, or as soon thereafter as is reasonably practicable, each holder of an Allowed Priority Non-Tax Claim shall receive either one hundred percent (100%) of the Allowed Amount of such Priority Non-Tax Claims or, if there is insufficient Cash to pay 100% on the Effective Date, a Pro Rata Share of all remaining Cash after payment, or treatment consistent with sections 7.3 and 7.5 hereof, of all Allowed Claims in sections 2.1, 2.2, 4.1 and 4.2. If there is insufficient Cash to pay each Class 3 Claim in full on the Effective Date, the unpaid balance of such Claims shall be paid in full once sufficient funds are available.

**4.4 Class 4 - General Unsecured Claims.** The holders of Allowed General Unsecured Claims shall receive (i) their Pro Rata Share of all remaining Cash after payment in full of all Allowed Claims, or treatment consistent with sections 7.3 and 7.5 hereof, pursuant to sections 2.1, 2.2, 4.1, 4.2 and 4.3 at such times as the Disbursing Agent deems practicable; (ii) their Pro Rata Share of the collection or liquidation of the proceeds from the Sale, including all Deferred Sale Consideration; and (iii) their Pro Rata Share of any net recovery obtained from the Causes of Action or other litigation pursued by the Litigation Trustee. In addition, each holder in Class 4 of an Allowed General Unsecured Claim against CK shall receive its Pro Rata Share of 2,120,000 shares of New Common Stock (estimated to be 21.2% of the issued and outstanding New Common Stock after the Transaction). In addition, each holder in Class 4 of an Allowed General Unsecured Claim against WUCC shall receive its Pro Rata Share of payments made on the Reorganized CK Note.

**4.5 Class 5 - Equity Interests.** On the Effective Date, CK shall retain all Equity Interests it holds in WUCC (Class 5a Equity Interests) and Reorganized WUCC shall remain as a wholly-owned subsidiary of Reorganized CK. All Equity Interests issued in CK (Class 5b Equity Interests) shall be deemed cancelled without further action by Debtors on the Effective Date. Each holder of an Equity Interest in CK on the Record Date shall receive its Pro Rata Share of 3,180,000 shares of New Common Stock (estimated to be 31.8% of the issued and outstanding New Common Stock after the Transaction) as soon as practicable after the Effective Date.

## ARTICLE V.

### PROVISIONS GOVERNING DISTRIBUTIONS

**5.1 Distribution Record Date.** As of the close of business on the Record Date, the various registers for each of the Classes of Claims or Equity Interests as maintained by Debtors, or their agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Equity Interests unless otherwise specifically provided under the Plan. Neither Debtors, the Litigation Trustee, nor the Disbursing Agent shall have any obligation to recognize any transfer of the Claims or Equity Interests occurring on or after the Record Date.

**5.2 Method of Distributions Under the Plan.**

(a) **Effective Date Payments and Transfers by Debtors.** On the Effective Date, Debtors shall remit and transfer to the Litigation Trusts all Trust Assets, including all Causes of Action, and shall remit and transfer all Cash, rights to Deferred Sale Consideration and any rights or interest to the Reorganized CK Note to the Disbursing Agent. The Disbursing Agent shall pay as soon as practicable holders of Allowed Claims pursuant to section 2.1, 2.2, 4.1, 4.2, 4.3 and 4.4 an amount in Cash equal to the Allowed amount of such Claims or in such other amounts as set forth in this Plan, except with respect to Allowed Claims in Class 4.2 relating to federal income tax, in which case the

Reorganized Debtors shall pay such Claims. The transfer of the assets as described in the preceding sentence to the Litigation Trusts and the Disbursing Agent shall be made for the benefit of the Beneficiaries, in each case, but only to the extent that the Beneficiaries are entitled to distributions under the Plan. All of CK's assets comprising Trust Assets shall be transferred to the CK Litigation Trust and all of WUCC's assets comprising Trust Assets shall be transferred to the WUCC Litigation Trust.

(b) **Disbursing Agent and Litigation Trustee.** All distributions of Cash under the Plan will be made by the Disbursing Agent and all distributions of New Common Stock will be made by the Reorganized Debtor. The Litigation Trustee and the Disbursing Agent will not be required to give any bond or surety or other security for the performance of their respective duties unless otherwise ordered by the Bankruptcy Court, and in the event that the Litigation Trustee or Disbursing Agent is otherwise so ordered, all costs and expenses of procuring any such bond or surety will be borne by the Litigation Trusts (if so imposed upon the Liquidating Trustee) or the Estates (if so imposed upon the Disbursing Agent). The Litigation Trustee and the Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments and other documents necessary to perform their duties under the Plan and/or the Agreements, (ii) make all distributions contemplated in the Plan, (iii) employ professionals to represent them with respect to their responsibilities under the Plan and (iv) exercise such other powers as may be vested in the Litigation Trustee or Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan and/or the Agreements, or as deemed by the Litigation Trustee or Disbursing Agent to be necessary and proper to implement the provisions of the Plan. Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Litigation Trustee or the Disbursing Agent on or after the Effective Date (including without limitation, taxes) and any reasonable compensation and expense reimbursement claims (including, without limitation, reasonable attorneys' fees and other professional fees and expenses) made by the Litigation Trustee or the Disbursing Agent shall be paid in Cash subject to the terms and conditions of the Litigation Trusts and this Plan. The initial sum of \$45,000 shall be earmarked and held by the Disbursing Agent as a reserve to pay his expenses, including the fees and expenses of professionals hired by him and thereafter such reserve shall be supplemented as the Disbursing Agent deems necessary to effectuate this Plan and in accordance with this Plan.

(c) **Distributions of Cash.** At the option of the Disbursing Agent, any Cash payment to be made hereunder may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

(d) **Delivery of Distributions.** Subject to Bankruptcy Rule 9010, unless otherwise provided in the Plan, all distributions to any holder of an Allowed Claim will be made to the holder of each Allowed Claim at the address of such holder as listed in the Schedules, or on the books and records of Debtors unless Debtors, Disbursing Agent or Litigation Trustee, as the case may be, have been notified, in advance, in writing of a change of address, including, without limitation, by the timely filing of a proof of claim or interest by such holder that provides an address for such holder different from the address reflected in the Schedules or in Debtors' books and records. In the event that any distribution to any holder is returned as undeliverable, no distribution to such holder will be made unless and until the Disbursing Agent or Litigation Trustee has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter, such distribution will be made to such holder without interest; provided, however, that, such undeliverable distributions will be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of ninety (90) days after the date of distribution in accordance with the section on unclaimed distributions below. The Litigation Trustee and the Disbursing Agent will have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Schedules and the books and records maintained by Debtors (including any proofs of claim filed against Debtors).

**5.3 Withholding and Reporting Requirements.** In connection with the Plan and the Litigation Trusts and all instruments issued in connection therewith and distributed thereon, the Litigation Trustee and Disbursing Agent shall comply with all applicable withholding and reporting requirements imposed by any federal, state or local taxing authority, and all distributions under the Plan shall be subject to any such withholding or reporting requirements.

**5.4 Time Bar to Cash Payments.** Checks issued in accordance with the Plan in respect of Allowed Claims shall be null and void if not negotiated within sixty (60) days after the date of issuance thereof. Requests for reissuance of any check shall be made to the Disbursing Agent by the holder of the Allowed Claim to whom such check was originally issued. Any Claim in respect of such a voided check shall be made on or before thirty (30) days after the expiration of the sixty (60) day period following the date of issuance of such check. Thereafter, the amount represented by such voided check shall irrevocably revert to the Disbursing Agent for redistribution and any Claim in respect of such voided check shall be discharged and forever barred from assertion against Debtors and their property or the Disbursing Agent, as the case may be.

**5.5 De Minimus Distributions.** No payment of Cash less than \$50.00 shall be made by the Disbursing Agent. Holders of Allowed Claims who would otherwise be entitled to a distribution in an amount less than \$50.00 shall receive no distribution on account of such Allowed Claim because the value of such Allowed Claim would be de minimus and the administrative costs associated with processing and mailing the distribution to such holder of an Allowed Claim would likely exceed the amount of the distribution. No distribution of less than 400 shares of New Common Stock shall be made to any holder of an Allowed Claim or Equity Interest, as such distribution would be de minimus. Any Cash that is undistributable in accordance with this section 5.5 shall remain with the Disbursing Agent for redistribution.

**5.6 No Fractional Distributions or Shares Issued.** No distributions in fractions of hundredths of U.S. Dollars (\$0.00's) (i.e. cents) shall be issued. If the distribution amount allocated to an Allowed Claim at the time of distribution hereunder would include fractions of cents, the amount to be distributed to the holder of such Claim shall be rounded down to the highest integral number of cents of the applicable Claim amount. No fractional shares of New Common Stock shall be issued and all fractional shares shall be rounded down to the nearest whole share. Holders of Allowed Claims Equity Interests who would be entitled to fractional shares but for this provision shall receive no consideration therefor because such amount will be de minimus.

**5.7 Setoffs.** Debtors, Reorganized Debtors, the Disbursing Agent or the Litigation Trustee, as the case may be, may, but shall not be required, to set off against any Claim (for purposes of determining the Allowed amount of such Claim on which distribution shall be made), any claims of any nature whatsoever that Debtors may have against the holder of such Claim, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by Debtors, the Disbursing Agent or the Litigation Trustee of any such claim Debtors may have against the holder of such Claim. No setoffs or claims of recoupment shall be asserted against the Debtors, Reorganized Debtors, the Disbursing Agent, or the Litigation Trustee.

**5.8 Transactions on Business Days.** If the Effective Date or any other date on which a transaction may occur under the Plan shall occur on a day that is not a Business Day, the transactions contemplated by the Plan to occur on such day shall instead occur on the next Business Day but shall be deemed to have been completed as of the required date.

**5.9 Allocation of Plan Distribution Between Principal and Interest.** All distributions in respect of any Allowed Claim shall be allocated first to the principal amount of such Allowed Claim, as determined for federal income tax purposes, and thereafter, to the remaining portion of such Claim comprising interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

## ARTICLE VI.

### **MEANS FOR IMPLEMENTATION AND EXECUTION OF THE PLAN**

#### **6.1 Distribution Of New Common Stock**

Professionals, the DIP Lender, holders of Class 4 Claims that are Allowed General Unsecured Claims against CK, and Class 5b Interest holders will receive distributions from Reorganized CK of New Common Stock as provided in sections 4.1, 4.2, 4.3, 4.4 and 4.5 hereof.

#### **6.2 Post-Confirmation Management of Reorganized Debtors**

The Reorganized Debtors' boards of directors after the Effective Date will each have three (3) members until the date of the close of the Transaction. The initial members of the Reorganized Debtors' Board shall be Lee Abbott, Chairman, Cherie Tilley, and Gary Gough. These initial members shall serve unless and until replaced by directors selected by the funders of the Transaction.

The management of the Reorganized Debtors immediately following the Effective Date will consist of Lee Abbott as the President, Cherie Tilley as the Executive Vice President of Mining Operation, and Gary Gough as Executive Vice President, until the date of the closing of the Transaction.

All persons designated pursuant to this section shall be authorized to assume their offices as of the Effective Date and shall be authorized to continue to serve in such capacities thereafter unless replaced by as set forth above or pending further action of the Reorganized Debtors' Board or stockholders of the Reorganized Debtors in accordance with applicable state law and the Reorganized Debtors' then-existing bylaws and charter.

The Reorganized Debtors will institute compensation for management and the board of directors to the extent appropriate. Such compensation is expected to be in the form of cash, securities, other incentives, or a combination thereof.

#### **6.3 The Litigation Trusts and Disbursing Agent**

(a) **Execution of the Agreements.** On the Effective Date, the Agreements shall be executed, and all other necessary steps shall be taken to establish the Litigation Trusts and the beneficial interests therein, which shall be for the benefit of all creditors and parties in interest entitled to receive distributions under the Plan. This section 6.3 sets forth certain of the rights, duties and obligations of the Litigation Trustee. In the event of any conflict between the terms of section 6.3 the Plan and the terms of the Agreements, the terms of the Agreements shall govern.

(b) **Purpose of Litigation Trusts.** The Litigation Trusts shall be established and maintained for the sole purpose of liquidating Trust Assets and distributing proceeds thereof, in accordance with Treasury Regulation section 30.1.7701-4(d) and Revenue Procedure 94-45, and resolving and administering Claims, with no objective to continue or engage in the conduct of a trade or business.

(c) **Transfer of Assets of the Estates to the Litigation Trusts and Disbursing Agent.**

i. **Litigation Trusts**

(A) On the Effective Date, right, title and interest to the Trust Assets shall vest in the Litigation Trusts.

(B) On the Effective Date, the Estates shall be deemed to assign, set over, transfer and convey to the Litigation Trusts the Trust Assets, including all Causes of Action. To the extent that certain assets of the Estates, because of their nature or because they will accrue subsequent to the Effective Date, cannot be assigned, set over, transferred or conveyed to the Litigation Trusts on the Effective Date, such assets shall be deemed assigned, set over, transferred and conveyed to the Litigation Trusts as soon as practical after the Effective Date.

(C) On or after the Effective Date, the Litigation Trustee shall continue as a plaintiff in all litigation or Causes of Action (on behalf of the Beneficiaries) in which either of Debtors was plaintiff prior to the Effective Date. All recoveries and proceeds arising from litigation and Causes of Action shall be deemed assigned, set over, transferred and conveyed to the Litigation Trusts upon receipt thereof. All fees and costs of the Litigation Trustee (and agents thereof) arising from or relating to pursuing litigation or Causes of Action or other services performed at the request of the Litigation Trustee on behalf of the Litigation Trusts shall be paid as a first priority in right of distribution from the Litigation Trusts.

(D) The transfer of assets of the Estates to the Litigation Trust shall be made for the benefit of the Beneficiaries, in each case, but only to the extent the Beneficiaries are entitled to distributions under the Plan.

ii. **Disbursing Agent**

(A) On the Effective Date, all of the Debtors' existing Cash, rights and interests in/to the Deferred Sale Consideration and rights and interest in/to the Reorganized CK Note shall be transferred to the Disbursing Agent.

(B) On the Effective Date, the Estates shall be deemed to assign, set over, transfer and convey the Deferred Sale Consideration to the Disbursing Agent. All Deferred Sale Consideration paid after the Effective Date shall be paid to the Disbursing Agent for future distribution to the holders of Allowed Claims.

(d) **Governance of Litigation Trusts and Disbursing Agent.**

i. The Litigation Trusts shall be governed by the Litigation Trustee in accordance with the Agreements and consistent with the Plan.

ii. The Disbursing Agent shall be governed by the terms of the Plan and overseen by the Disbursing Agent Oversight Committee, which shall be entitled to periodic updates from the Disbursing Agent and shall have the authority, upon majority vote of a quorum, to remove and replace the Disbursing Agent.

(e) **Designation of the Litigation Trustee and Disbursing Agent.** The designation of the Litigation Trustee and Disbursing Agent shall be effective on the Effective Date without the need for a further order of the Bankruptcy Court. The Litigation Trustee shall exercise reasonable business judgment to administer Trust Assets and to make timely distributions from the Litigation Trusts to the Disbursing Agent for the benefit of the Litigation Trusts' respective Beneficiaries. The Disbursing Agent shall exercise reasonable business judgment to make distributions to Beneficiaries pursuant to the terms of the Plan.

(f) **Nontransferability of Interests in the Litigation Trusts.** The beneficial interests in the Litigation Trusts shall not be certificated and are not transferable (except as otherwise provided in the Agreements).

(g) **Cash.** The Litigation Trustee and the Disbursing Agent may invest Cash held thereby (including any earnings thereon or proceeds therefrom) in short term overnight investments or longer term investments as permitted by section 345 of the Bankruptcy Code; *provided, however*, that such investments made by the Litigation Trustee are investments permitted to be made by a trust within the meaning of Treasury Regulation section 301.7701-4(d), as reflected therein, or under applicable Internal Revenue Service guidelines, rulings, or other controlling authorities.

(h) **Costs and Expenses of the Litigation Trustee and Disbursing Agent.** The costs and expenses of the Litigation Trusts and the Disbursing Agent, including the fees and expenses of the Litigation Trustee and his retained professionals shall be paid out of the Litigation Trusts for which the costs and expenses were incurred. The costs and expenses of the Disbursing Agent, including the fees and expenses of his professionals, shall be paid out of the Cash, Deferred Sale Consideration and Reorganized CK Note. The aforementioned costs and expenses shall be treated as administrative expenses of the Litigation Trusts and Disbursing Agent, having a first priority in right of distribution against the funds/assets they respectively control/oversee without the need for Bankruptcy Court authorization or entry of a Final Order. The WUCC Litigation Trust shall be funded initially by the deposit of Thirty-Five Thousand Dollars (\$35,000) by WUCC and the deposit of Seventy Thousand Dollars (\$70,000) by CK. The Litigation Trustee shall retain such amounts as are reasonably necessary (at the discretion of the Litigation Trustee, in consultation with the Disbursing Agent) to meet the future fees and expenses incurred in administering the Litigation Trusts in the Litigation Expense Reserve Account. As for the Disbursing Agent, while all Cash shall be delivered to the Disbursing Agent on the Effective Date, Forty-Five Thousand Dollars (\$45,000) shall be earmarked for the Disbursing Agent's fees and costs, including the fees and costs of its professionals. In addition, the Disbursing Agent shall retain such amounts as are reasonably necessary (at the discretion of the Disbursing Agent, in consultation with the Disbursing Agent Oversight Committee) to meet future fees and expenses incurred by the Disbursing Agent in connection with his duties under the Plan.

(i) **Compensation of the Litigation Trustee and Disbursing Agent.** The Litigation Trustee shall be entitled to reasonable compensation on a contingency fee basis, which shall be on economic terms agreeable to the Committee and established prior to the Effective Date. The compensation payable to the Litigation Trustee shall be treated consistent with section 6.3(h) hereunder. The Disbursing Agent shall be compensated on an hourly basis in the amount of \$350.

(j) **Distribution of Trust Assets.** The Litigation Trustee shall distribute in accordance with the Agreements, the Trust Assets on hand (treating as Cash for purposes of this section 6.3 any permitted investments under Section 6.3(g) hereof), except such amounts (i) as are reasonably necessary to meet contingent liabilities and to maintain the value of the assets of the Litigation Trusts, as determined by the Litigation Trustee in consultation with the Disbursing Agent; (ii) to pay reasonable



expenses (including, but not limited to, any taxes imposed on the assets of the Litigation Trusts or in respect of the Litigation Trusts); and (iii) to satisfy other liabilities incurred by the Litigation Trusts in accordance with this Plan or the Agreements.

(k) **Retention of Professionals by the Litigation Trusts and Disbursing Agent.**

On and after the Effective Date, the Litigation Trust and the Disbursing Agent shall employ and compensate such professionals, including, without limitation, any professionals employed by the Estates, as the Litigation Trustee and the Disbursing Agent determine is necessary or appropriate to implement all of the provisions of the Plan and the Agreements without any supervision of, or approval by, the Bankruptcy Court or the United States Trustee. The Litigation Trusts and the Disbursing Agent shall be allowed to pay the fees and costs of its professionals without the requirement to file fee applications and seek approval of the Bankruptcy Court. The Bankruptcy Court will retain jurisdiction to resolve any fee disputes involving the Litigation Trusts' and/or the Disbursing Agent's professionals.

i. Professionals engaged by the Litigation Trusts in connection with the Causes of Action shall be entitled to a contingency fee not to exceed forty percent (40%) of the proceeds of a respective Cause of Action, plus reasonable expenses actually incurred in connection with the Cause of Action, provided however, that the terms of any retention of a professional by the proposed Litigation Trustee be acceptable to the Committee, or as the case may be, the Disbursing Agent in advance of any such engagement. Professionals engaged by the Litigation Trusts in relation to Causes of Action shall be paid for fees incurred in a respective Cause of Action only upon the Litigation Trustee's receipt of Litigation Proceeds through either a settlement of the respective Cause of Action or final adjudication thereof. Professionals engaged by the Litigation Trusts in connection with the Causes of Action shall only be entitled to payment from the Litigation Trusts.

(l) **Authority to Settle and Grant Releases.** The Litigation Trustee shall not settle any Cause of Action without the consent of the Disbursing Agent, which consent shall not be unreasonably withheld. With the consent of the Disbursing Agent in connection with the compromise and settlement of any Causes of Action, the Litigation Trustee is authorized to settle Causes of Action, and release and discharge, to the fullest extent permitted by law, non-Debtor parties to Causes of Action from all Claims and Causes of Action that the Litigation Trustee (as successor to Debtors on behalf of the Beneficiaries) has or may have whether known or unknown against such Persons without further notice to, approval of, the Bankruptcy Court. Any settlement effectuated prior to the Confirmation Date, upon notice thereof to the Bankruptcy Court, shall be deemed incorporated into the Plan and entry of the Confirmation Order including provisions of such settlement shall be deemed a settlement pursuant to section 1123(b)(3)(A) of the Bankruptcy Code. Notwithstanding the foregoing, in Causes of Action where the amount in controversy exceeds \$150,000, the Litigation Trustee must seek the authority to settle or otherwise dispose of any Cause of Action from the Bankruptcy Court, in accordance with Bankruptcy rules. Upon request, the Litigation Trustee shall provide the Disbursing Agent with status updates of any outstanding Causes of Action. As the Litigation Trustee and Disbursing Agent have common interest in the Causes of Action, any such status report shall not be deemed a waiver of privilege.

(m) **Attorney-Client Privilege.** Any attorney-client privilege, work-product privilege or other privilege or immunity held by the Debtors shall vest in the Litigation Trustee (and the attorneys and agents of the Litigation Trustee) and the Litigation Trustee shall be entitled to assert such privilege and immunity to the same extent that Debtors were entitled to do so prior to the Effective Date.

(n) **Transfer of Claims of Debtors and Their Estates to Litigation Trusts.** Included among assets and property of the Estates are Causes of Action. A full investigation of potential Causes of Action has not been undertaken by either Debtors or the Committee. Certain Causes of Action

have been filed by Debtors during the course of the Cases. It is, however, the Committee's belief that additional potential Causes of Action may exist as against, among others (i) Persons (and/or subsidiaries and affiliates thereof) identified in Debtors' item 3 of Debtors' Statement of Financial Affairs with respect to Avoidance Actions (and other Persons subsequently discovered by the Committee or Litigation Trustee as having received payments that should have been listed and identified in item 3 of Debtors' Statement of Financial Affairs and were not); and, (ii) other Causes of Action identified by the Litigation Trustee in the course of his post-Effective Date due diligence.

(o) **Federal Income Tax Treatment of Litigation Trusts.**

i. **Trust Assets and Assets held by Disbursing Agent Treated as Owned by Creditors.** For all federal income tax purposes, all parties (including, without limitation, Debtors, the Litigation Trustee and the holders of beneficial interests in the Litigation Trusts) shall treat the transfer of the Trust Assets to the Litigation Trusts as well as assets transferred to the Disbursing Agent for the benefit of the Beneficiaries thereof, whether Allowed on or after the Effective Date, as (A) a transfer directly to the Beneficiaries (other than to the extent allocable to Disputed General Unsecured Claims) followed by (B) the transfer by the Beneficiaries to the Litigation Trusts of the Trust Assets in exchange for beneficial interests in the Litigation Trusts, as applicable under this Plan. Accordingly, Beneficiaries shall be treated for federal income tax purposes as the grantors and owners of their respective shares of the Trust Assets or assets held by the Disbursing Agent.

ii. **Tax Reporting.**

(A) The Litigation Trustee shall file returns for the Litigation Trusts as a grantor trust pursuant to Treasury Regulation section 1.671-1 through 4(a) and in accordance with this section 6.3(o). The Litigation Trustee shall also annually send to each record holder of a beneficial interest a separate statement setting forth the holder's share of items of income, gain, loss, deduction or credit and will instruct all such holders to report such items on their federal income tax returns or to forward the appropriate information to the beneficial holders with instructions to report such items on their federal income tax returns. The Litigation Trusts' taxable income, gain, loss, deduction or credit will be allocated (subject to section 6.3(o)ii(C) hereof, relating to Disputed General Unsecured Claims) to the holders of Allowed General Unsecured Claims in accordance with their relative beneficial interests in the Litigation Trusts.

(B) As soon as possible after the Effective Date, but in no event later than permitted by applicable non-bankruptcy law, the Litigation Trustee shall make a good faith valuation of the Trust Assets. Such valuation shall be made available from time to time, to the extent relevant, and used consistently by all parties (including, without limitation Debtors, the Litigation Trustee, and the holders of Allowed General Unsecured Claims) for all federal income tax purposes. The Litigation Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the Litigation Trusts that are required by any Governmental Unit.

(C) Subject to definitive guidance from the Internal Revenue Service or a court of competent jurisdiction to the contrary (including the receipt by the Litigation Trustee of a private letter ruling if the Litigation Trustee so requests one, or the receipt of an adverse determination by the Internal Revenue Service upon audit if not contested by the Litigation Trustee), the Litigation Trustee shall (i) treat any Trust Assets allocable to, or retained on account of, Disputed Claims as held by one or more discrete trusts for federal income tax purposes (the "Disputed Claim Reserve") in accordance with the trust provisions of the Tax Code (section 641 *et seq.*); (ii) treat as taxable income or loss of the Disputed Claim Reserve, with respect to any given taxable year, the portion of the taxable income or loss

of the Litigation Trusts that would have been allocated to the holders of Disputed Claims had such Claims been Allowed on the Effective Date (but only for the portion of the taxable year with respect to which such Claims are unresolved); (iii) treat as a distribution from any reserve established under Litigation Trusts any increased amounts distributed by the Litigation Trusts as a result of any Disputed Claims resolved earlier in the taxable year, to the extent such distributions relate to taxable income or loss of the Litigation Trusts determined in accordance with the provisions hereof; and (iv) to the extent permitted by applicable law, report consistent with the foregoing for state and local income tax purposes. All holders of Allowed General Unsecured Claims shall report, for tax purposes, consistent with the foregoing.

(D) The Litigation Trustee shall be responsible for payments, out of the Trust Assets, of any taxes imposed on the Litigation Trusts or the Trust Assets, including any Disputed Claim Reserve established under the Litigation Trusts. In the event, and to the extent, any Cash retained on account of Disputed General Unsecured Claims in any Disputed Claim Reserve established under the Litigation Trusts is insufficient to pay the portion of any such taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed General Unsecured Claims, such taxes shall be (i) reimbursed from any subsequent Cash amounts retained on account of Disputed General Unsecured Claims, or (ii) to the extent such Disputed General Unsecured Claims have subsequently been resolved, deducted from any amounts distributable by the Litigation Trustee as a result of the resolutions of such Disputed General Unsecured Claims.

(E) The Litigation Trustee may request an expedited determination of taxes of the Litigation Trusts under section 505(b) of the Bankruptcy Code for all returns filed for, or on behalf of, the Litigation Trusts for all taxable periods through the dissolution of the Litigation Trusts.

(p) **Dissolution and Termination.** The Litigation Trusts, the Litigation Trustee and the Disbursing Agent shall be discharged or dissolved, as the case may be, at such time as (i) all Disputed General Unsecured Claims have been resolved, (ii) all Trust Assets have been liquidated and (iii) all distributions required to be made by the Disbursing Agent or the Reorganized Debtors under the Plan have been made, but in no event shall the Litigation Trusts be dissolved later than a period that would adversely affect the status of the Litigation Trusts as a Litigation trust for federal income tax purposes. The Litigation Trusts shall only exist for a period as long as is necessary to facilitate or complete the recovery and liquidation of the Trust Assets and distribution of their proceeds. The Litigation Trustee shall not unduly prolong the duration of the Litigation Trusts and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Trust Assets and to effect the distribution of the Trust Assets in accordance with the terms hereof and terminate the Litigation Trusts as soon as practicable. Prior to and upon termination of the Litigation Trusts, the Trust Assets will be distributed to the Disbursing Agent for distribution to the Beneficiaries of the Litigation Trusts, pursuant to the provisions set forth in the Agreements and Articles 2 and 4 of this Plan. Notwithstanding the foregoing, the Litigation Trusts shall dissolve on the date which is five (5) years from the Effective Date (the "Termination Date"), provided, however, that, if warranted by the facts and circumstances, and subject to the approval of the Bankruptcy Court with jurisdiction over the Case, upon a finding that an extension of the term of the Litigation Trusts is necessary to accomplish the liquidation purpose of the Litigation Trusts, the Litigation Trusts' term may be extended for a finite period based on facts and circumstances. If all payments required to be made to creditors under the Plan have not been made as of the Termination Date, including any extensions, this will be sufficient for the Bankruptcy Court to find that an extension of the Litigation Trusts is necessary to accomplish the liquidation purpose of the Litigation Trusts. Each extension of the term of the Litigation Trusts is required to be approved by the Bankruptcy Court within 6 months of the beginning of the extended term, after notice and opportunity for hearing have been provided to the Beneficiaries, holders of Disputed Claims, and any entities that filed a request

for special notice with the Bankruptcy Court concerning the Case. The Litigation Trusts may not be terminated at any time by the Beneficiaries.

(q) **Indemnification of Litigation Trustee and Disbursing Agent.** The Litigation Trusts, the Litigation Trustee, and his respective agents and professionals, shall not be liable for actions taken or omitted in their respective capacities, except for those acts arising out of their own willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty or *ultra vires* acts, and each shall be entitled to indemnification and reimbursement for fees and expenses in defending any and all of its actions or inactions in their respective capacities from the Litigation Trusts, except for any actions or inactions involving willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty; or *ultra vires* acts. Any indemnification claim of the Litigation Trustee (and the other parties entitled to indemnification under this subsection 6.3(q)) shall be satisfied first from the Trust Assets. The Litigation Trustee shall be entitled to rely, in good faith, on the advice of their respective retained professionals.

i. The Disbursing Agent and his respective agents and professionals shall not be liable for actions taken or omitted in their respective capacities, except for those acts arising out of their own willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty or *ultra vires* acts, and each shall be entitled to reimbursement for fees and expenses in defending any and all of actions or inactions in their respective capacities from the Cash, Deferred Sales Consideration and the Reorganized CK Note, except for any actions or inactions involving willful misconduct, gross negligence, bad faith, self-dealing, breach of fiduciary duty; or *ultra vires* acts. Any such claim of the Disbursing Agent and his respective agents and professionals shall be satisfied first from the Cash Deferred Sales Consideration and the Reorganized CK Note.

**6.4 Distributions to Holders as of the Record Date.** As of the close of business on the Record Date, the Claims Register, the equity register and transfer and other registers as maintained by Debtors and/or their respective agents, as applicable, will be closed and there will be no further changes in the record holder of any Claim or Equity Interest. Neither the Litigation Trustee nor the Disbursing Agent will have any obligation to recognize any transfer of any Claim or Equity Interest occurring after the Record Date. The Litigation Trustee and Disbursing Agent will instead be authorized and entitled to recognize and deal for all purposes under the Plan with only those record holders stated on the Schedules and/or Claims Register, as the case may be, and other registers as of the close of business on the Record Date.

**6.5 Closing of Cases by Charitable Gift.** If at any time the Disbursing Agent determines that the expense of administering the Cash on deposit so as to make a final distribution to Allowed Claims is likely to exceed the value of the assets remaining for distribution, the Disbursing Agent shall apply to the Bankruptcy Court for authority to (i) reserve any amounts necessary to close the Cases; (ii) donate any balance to a charitable organization of the Disbursing Agent Oversight Committee's choice that is exempt from federal income tax under section 501(c)(3) of the Tax Code that is unrelated to the Debtors, Reorganized Debtors and any insider of the same; and (iii) close the Cases in accordance with the Bankruptcy Code and Bankruptcy Rules. Notice of such application shall be given electronically, to the extent practicable, to those parties who have filed requests for notices and whose electronic addresses remain current and operating.

**6.6 Release of Liens.** Except as otherwise specifically provided in or contemplated by the Plan or in any contract, instrument or other agreement or document created in connection with the Plan, (i) each holder of: (a) any purported Secured Claim and/or (b) any judgment, personal property or *ad valorem* tax, molder, warehouse or artisan or similar Lien Claim, in each case regardless of whether such Claim is an Allowed Claim, shall, on or immediately before the Effective Date and regardless of whether

such Claim has been scheduled or proof of such Claim has been filed: (x) turn over and release to the Estates any and all property of Debtors or Estates that secures or purportedly secures such Claim, or such Lien and/or Claim shall automatically, and without further action by Debtors, the Litigation Trustee, or the Disbursing Agent, as the case may be, be deemed released and (y) execute such documents and instruments as Debtors or Litigation Trustee, as the case may be, required to evidence the holder of a Claim's release of such property or Lien, and if such holder refuses to execute appropriate documents or instruments, the Reorganized Debtor, the Litigation Trustee, or the Disbursing Agent as the case may be, in its discretion, file a copy of the Confirmation Order in the appropriate recording office or file a UCC lien release in the appropriate filing office, which shall serve to release any holder of a Claim's rights in such property; and (ii) on the Effective Date, all right, title and interest in such property shall revert or be transferred to the Litigation Trusts as Trust Assets, free and clear of all Claims, interests, and Liens of any kind.

**6.7 Cancellation of Existing Securities and Security Agreements.** On the Effective Date, except as expressly provided in this Plan, the securities, warrants, options, promissory notes, trust indentures, share certificates, security agreements, deeds of trust, collateral agency agreements and other instruments evidencing or securing a Claim or Equity Interest shall be deemed cancelled without further act or action under any applicable agreement or Law, and the obligations of Debtors and the Litigation Trustee, as successor to Debtors under the agreements, instruments, trust indentures and certificates governing and securing such Claims, as the case may be, shall be discharged.

**6.8 Limitations on Issuance of New Common Stock and Other Securities.** Only 10,000,000 shares of New Common Stock shall be initially issued, and without the affirmative vote of holders of 60% of the New Common Stock, no additional shares of New Common Stock shall be issued for a period of three (3) years from the Effective Date. Professionals, the DIP Lender, CK Class 4 Claim holders, and Class 5b Equity Interest holders will receive distributions from Reorganized CK of New Common Stock as provided in the Plan and described above (totaling approximately 78% of the New Common Stock). The remaining New Common Stock, totaling 2,200,000 shares (22% of the total of 10,000,000 shares of New Common Stock), shall be issued to the Litigation Trustee for the CK Litigation Trust and shall be held in trust by the Litigation Trustee until directed by the Board of Directors of Reorganized CK to issue such shares in connection with the Transaction, or a similar type transaction. The Litigation Trustee shall be entitled to exercise all voting rights associated with such shares of New Common Stock.

**6.9 Litigation Trustee's and Disbursing Agent's Post-Confirmation Roles.** Except as otherwise provided herein, all rights and obligations of Debtors under this Plan that exist or continue on or after the Effective Date shall vest in the Litigation Trustee and shall be rights and obligations exercisable by the Litigation Trustee on and after the Effective Date. Further, the Litigation Trustee or the Disbursing Agent, as the case may be, shall perform each of the following acts as soon as practicable on or after the Effective Date:

(a) **General Powers.** In furtherance of and consistent with the terms and purpose of the Litigation Trusts and the Plan, the Litigation Trustee shall (A) have the power and authority to hold, manage, sell and distribute the Trust Assets in accordance with the Plan, (B) have the power and authority to prosecute and resolve, in the name of Debtors and/or the name of the Litigation Trustee, Causes of Action, (C) have the power and authority to prosecute and resolve objections to Disputed Claims, (D) have the power and authority to perform such other functions as are provided in the Plan and (E) have the power and authority to administer the closure of the Cases. The Litigation Trustee shall be responsible for all decisions and duties with respect to the Litigation Trusts and the Trust Assets. In all circumstances, the

Litigation Trustee shall act in the best interests of all Beneficiaries of the Litigation Trusts and in furtherance of the purpose of the Litigation Trusts.

(b) **Payments and Transfers.** On the Effective Date, or as soon thereafter as is reasonably practicable, the Disbursing Agent shall make payments and transfers to holders of Allowed Claims to claimants in the manner set forth in this Plan.

(c) **Claims Administration, Prosecution Objections to Claims, and Plan Distributions.** The Litigation Trustee and the Disbursing Agent shall have the power and authority to prosecute and resolve objections to Disputed Secured Claims, Disputed Administrative Expense Claims, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims and Disputed General Unsecured Claims. The Litigation Trustee and the Disbursing Agent shall have the right, power and authority to retain and assert all defenses, rights of setoff, recoupment and counterclaims with respect to each of the foregoing. The Disbursing Agent shall also have the power and authority to hold, manage and distribute Plan distributions to the holders of Allowed Claims consistent with applicable provisions of this Plan.

Notwithstanding the foregoing, all Insurance Claims that arose prior to the Petition Date shall be deemed Allowed in the greater of (i) an amount equal to (x) the amount of any remaining self-insured retention under the Insurance Policy applicable to such Insurance Claim, divided by (y) the number of Insurance Claims to which the applicable Insurance Policy and self-insured retention applies; and (ii) \$0.00. The allowance of an Insurance Claim pursuant to this provision shall not be deemed an admission of liability by Debtors and therefore shall not be conclusive as to Debtors' liability in any proceeding by the holder of an Insurance Claim against an Insurer.

**6.10 Books and Records.** Unless applicable non-bankruptcy law permits the distribution or destruction of certain of Debtors' business records at an earlier date, the Litigation Trustee shall have the responsibility of storing and maintaining books and records until one year after the Effective Date, after which time such books and records may, after consultation with the Disbursing Agent, be abandoned or destroyed without further Bankruptcy Court order, unless applicable non-bankruptcy law requires the retention and maintenance of any such books and records for a longer period, in which instance the Litigation Trustee shall retain such books and records for at least the minimum period required by applicable non-bankruptcy law. For purposes of this section, books and records include computer generated or computer maintained books and records and computer data, as well as electronically generated or maintained books and records or data, along with books and records of Debtors maintained by or in possession of third parties and all of the claims and rights of Debtors and in and to their books and records, wherever located.

**6.11 Corporate Action.** On the Effective Date, the Litigation Trustee, shall perform each of the actions and effect each of the transfers required by the terms of the Plan in the time period allocated therefor, and all matters provided for under the Plan that would otherwise require approval of the stockholders, directors or comparable governing bodies of Debtors shall be deemed to have occurred and shall be in effect from and after the Effective Date pursuant to the applicable general corporation law (or other applicable governing law) of the state in which Debtors incorporated or organized, without any requirement of further action by the stockholders or directors (or other governing body) of Debtors.

**6.12 Effectuating Documents and Further Transactions.** Debtors, Reorganized Debtors and/or Litigation Trustee, as the case may be, are authorized and directed 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.

## ARTICLE VII.

### PROCEDURES FOR DISPUTED CLAIMS

**7.1 Objections to Claims.** From and after the Effective Date, the Litigation Trustee and Disbursing Agent shall be entitled to object to Administrative Expense Claims, Secured Claims, Priority Tax Claims, Priority Non-Tax Claims and General Unsecured Claims.

**7.2 No Distribution Pending Allowance.** Notwithstanding any other provision hereof, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

**7.3 Reserve on Account of Disputed Claims**

(a) **Establishment and Reserve for Disputed Claims.** The Disbursing Agent shall maintain the Disputed Claim Reserve at an amount equal to the aggregate of 100% of the distributable amounts to which holders of such Disputed Claims would be entitled under the Plan if such Disputed Claims were Allowed Claims in their Disputed Claim Amounts or such lesser amount as required by a Final Order. For purposes of effectuating the provisions of this section 7.3(a) and the distributions to holders of Allowed Claims, the Bankruptcy Court may fix or liquidate the amount of Disputed Claims pursuant to section 502(c) of the Bankruptcy Code, in which event the amounts so fixed or liquidated shall be deemed the amounts of the Disputed Claims for purposes of distribution under this Plan. In lieu of fixing or liquidating the amount of any Disputed Claim, the Bankruptcy Court may determine the amount to be reserved for such Disputed Claim or such amount may be fixed by agreement in writing between the Litigation Trustee and the holder of a Disputed Claim.

(b) **Distributions Upon Allowance of Disputed Claims.** The holder of a Disputed Claim that becomes an Allowed Claim shall receive a distribution(s) in Cash from the Disputed Claim Reserve as soon as practicable following the date on which such Disputed Claim becomes an Allowed Claim pursuant to a Final Order. Such distributions shall be made in accordance with the Plan based upon the distributions that would have been made to such holder under the Plan if the Disputed Claim had been an Allowed Claim on or prior to the Effective Date. No holder of a Disputed Claim shall have any Claim against the Disputed Claim Reserve, the Disbursing Agent or the Litigation Trusts with respect to such Claim until such Disputed Claim shall become an Allowed Claim, and no holder of a Disputed Claim shall have any right to interest on such Disputed Claim.

**7.4 Resolution of Disputed Claims.** Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, following the Effective Date, the Litigation Trustee and the Disbursing Agent, pursuant to section 7.1 of the Plan, shall have the right to the exclusion of all others (except as to applications for allowances of compensation and reimbursement of expenses under sections 328(a), 330 and 503 of the Bankruptcy Code) to make and file objections to Claims and shall serve a copy of each objection upon the holder of the Claim to which the objection is made as soon as practicable, but in no event later than one hundred eighty (180) days after the Effective Date (subject, however, to the right of the Litigation Trustee or Disbursing Agent to seek an extension of time to file such objections by seeking approval of the Bankruptcy Court).

**7.5 Estimation.** Debtors, the Litigation Trustee or the Disbursing Agent (as the case may be) may at any time request that the Bankruptcy Court estimate any contingent, unliquidated or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether Debtors previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim 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. In the event that the Bankruptcy Court estimates any contingent, unliquidated or Disputed Claim, the amount so estimated shall 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 the amount of such Claim, Debtors, the Litigation Trustee or the Disbursing Agent (as the case may be) may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not exclusive of one another. On and after the Confirmation Date, Claims that have been estimated may be compromised, settled, withdrawn or otherwise resolved subsequently, without further order of the Bankruptcy Court.

**7.6 Distributions to Holders of Allowed Claims Upon Disallowance of Disputed Claims.**

Subject to section 6.4 hereof, upon disallowance of any Disputed Claim, each holder of an Allowed Claim in the same Class as the disallowed Disputed Claim will be entitled to its Pro Rata Share of Cash equal to the distribution that would have been made in accordance with the Plan to the holder of such Disputed Claim had such Disputed Claim been an Allowed Claim on or prior to the Effective Date. Such distributions on account of disallowed Disputed Claims will be made as soon as practicable after the order allowing or disallowing the last Disputed Claim becomes a Final Order. Upon allowance or disallowance of all or a portion of such Disputed Claims, the Disbursing Agent, or the Litigation Trustee, as the case may be, will make appropriate distributions in accordance with the Plan.

**ARTICLE VIII.**

**AMENDMENT TO CHARTER DOCUMENTS OF DEBTORS AND OTHER MATTERS**

**8.1 Cancellation of Outstanding Securities of Debtors.** On the Effective Date, without shareholder approval, all outstanding instruments and securities representing Equity Interests and any rights to acquire Equity Interests in CK, including all warrants, options and similar securities, shall be deemed canceled and of no further force or effect, without any further action on the part of the Bankruptcy Court or any person. The holders of such canceled instruments, securities, and other documents shall have no rights arising from or relating to such instruments, securities or other documents or the cancellation thereof, except the rights provided pursuant to this Plan.

**8.2 Amendments to Articles of Incorporation and Other Actions.** On the Effective Date, the Board of Directors of the Reorganized Debtors shall be authorized to amend the Articles of Incorporation and Bylaws to accomplish the following:



- (a) Authorize the issuance of one hundred million shares of New Common Stock and fifty million shares of Reorganized CK's preferred stock. The Board of Directors shall determine in their discretion the rights, privileges and restrictions granted or imposed on such shares.
- (b) Effect a quasi-reorganization for accounting purposes.
- (c) Issue shares to carry out any transaction contemplated in the Plan without solicitation of or notice to shareholders.
- (d) Take all action necessary and appropriate to carry out the terms of the Plan.
- (e) Amend the Reorganized Debtors' Articles of Incorporation and/or Bylaws to provide the maximum indemnification or other protections to the Reorganized Debtors' officers and directors that is allowed under applicable law.
- (f) In accordance with Section 1123(a)(6) of the Bankruptcy Code, include within their charters a provision prohibiting the issuance of nonvoting equity securities.
- (g) Change the names of the Reorganized Debtors to such names as the Board of Directors selects.

**8.3 Take Required Actions.** Without shareholder approval, the Boards of Directors of Reorganized Debtors shall be authorized to take any and all action necessary or appropriate to effectuate any amendments to the Reorganized Debtors' Certificate of Incorporation and/or Bylaws called for under this Plan and the Board of Directors and officers of the Reorganized Debtors shall be authorized to execute, verify, acknowledge, file and publish any and all instruments or documents that may be required to accomplish same.

Reorganized CK shall amend its charter in conformance with Nevada General Corporation Law and pursuant to section 1123(a)(5)(I) of the Bankruptcy Code. The amended charter or bylaws shall, among other provisions: (i) authorize the issuance of the New Common Stock ; (ii) prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a)(6) of the Bankruptcy Code; and (iii) provide that the first regular annual meeting of shareholders of Reorganized CK following the Effective Date shall take place on a date designated by the Board of Directors of Reorganized CK which shall occur no later than twelve (12) months following the Effective Date. The amended charter and bylaws will become effective upon (i) the occurrence of the Effective Date, and (ii) the filing with the Nevada Secretary of State of a certificate of amendment reflecting the amendments.

**8.4 Exemption From Registration Under Section 1145 of the Bankruptcy Code.** In reliance upon an exemption from the registration requirements of the Securities Act of 1933, as amended (the "Securities Act"), and of state and local securities laws afforded by Section 1145 of the Bankruptcy Code, except for the shares of New Common Stock to be issued to the Litigation Trustee for the CK Litigation Trust, New Common Stock to be issued pursuant to the Plan on and after the Effective Date need not be registered under the Securities Act or any state or local securities laws. The Reorganized CK's common stock will not be subject to any statutory restrictions on transferability and may be resold by any holder without registration under the Securities Act or other federal securities laws pursuant to the exemption provided by section 4(1) of the Securities Act, unless the holder is an "underwriter" with

respect to such securities, as that term is defined in Section 1145(b) of the Code. Entities who believe they may be “underwriters” under the definition contained in Section 1145 of the Code are advised to consult their own counsel with respect to the availability of the exemption provided by Section 1145.

## ARTICLE IX.

### EXECUTORY CONTRACTS AND UNEXPIRED LEASES

**9.1 Executory Contracts and Unexpired Leases.** On the Effective Date, all executory contracts and unexpired leases to which Debtors are a party shall be deemed rejected as of the Effective Date, except for an executory contract or unexpired lease that (i) has been assumed or rejected pursuant to Final Order of the Bankruptcy Court prior to the Effective Date, or (ii) is subject to separate motion to assume or reject (or terminate or modify, as the case may be) filed under sections 365, 1113 and/or 1114 of the Bankruptcy Code by Debtors prior to the Effective Date.

Notwithstanding the foregoing, any agreements, documents or instruments relating thereto (including Insurance Policies) that are postpetition contracts shall continue to operate unaffected by the Plan, with the Insurers responsible for claims in accordance with the terms and provisions of such postpetition contracts (including Insurance Policies) unless otherwise terminated by the Litigation Trustee. Debtors’ Insurance Policies that have expired as of the Confirmation Date (whether entered into prior or subsequent to the Petition Date) are not executory contracts subject to assumption or rejection. The Insurers shall be responsible for continuing coverage obligations under such Insurance Policies, regardless of the payment status of any retrospective or other insurance premiums.

Nothing contained in the Plan shall constitute or be deemed to be a waiver of any cause of action that Debtors may hold against any Person, including, without limitation, any Insurer under any of Debtors’ Insurance Policies.

**9.2 Approval of Rejection of Executory Contracts and Unexpired Leases.** Entry of the Confirmation Order shall constitute the approval, pursuant to sections 365(a), 1113 and/or 1114 of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected as of the Effective Date pursuant to the Plan.

**9.3 Rejection Claims.** In the event that the rejection of an executory contract or unexpired lease by Debtors pursuant to the Plan results in damages to the other party or parties to such contract or lease, a Claim for such damages, if not heretofore evidenced by a filed proof of claim, shall be forever barred and shall not be enforceable against Debtors, the Litigation Trusts or any property to be distributed under the Plan unless a proof of claim is filed with the Bankruptcy Court and served upon the Litigation Trustee and the Disbursing Agent on or before the date that is thirty (30) days after the Confirmation Date. The foregoing sentence shall not, however, be applicable to any separate pre-Confirmation Date order of the Bankruptcy Court authorizing rejection of an executory contract or unexpired lease wherein a separate deadline by which rejection damages claims was established.

## ARTICLE X.

### EFFECTIVENESS OF THE PLAN

**10.1 Condition Precedent to Confirmation of Plan.** The following are conditions precedent to the confirmation of the Plan:

(a) The Bankruptcy Court shall have entered a Final Order approving the Disclosure Statement; and

(b) The Bankruptcy Court shall have entered a Confirmation Order in form and substance satisfactory to the Committee.

**10.2 Conditions Precedent to Effective Date.** The following are conditions precedent to the Effective Date of the Plan:

(a) No stay of the Confirmation Order shall then be in effect; and

(b) Debtors shall have sufficient Cash to pay the sum of (i) Allowed Secured Claims, Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Priority Non-Tax Claims, and the Professional fees that have accrued but not been paid (unless the holder of any such Claim agrees to other treatment); and/or (ii) an amount that would be required to distribute to the holders of Disputed Secured Claims, Disputed Administrative Expense Claims, Disputed Priority Tax Claims, and Disputed Priority Non-Tax Claims if all such Claims are subsequently Allowed, as set forth more fully in Article VII hereof.

(c) All ancillary documents referenced in the Plan, including but not limited to any contingency fee arrangements, agreements relating to the compensation of the Liquidating Trustee and his professionals, the Reorganized CK Note and any other documents necessary to implement or effectuate the Plan, are fully executed, exchanged and delivered (as may be necessary for enforcement).

**10.3 Satisfaction of Conditions.** Any actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously, and no such action shall be deemed to have occurred prior to the taking of any other such action. If Debtors decide that one of the conditions precedent set forth in section 10.2 hereof cannot be satisfied and the occurrence of such condition is not waived or cannot be waived, then Debtors shall file a notice of the failure of the Effective Date with the Bankruptcy Court.

**10.4 Effect of Nonoccurrence of Conditions to Effective Date.** If each of the conditions to consummation and the occurrence of the Effective Date has not been satisfied or duly waived on or before the Confirmation Date, the Confirmation Order may be vacated by the Bankruptcy Court. If the Confirmation Order is vacated pursuant to this section 10.4, the Plan shall be null and void in all respects, and nothing contained in the Plan shall constitute a waiver or release of any Claims against Debtors.

## ARTICLE XI.

### EFFECT OF CONFIRMATION

#### **11.1 Vesting of Assets.**

(a) As of the Effective Date, Trust Assets shall vest in the Litigation Trusts, and shall constitute the Trust Assets. All property of CK constituting Trust Assets shall vest in the CK Litigation Trust and all property of WUCC constituting Trust Assets shall vest in the WUCC Litigation Trust.

(b) As of the Effective Date, all assets of the Estates shall be free and clear of all Claims and Liens, except as provided in the Plan or the Confirmation Order

(c) As of the Effective Date, all of the Debtors' existing Cash, all of the Debtors' rights to Deferred Sale Consideration and all of the Debtors' rights to/in the Reorganized CK Note shall be transferred to the Disbursing Agent and the Estates shall be deemed to assign, set over, transfer and convey to the Deferred Sale Consideration to the Disbursing Agent. All Deferred Sale Consideration paid after the Effective Date shall be paid to the Disbursing Agent.

**11.2 Release of Assets.** Until the Effective Date, the Bankruptcy Court shall retain jurisdiction of Debtors and their assets and properties. Thereafter, jurisdiction of the Bankruptcy Court shall be limited to the subject matter set forth in Article XII hereof.

**11.3 Binding Effect.** Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code, on and after the Confirmation Date, the provisions of the Plan shall bind any holder of a Claim against, or Equity Interest in, Debtors and their respective successors and assigns, including, but not limited to, the Litigation Trusts and the Litigation Trustee, whether or not the Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder has accepted the Plan.

**11.4 Term of Injunctions or Stays.** Unless otherwise expressly provided herein, all injunctions or stays arising under or entered during the Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the closing of the Cases.

**11.5 Causes of Action.** Except as otherwise provided in the Plan, on and after the Effective Date, the Litigation Trustee will have the exclusive right to enforce any and all Causes of Action against any person. The Litigation Trustee may prosecute, defend, enforce, abandon, settle or release any or all Causes of Action as he deems appropriate, without the need to obtain approval or any other or further relief from the Bankruptcy Court, subject to and in accordance with section 6.3(1) (requesting consent of the Disbursing Agent). The Litigation Trustee may, in its sole discretion, offset any such claim held against a person, against any payment due such person under the Plan; *provided, however*, that any claims of Debtors arising before the Petition Date shall first be offset against Claims against Debtors arising before the Petition Date, subject in each instance, however, to the limitations of section 5.7 hereof. All defenses and rights of avoidance of Debtors shall be retained and may be exercised by the Litigation Trustee. All of the Debtors rights and interests in any Cause of Action against an insider, any Cause of Action currently pending, any Cause of Action arising from or relating to the securities/equity interests of the Debtors and any Cause of Action against a party that (i) received a payment that could be deemed as preferential under section 547 of the Bankruptcy Code or (ii) was a direct, intermediate or indirect transferee of an asset of the Debtors prior to the Petition Date, are hereby expressly preserved.

**11.6 Injunction.**

(a) From and after the Effective Date, all Persons and Entities are permanently enjoined from commencing or continuing in any manner against Debtors, their Estates, the Litigation Trusts, the Litigation Trustee (in his role as Litigation Trustee), their successors and assigns, and/or their assets and properties, as the case may be, any suit, action, or other proceeding, on account of or respecting any Claim, demand, liability, obligation, debt, right, Cause of Action, interest or remedy released or to be released pursuant to the Plan or the Confirmation Order.

(b) From and after the Effective Date, all Persons and Entities shall be precluded from asserting against Debtors, their Estates, the Litigation Trusts, the Litigation Trustee (in his role as Litigation Trustee), their successors and assigns, and their assets and properties, any other Claims or

Equity Interests based upon any documents, instruments, or any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date.

(c) The rights afforded in the Plan and treatment of Claims and Equity Interests in the Plan shall be in exchange for and in complete satisfaction and release of Claims and Equity Interests of any nature whatsoever, including any interest accrued on Claims from and after the Petition Date, against Debtors, their Estates, and any of their assets or properties, and the Litigation Trusts, as successor, and the Trust Assets. On the Effective Date, all such Claims against and Equity Interests in Debtors shall be satisfied and released in full, unless otherwise provided in the Plan.

(d) Except as otherwise provided in the Plan, all Persons and Governmental Units are permanently enjoined from and after the Effective Date, on account of any Claim or Equity Interests satisfied and released hereby from:

i. Commencing or continuing in any manner, any action or other proceeding of any kind against the Reorganized Debtors, their Estates, the Committee, the Litigation Trusts, the Trust Assets, the Litigation Trustee, the Disbursing Agent, their successors and assigns and their assets and properties;

ii. Enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against the Disbursing Agent, the Reorganized Debtors or the Litigation Trusts, their successors and assigns and their assets and properties.

iii. Creating, perfecting, or enforcing any encumbrance of any kind against the Reorganized Debtors, their Estates, the Committee, the Litigation Trusts, the Trust Assets and the Litigation Trustee, the Disbursing Agent, their successors and assigns and their assets and properties.

iv. Asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Reorganized Debtors, their Estates, the Committee, the Litigation Trusts, the Trust Assets, the Litigation Trustee, the Disbursing Agent, their successors and assigns and their assets and properties with respect to any such Claim or Equity Interest; or

v. Commencing or continuing in any manner any action or other proceeding of any kind in respect of any Claim or Cause of Action released or settled hereunder.

(e) On and after the Confirmation Date, all Persons are permanently enjoined from commencing or continuing in any manner any action or proceeding (whether directly, indirectly, derivatively, or otherwise) on account of or respecting any claim, debt, right or cause of action of Debtors for which the Litigation Trustee retains sole and exclusive authority to pursue in accordance with the Plan.

**11.7 Injunction Against Interference with Plan.** Upon the entry of the Confirmation Order, all holders of Claims and Equity Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan.

ARTICLE XII.

RETENTION OF JURISDICTION

**12.1 Jurisdiction of Bankruptcy Court.** The Bankruptcy Court shall retain jurisdiction of all matters arising under, arising out of, or related to the Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code and for, among other things, the following purposes:

(a) To hear and determine motions for the assumption, assumption and assignment or rejection of executory contracts or unexpired leases and the allowance of Claims resulting therefrom;

(b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date, including, without limitation, any proceeding to recover a Cause of Action;

(c) To ensure that distributions to holders of Allowed Claims are accomplished as provided herein;

(d) To consider Claims or the allowance, classification, priority, compromise, estimation or payment of any Claim;

(e) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified or vacated;

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

(g) To hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) To hear and determine all applications under sections 328, 330, 331 and 503(b) of the Bankruptcy Code for awards of compensation for services rendered and reimbursement of expenses incurred by Professionals prior to the Confirmation Date;

(i) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, the Confirmation Order, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) To hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Agreements, and to hear and determine all matters involving or relating to the Litigation Trusts, the Litigation Trustee and the Disbursing Agent.

(k) To take any action and issue such orders as may be necessary to construe, enforce, implement, execute and consummate the Plan or to maintain the integrity of the Plan following consummation;

(l) To recover all Trust Assets, assets of Debtors and/or property of the Estates, wherever located, which jurisdiction shall not be limited as a result of the transfer of such assets and property to the Litigation Trust and the Disbursing Agent pursuant to the Plan;

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

(n) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including, without limitation, matters with respect to any taxes payable by a trust or reserve established in furtherance of the Plan);

(o) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code; and

(p) To enter a final decree closing the Cases.

### ARTICLE XIII.

#### CRAMDOW RESERVATION

**13.1 Nonconsensual Confirmation.** If any impaired Class votes to reject the Plan by the requisite statutory majorities provided in sections 1126(c) and 1126(d) of the Bankruptcy Code, as applicable, or if any impaired Class is deemed to have rejected the Plan, Debtors reserve the right to undertake to have the Bankruptcy Court confirm the Plan under section 1129(c) of the Bankruptcy Code and/or amend the Plan in accordance with section 14.8 hereof to the extent necessary to obtain entry of the Confirmation Order.

### ARTICLE XIV.

#### MISCELLANEOUS PROVISIONS

**14.1 Disposition of Committees.** The Committee and the Equity Committee shall disband and be released of their duties and obligations on the Effective Date. Any rights or duties of the Committee under the Agreements shall be exercised by the co-chairs of the Committee as of the Confirmation Date, which Committee co-chairs shall continue to take all actions required of the Committee as of the Effective Date.

**14.2 Exemption from Transfer Taxes.** Subject to orders entered by the Bankruptcy Court authorizing certain sales of real property in connection with any sale transaction, pursuant to section 1146(c) of the Bankruptcy Code, the assignment or surrender of any lease or sublease, or the delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including any deeds, bills of sale or assignments executed in connection with any disposition of assets contemplated by the Plan shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use, or other similar tax.

**14.3 Exculpation.** Neither Debtors, Committee nor any of their respective members, officers, directors, employees, advisors, professionals or agents, (collectively, "Exculpation Parties") shall have or incur any liability to any holder of a Claim or Equity Interest for any act or omission in connection with, related to, or arising out of the Cases, including, without limitation, negotiations regarding or concerning the Plan, the pursuit of confirmation of the Plan, the consummation of the Plan, or the administration of

the Estates or the Plan or the property to be distributed under the Plan, except for willful misconduct or gross negligence, and, in all respects, the Exculpation Parties shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under the Plan.

**14.4 Discharge of Claims and Termination of Equity Interests.** Except as otherwise specifically provided herein or in the Confirmation Order, the rights afforded in the Plan and the payments and distributions to be made hereunder shall discharge all existing debts and Claims, and terminate all Equity Interests of any kind, nature or description whatsoever, against or in Debtors, the Estates, or the Litigation Trusts, or any of their assets or properties to the fullest extent permitted by section 1141 of the Bankruptcy Code. Except as otherwise provided herein or in the Confirmation Order, upon the Effective Date, all existing Claims against Debtors, the Estates, or the Litigation Trusts shall be, and shall be deemed to be, discharged and terminated, and all holders of Claims and Equity Interests shall be precluded and enjoined from asserting against Debtors, the Estates, or the Litigation Trusts, or any of its assets or properties, any other or further Claim or Equity Interest based upon any act or omission, transaction or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of Claim or is listed in the Schedules.

**14.5 Post-Confirmation Date Fees and Expenses of Professionals.** The Litigation Trustee and the Disbursing Agent shall, in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, pay the reasonable fees and expenses, incurred after the Effective Date, of the professional persons employed by each in connection with the implementation and consummation of the Plan, the claims reconciliation process and any other matters as to which such professionals may be engaged. The fees and expenses of such professionals shall be paid within ten (10) Business Days after submission of a detailed invoice therefor. If the Litigation Trustee or Disbursing Agent disputes the reasonableness of any such invoice, the Litigation Trustee or Disbursing Agent, as the case may be, shall timely pay the undisputed portion of such invoice, and the Litigation Trustee, Disbursing Agent or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of such invoice.

**14.6 Payment of Statutory Fees.** On the Effective Date, and thereafter as may be required, the Disbursing Agent and Reorganized Debtors (as the case may be) shall pay all fees payable pursuant to section 1930 of chapter 123 of title 28 of the United States Code.

**14.7 Modification of Plan.** The Plan may be amended, modified, or supplemented by Debtors in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise direct. In addition, after the Confirmation Date, so long as such action does not materially adversely affect the treatment of holders of Claims or Equity Interests under the Plan, the Reorganized Debtors or Litigation Trustee may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of the Plan. Prior to the Effective Date, Debtors may make appropriate technical adjustments and modifications to the Plan without further order or approval of the Bankruptcy Court, *provided* that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Equity Interests.

**14.8 Revocation or Withdrawal of Plan.** Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date. If such action is taken, the Plan shall be deemed null and void. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any



Claim by or against Debtors or any other person or to prejudice in any manner the rights of Debtors or any other person in any further proceedings involving Debtors.

**14.9 Courts of Competent Jurisdiction.** If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

**14.10 Severability.** If, prior to the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of Debtors, shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**14.11 Governing Law.** Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent an exhibit hereto provides otherwise, the rights, duties and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of Utah, without giving effect to the principles of conflicts of law thereof.

**14.12 Exhibits.** All exhibits, schedules, addendum or other others annexed to the Plan are deemed incorporated into and are a part of the Plan as if set forth in full herein.

**14.13 Successors and Assigns.** All the rights, benefits and obligations of any person named or referred to in the Plan shall be binding on, and shall inure to the benefit of, the heirs, executors, administrators, successors and/or assigns of such person.

**14.14 Time.** In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

**14.15 Notices.** All notices, requests and demands to or upon Debtors or the Committee to be effective shall be in writing 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 Debtors:

LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.  
Martin J. Brill, Esquire  
David B. Golubchik, Esquire  
10250 Constellation Blvd., Suite 1700  
Los Angeles, CA 90067

Telephone: (310) 229-1234  
Facsimile (310) 229-1244

If to the Committee: MCGUIREWOODS LLP  
Michael J. Roeschenthaler, Esquire  
Dominion Tower, 23rd Floor  
625 Liberty Avenue  
Pittsburgh, PA 15222  
Telephone: (412) 667-6000  
Facsimile: (412) 667-6050

If to the Litigation Trustee: A. John A. Bryan, Jr.  
8439 Sunset Blvd, Suite 402  
West Hollywood, CA 90069  
Telephone: (310) 777-8889

If to the Disbursing Agent: Disbursement Services, LLC  
1690 Pinetree Drive  
Pittsburgh, PA 15241  
Telephone: (412) 220-8080

Dated: September 10, 2012

Respectfully submitted,

**LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.**

/s/ Martin J. Brill

Martin J. Brill (Calif. Bar No. 53220)  
David B. Golubchik (Calif. Bar No. 185520)  
Krikor J. Meshefejian (Calif. Bar No. 255030)  
10250 Constellation Blvd., Suite 1700  
Los Angeles, CA 90067  
Telephone: (310) 229-1234  
Facsimile (310) 229-1244  
*Reorganization Counsel for Chapter 11  
Debtors and Debtors-in-Possession*

**DION-KINDEM & CROCKETT**

/s/ Steven R. Skirvin

Steven R. Skirvin (Utah Bar No. 7626)  
10808 S. River Front Parkway, Suite 308  
South Jordan, UT 84095  
Telephone: (801) 984-8045  
Facsimile: (801) 984-4315  
*Local Counsel for Chapter 11 Debtors and  
Debtors-in-Possession*

**EXHIBIT "1"**

**CK LITIGATION TRUST AGREEMENT**

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH

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IN RE:

WESTERN UTAH COPPER COMPANY,

Debtor.

Case No. 10-29159-WTT  
(Jointly Administered with  
Case No. 10-30002)

Chapter 11

Honorable William T. Thurman  
United States Bankruptcy Judge

**Filed Electronically**

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**LITIGATION TRUST AGREEMENT**

by and among

COPPER KING MINING CORPORATION  
as Debtor and Debtor-in-possession,

and

OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
as representatives of Beneficiaries

and

A. JOHN A. BRYAN, JR.

as Litigation Trustee

Dated: \_\_\_\_\_, 2012

THIS AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and among Copper King Mining Corporation ("Debtor"), the Official Committee of Unsecured Creditors ("Committee") and A. John A. Bryan, Jr. (together with any successors, the "Litigation Trustee") under the Plan (as defined below).

**RECITALS:**

A. On May 18, 2010, the Debtor filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The case is currently pending before the United States Bankruptcy Court for the District of Utah ("Bankruptcy Court") and the Honorable William T. Thurman at Case No. 10-30002-WTT under the caption *In re Western Utah Copper Company*, which is being jointly administered with Case No. 10-29159-WTT (the "Case").

B. By order, dated [\_\_\_\_\_, 2012], the Bankruptcy Court confirmed the First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed by the Debtors As Amended September 10, 2012 (as same may have been or may be amended or modified, the "Plan").<sup>1</sup>

C. Article 6 of the Plan calls for, *inter alia*, the creation of the CK Litigation Trust to hold and reduce to Cash all Trust Assets, for the benefit of the Beneficiaries, to resolve and object to Claims, and to turn over proceeds of Trust Assets to the Disbursing Agent for distribution to Beneficiaries in accordance with the Plan.

E. The CK Litigation Trust is created on behalf of, and for the benefit of, the Beneficiaries.

F. The CK Litigation Trust is created pursuant to, and to effectuate, the Plan for the primary purpose of liquidating the Trust Assets for the benefit of the Beneficiaries as a trust, in accordance with Treasury Regulation § 301.7701-4(d), and Revenue Procedure 94-45 I.R.B. 1994-28, 124, (July 11, 1994) ("Revenue Procedure 94-45") (or any subsequent Revenue Procedures that may be issued), with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the purpose of the CK Litigation Trust.

G. The Beneficiaries of the CK Litigation Trust will be treated as the grantors of the CK Litigation Trust and deemed owners of the Trust Assets. The CK Litigation Trust requires the Litigation Trustee to file returns for the CK Litigation Trust as a grantor trust pursuant to Treasury Regulation § 1.671-1 through 4(a).

H. The CK Litigation Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the Beneficiaries treated as the grantors and owners of the trust.

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<sup>1</sup> Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in the Plan.

I. All of the CK Litigation Trust's income and/or recoveries are to be treated as subject to tax on a current basis to the Beneficiaries who will be responsible for payment of any tax due.

J. Subject to Section I.F hereof, the CK Litigation Trust contains a fixed determinable termination date that is not more than five years from the date of creation of the CK Litigation Trust and that is reasonable based on all the facts and circumstances.

K. The investment powers of the Litigation Trustee other than those reasonably necessary to maintain the value of the Trust Assets and to further the purpose of the CK Litigation Trust, are limited to powers to invest in demand and time deposits, such as short-term certificates (or overnight swaps) of deposit, in banks or other savings institutions, or other temporary, liquid investments, such as Treasury bills.

L. The CK Litigation Trust is required to distribute to the Disbursing Agent for the benefit of the Beneficiaries its net income plus all net proceeds from litigation recoveries and the sale or other liquidation of assets, except that the CK Litigation Trust may, upon receipt of the consent of the Disbursing Agent which consent shall not be unreasonably withheld, retain an amount of net proceeds or net income reasonably necessary to maintain the value of the Trust Assets and to fund the Litigation Expense Reserve Account.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and in the Plan, the Debtor, the Committee, and the Litigation Trustee agree as follows:

## SECTION I

### THE LITIGATION TRUST

**A. Creation.** In accordance with section 6.3 of the Plan, on the Effective Date of the Plan, the CK Litigation Trust is hereby created.

**B. Objective and Purpose.** The CK Litigation Trust shall be established and maintained for the sole purpose of liquidating the Trust Assets, and distributing proceeds thereof, in accordance with Treasury Regulation 30.1.7701 - 4(d) and resolving and administering Claims, with no objection to continue or engage in the conduct of a trade or business.

**C. Acceptance.** The Litigation Trustee accepts the terms, provisions and conditions of this Agreement and the Plan and agrees to observe, perform and abide hereby and thereby.

**D. Intention of Parties to Establish Grantor Trust.** This Agreement is intended to create a grantor trust for the United States federal income tax purposes, and to the extent provided by law, shall be governed and construed in all respects as such a grantor trust. The CK Litigation Trust is not intended to constitute nor shall the formation of the CK Litigation Trust be interpreted as creating an association, partnership or joint venture of any kind.

**E. Transfer of Assets to CK Litigation Trust.**

1. Except as set forth below, on the Effective Date, right, title and interest to the Trust Assets shall vest in the CK Litigation Trust as trust assets consistent with section 6.3(c) of the Plan (“Trust Assets”).

2. Except as set forth below, on the Effective Date, the Estate shall be deemed to assign, set over, transfer and convey to the CK Litigation Trust all of its right, title and interest in the Trust Assets. To the extent that certain Trust Assets, because of their nature or because they will accrue subsequent to the Effective Date, cannot be assigned, set over, transferred or conveyed to the CK Litigation Trust on the Effective Date, such assets shall be deemed assigned, set over, transferred and conveyed to the CK Litigation Trust as soon as practical after the Effective Date.

3. Trust Assets shall not include any and all Cash (other than the initial funding of the CK Litigation Trust in the sum of \$50,000), the Deferred Sale Compensation allocable to WUCC or its creditors, the Reorganized CK Note or any tax attributes held by the Debtor (which shall be retained by Reorganized CK). Notwithstanding the foregoing, this paragraph shall not be construed in any way that would bar the Litigation Trustee from initiating and prosecuting claims objections.

4. The transfer of Trust Assets to the Litigation Trust shall be made for the benefit of the Beneficiaries, in each case, but only to the extent the Beneficiaries are entitled to distributions under the Plan.

5. For all purposes of the Internal Revenue Code of 1986 (“IRS Code”), as amended, all Persons (including, without limitation, the Debtor, the Litigation Trustee and the Beneficiaries) shall treat the transfer of the Trust Assets to the CK Litigation Trust through the Debtor and/or agents of the Debtor as set forth in this Section I.E, as the deemed transfer of such assets to the Beneficiaries followed by the deemed transfer of such assets by the Beneficiaries to the CK Litigation Trust. Thus, the Beneficiaries shall be treated as the grantors and owners of the CK Litigation Trust for federal income tax purposes.

6. The Litigation Trustee and the Beneficiaries will value the Trust Assets as set forth in section 6.3(o)(ii)(B) of the Plan and such valuations will be consistently used for all federal income tax purposes.

7. New Common Stock totaling 2,700,000 shares (27% of the total of 10,000,000 shares of New Common Stock), shall be issued to the Litigation Trustee for the CK Litigation Trust and shall be held in trust by the Litigation Trustee until directed by the Board of Directors of Reorganized CK to issue such shares in connection with the Transaction, or a similar type transaction.

#### **F. Termination of CK Litigation Trust.**

1. The CK Litigation Trust will terminate no later than the fifth (5th) anniversary of the Effective Date; provided, however, on or prior to the date six (6) months prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the CK Litigation Trust for a finite period if it is necessary or appropriate in furthering the liquidating purpose thereof. Multiple extensions can be obtained so long as Bankruptcy



Court approval is obtained at least six (6) months prior to the expiration of each extended term. Provided, however, that the Trust may not receive an extension that would adversely affect the status of the Trust as a liquidating trust and grantor trust for federal income tax purposes.

2. Prior to and upon termination of the CK Litigation Trust, the Trust Assets will be distributed to the Beneficiaries in accordance with the Plan and subject to this Agreement. If at any point prior to such termination date, the Litigation Trustee determines that further disbursements of the Trust Assets are unwarranted, the Litigation Trustee shall make a final disbursement to the Disbursing Agent.

3. The Litigation Trustee shall not unduly prolong the duration of the CK Litigation Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Trust Assets and to effect the distribution of the Trust Assets for the benefit of Beneficiaries in accordance with the terms hereof and terminate the CK Litigation Trust as soon as practicable.

## SECTION II

### LITIGATION TRUSTEE

**A. Appointment.** A. John A. Bryan, Jr. shall serve as the Litigation Trustee under the Plan, and the Litigation Trustee hereby accepts such appointment and agrees to serve in such capacity, upon the Effective Date of the Plan. A Successor Trustee (as defined in Section V.C hereof) may be appointed in the event that the Litigation Trustee is removed or resigns pursuant to this Agreement or the Litigation Trustee otherwise vacates the position.

**B. Generally.** The Litigation Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of this CK Litigation Trust and not otherwise, except that the Litigation Trustee may administer the Trust Assets as permitted by the provisions of Section II.D hereof. The Litigation Trustee shall have the authority to bind the CK Litigation Trust, but shall for all purposes hereunder be acting in the capacity as Litigation Trustee and not personally or individually. The Litigation Trustee shall not be obligated to give any bond, surety or other security for the performance of any duties or obligations hereunder. The Litigation Trustee shall be entitled to engage in all such activities as the Litigation Trustee deems necessary and appropriate, in the Litigation Trustee's sole discretion, except where the Disbursing Agent's approval may be required as set forth herein; provided, however, that such activities do not conflict with the purpose of the CK Litigation Trust and are in the best interests of the Beneficiaries; and provided, further, that the Litigation Trustee shall devote such time and effort as is necessary to timely and properly fulfill all such duties.

**C. Scope of Authority.** The responsibilities and authority of the Litigation Trustee shall include: (1) prosecuting, settling or other resolution of Causes of Action; (2) administering and liquidating the Trust Assets; (3) facilitating the prosecution or settlement of objections to and estimations of Claims against the Debtor; (4) calculating and implementing all distributions in accordance with the Plan and this Agreement; (5) filing all required tax returns of the CK Litigation Trust and paying taxes of the CK Litigation Trust and all other obligations on behalf of the CK Litigation Trust from funds held by the CK Litigation Trust; (6) periodic reporting to

the Bankruptcy Court and requesting parties in interest of the status of the Claims resolution process; and (7) such other responsibilities as may be vested in the Litigation Trustee pursuant to the Plan, this Agreement, any Final Order of the Bankruptcy Court or as may be necessary and proper to carry out the provisions of the Plan.

**D. Powers.**

1. In connection with the administration of the CK Litigation Trust, except as otherwise set forth in this Agreement or the Plan, the Litigation Trustee is authorized to perform any and all acts necessary and reasonable to accomplish the purposes of the CK Litigation Trust in consultation with the Disbursing Agent. Without limiting, but subject to the foregoing, and subject in all respects to the other terms and conditions of this Agreement, the Litigation Trustee shall be expressly authorized, but shall not be required, to:

(a) review, analyze and, as appropriate, prosecute Causes of Action, objections to Claims, and any claims arising after the Petition Date ("Post-Petition Date Claims"), including any Administrative Expense Claims;

(b) upon consent of the Disbursing Agent, which consent shall not be unreasonably withheld, compromise, settle and resolve any Disputed Claims upon such terms and conditions as the Litigation Trustee deems appropriate and in the best interests of the CK Litigation Trust without further approval of the Bankruptcy Court. All compromises and settlements shall be deemed final and binding upon all parties in interest in the Case;

(c) upon consent of the Disbursing Agent, which consent shall not be unreasonably withheld, review, litigate and settle (without further approval of the Bankruptcy Court) or otherwise resolve Claims and Post-Petition Date Claims (including any Administrative Expense Claims), or other disputes involving or arising out of alleged environmental contamination and/or remediation;

(d) maintain all accounts, make distributions to the Disbursing Agent for the benefit of Beneficiaries of the CK Litigation Trust from the Trust Assets and take other actions consistent with the Plan in the name of the CK Litigation Trust, provided, however, that the Litigation Trustee shall not be entitled to use the Debtor' bank accounts that are in existence as of the Effective Date and shall be required to open new bank or other depository accounts in the name of the CK Litigation Trust as may be necessary or appropriate in the discretion of the Litigation Trustee to enable the Litigation Trustee to administer the CK Litigation Trust in accordance with the terms of this Agreement;

(e) subject to section I(F)(3) hereof, invest funds in and withdraw, make distributions and pay expenses, taxes, and other obligations owed by the CK Litigation Trust from funds held by the Litigation Trustee in accordance with the Plan and this Agreement;

(f) maintain, in respect of the CK Litigation Trust and the Beneficiaries, books and records relating to the assets and income of the CK Litigation Trust and the payment of expenses of, and liabilities of, claims against or assumed by, the CK Litigation Trust in such detail and for such period of time as may be necessary to enable him to make full and proper accounting in respect thereof in accordance with this and to comply with applicable provisions of law. Except as provided herein, nothing in this Agreement requires the CK Litigation Trust or the Litigation Trustee to file any accounting or seek approval of any court with respect to the administration of the CK Litigation Trust, or as a condition for making any payment or distribution out of the Trust Assets. Beneficiaries and/or the Disbursing Agent shall have the right upon thirty (30) days' prior written notice delivered to the Litigation Trustee to inspect such books and records, provided that, if so requested, such Beneficiary shall have entered into a confidentiality agreement satisfactory in form and substance to the Litigation Trustee.;

(g) retain or engage, with the Disbursing Agent's consent, which consent shall not be unreasonably withheld, without the necessity of obtaining any approval from the Bankruptcy Court, such employees, independent contractors, professional persons, and agents as are appropriate, necessary or desirable to complete (i) disbursements to the Disbursing Agent (ii) the general administration of the CK Litigation Trust as required by this Agreement and applicable law;

(h) upon notice to and consent of the Disbursing Agent, which consent shall not be unreasonably withheld, incur any reasonable and necessary expenses on behalf of the CK Litigation Trust in carrying out the Litigation Trustee's obligations and responsibilities on behalf of the CK Litigation Trust and make ordinary and reasonable disbursements from Trust Assets to pay the ordinary and necessary expenses of administering the CK Litigation Trust, without the necessity of providing any notice or seeking or obtaining any approval of the Bankruptcy Court with respect to such disbursements;

(i) make interim and final disbursements of the Trust Assets to the Disbursing Agent for the benefit of Beneficiaries of the CK Litigation Trust in accordance with the terms of this Agreement, the Plan and applicable law;

(j) execute, deliver, file and/or record such contracts, instruments, releases, indentures, and other agreements or documents, and to take such actions, as may be necessary, desirable or appropriate to administer the CK Litigation Trust;

(k) prepare and file tax and informational returns on behalf of the CK Litigation Trust as required by applicable federal, state and local law, and in accordance with the terms of this Agreement;

(l) file with the Bankruptcy Court and/or the Office of the United States Trustee the reports and other documents required by the Plan or otherwise required to close the Case; and

(m) upon consent of the Disbursing Agent, which consent shall not be unreasonably withheld, take all other actions not inconsistent with the provisions of the Plan or the Agreement that the Litigation Trustee deems reasonably necessary or desirable in connection with the administration of the CK Litigation Trust.

**E. Additional Powers.** Except as otherwise set forth in this Agreement or in the Plan, and subject to the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Litigation Trustee may control and exercise authority over the Trust Assets and over the protection, conservation and disposition thereof. No person dealing with the CK Litigation Trust shall be obligated to inquire into the authority of the Litigation Trustee in connection with the protection, conservation or disposition of the Trust Assets. It is intended that a signed copy of this Agreement serve as adequate proof of the Litigation Trustee's authority to act if such proof is required for any reason by any third party.

**F. Limitation of Litigation Trustee's Authority.**

1. No Trade or Business. The Litigation Trustee shall not, and shall not be authorized to, engage in any trade or business with respect to the Trust Assets or any proceeds therefrom except to the extent reasonably necessary or appropriate to, and consistent with, the purpose of the CK Litigation Trust and the Litigation Trustee shall take such actions consistent with the prompt orderly liquidation of the Trust Assets as are required by applicable law and consistent with the treatment of the CK Litigation Trust as a CK Litigation Trust under Treasury Regulation § 301.7701-4(d) and Revenue Procedure 94-45 (or any subsequent Revenue Procedures that may be issued), and such actions permitted herein.

2. Released Claims. The Litigation Trustee shall not have any authority to pursue any Claims and/or Causes of Action waived, exculpated or released in accordance with the provisions of the Plan or Final Order of the Bankruptcy Court.

3. Investment and Safekeeping of the Trust Assets. All Trust Assets received by the CK Litigation Trust shall, until distributed or paid over as herein provided, be held in trust for the benefit of the Disbursing Agent, but need not be segregated unless and to the extent required by applicable law or by the Plan. The Litigation Trustee shall be under no liability for interest or producing income on any Trust Assets received by the CK Litigation Trust hereunder and held for distribution or payment to the Beneficiaries. Investments of any Trust Assets held by the CK Litigation Trust shall be administered in a manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs; provided, however, that the right and power of the Litigation Trustee to invest the Trust Assets, the proceeds thereof, or any income earned by the CK Litigation Trust, shall be limited to the right and power to invest such assets (pending periodic distributions in accordance with this Section II.F.3 hereof) in demand and time deposits, such as short-term certificates of deposit, in banks or other savings institutions, or other temporary liquid investments, such as Treasury bills; and,

provided, further, that the scope of any such permissible investments shall be limited to include only those investments that a CK Litigation Trust, within the meaning of Treasury Regulation § 301.7701-4(d) and Revenue Procedure 94-45 (or any subsequent Revenue Procedures that may be issued), may be permitted to hold, pursuant to the Treasury Regulations, or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

4. Limiting Transfers. The Litigation Trustee shall not take, or cause the CK Litigation Trust to take, any action that would cause the interests in the CK Litigation Trust to be considered readily tradable on a secondary market (or a substantial equivalent thereof) within the meaning of Section 7704(b)(2) of the IRS Code, and Treasury Regulations § 1.7704-1(c), and the Litigation Trustee shall not permit any transfer of an interest in the CK Litigation Trust if it would cause the CK Litigation Trust (were it be classified as a partnership rather than a grantor trust) to be treated as a “publicly traded partnership” as defined in IRS Code § 7704.

**G. Liability of Litigation Trustee.** In no event shall the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors or any of the Litigation Trustee’s professionals, agents or representatives (or their designees) be held personally liable for any claim asserted against the CK Litigation Trust, the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors and/or any of the Litigation Trustee’s professionals, agents or representatives (or their designees), except to the extent occasioned by or based their upon their own fraud, willful misconduct or gross negligence. Specifically, the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors or any of the Litigation Trustee’s professionals, agents or representatives (or their designees) shall not be liable for any negligence or any error of judgment in either case made in good faith, in the exercise of its or their business judgment or with respect to any action taken or omitted to be taken in good faith, except to the extent that the action taken or omitted to be taken by the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors or any of the Litigation Trustee’s professionals, agents or representatives (or their designees) is determined by a Final Order of a court of competent jurisdiction to be due to their own respective fraud, gross negligence or willful misconduct.

**H. Reliance by Litigation Trustee.** Except as otherwise provided in Section II.F hereof:

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

2. The Litigation Trustee may consult with legal counsel, financial or accounting advisors and other professionals, and the Litigation Trustee shall not be liable for any action taken or omitted to be taken by him in accordance with the advice thereof; and

3. All persons or entities hired by, retained by, doing business with or otherwise dealing with the Litigation Trustee shall look only to the Trust Assets to satisfy any liability incurred by the Litigation Trustee on behalf of the CK Litigation Trust to such persons or entities in carrying out the terms of this Agreement, and the Litigation Trustee shall have no

personal obligation to satisfy any such liability, except to the extent such liability or obligation arises as a result of the fraud, gross negligence or willful misconduct of the Litigation Trustee as determined in accordance with Section II.G of this Agreement, in which case the Trust Assets shall not be subject to such claims or liabilities.

**I. Authorization to Expend Trust Assets.** The Litigation Trustee may expend the Trust Assets (i) to pay expenses of administration of the CK Litigation Trust (including, but not limited to, the fees and expenses of the Litigation Trustee, its officers, employees, and independent contractors and any of its professionals, agents or representatives, any taxes imposed on the CK Litigation Trust or in respect of the Trust Assets, and any fees and expenses incurred in connection with any Causes of Action), and (ii) to satisfy other liabilities incurred or assumed by the CK Litigation Trust (or to which the assets are otherwise subject) in accordance with this Agreement or the Plan.

**J. Compensation of the Litigation Trustee.**

1. The costs and expenses of the CK Litigation Trust, including the fees and expenses of the Litigation Trustee and its retained professionals, shall be paid from the CK Litigation Trust. Such costs and expenses shall be treated as a first priority in right of distribution, from the CK Litigation Trust. The Litigation Trustee shall retain such amounts as are reasonably necessary (at the discretion of the Litigation Trustee) to meet the future fees and expenses of interest in administering the CK Litigation Trust in the Litigation Expense Reserve Account.

2. The Litigation Trustee shall be entitled to reasonable compensation on a contingency basis, as agreed upon by the Litigation Trustee and the Committee prior to the Effective Date. The professionals and independent contractors of the Litigation Trustee shall be entitled to a contingency fee not to exceed forty percent (40%) of the proceeds of a respective Cause of Action, plus reasonable expenses actually incurred in connection with the Cause of Action. The Litigation Trustee shall not pay any professionals without notice to and the consent of the Disbursing Agent, which consent shall not be unreasonably withheld. All proposed contingency fee arrangements shall be filed with the Bankruptcy Court no later than twenty-one (21) days prior to the Confirmation Hearing.

3. All compensation and other amounts payable to the Litigation Trustee shall be paid solely from the Trust Assets. If the cash in the CK Litigation Trust shall be insufficient to compensate and reimburse the Litigation Trustee, as the case may be, for any amounts to which he is entitled hereunder, then the Litigation Trustee is hereby authorized to reduce to cash in a commercially reasonable manner that portion of the Trust Assets necessary so as to effect such compensation and reimbursement.

**K. Exculpation; Indemnification.** From and after the Effective Date, the Litigation Trustee, the Litigation Trustee's officers, employees, independent contractors, or any of the Litigation Trustee's professionals, agents or representatives (or their designees) shall be and hereby are exculpated by all persons, and entities including, without limitation, holders of Claims against the Debtor and other parties in interest, from any and all claims, causes of action and other assertions of liability arising out of the discharge of the powers and duties conferred upon

the Litigation Trustee by this Agreement, the Plan or any order of the Bankruptcy Court entered pursuant to or in furtherance of the Plan or this Agreement, or applicable law or otherwise, except only for actions or omissions to act only to the extent determined by a Final Order of a court of competent jurisdiction to be due to the fraud, gross negligence or willful misconduct of the Litigation Trustee, the Litigation Trustee's officers, employees, independent contractors, or any of the Litigation Trustee's professionals, agents or representatives (or their designees) after the Effective Date. No holder of a Claim against the Debtor or any other party in interest will have or be permitted to pursue any claim or cause of action against the Litigation Trustee, the CK Litigation Trust or the Litigation Trustee's officers, employees, independent contractors, professionals, agents or representatives (or their designees) for making payments in accordance with the Plan or this Agreement or for implementing the provisions of the Plan or this Agreement except in cases of fraud, gross negligence or willful misconduct. The CK Litigation Trust shall indemnify, defend and hold harmless the Litigation Trustee, the Litigation Trustee's officers, employees, independent contractors and any of the Litigation Trustee's professionals, agents or representatives (or their designees) from and against any and all claims, causes of action, liabilities, obligations, losses, damages or expenses (including attorneys' fees) (except to the extent determined by a Final Order of a court of competent jurisdiction to arise out of the fraud, gross negligence or willful misconduct of the Litigation Trustee, or any of the Litigation Trustee's officers, employees, independent contractors, or any of the Litigation Trustee's professionals, agents or representatives (or their designees) but this parenthetical shall only apply to those individuals or entities to which such finding or findings of fraud, gross negligence or willful misconduct shall have been made) to the fullest extent permitted by applicable law. Any action taken or omitted to be taken with the approval of the Bankruptcy Court will conclusively be deemed not to constitute fraud, gross negligence or willful misconduct.

**L. Confidentiality.** The Litigation Trustee shall, and shall cause the Litigation Trustee's officers, employees, independent contractors or any of the Litigation Trustee's professionals, agents or representatives (or their designees) to, during the period that the Litigation Trustee serves as Litigation Trustee under this Agreement hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to the Debtor or any Beneficiary or any entity to which any of the Trust Assets relate or of which the Litigation Trustee has become aware in its capacity as such, other than in connection with the Litigation Trustee carrying out the objectives and purposes of the CK Litigation Trust.

**M. Final Decree.** It shall be the duty of the Litigation Trustee to seek and obtain a final decree or decrees from the Bankruptcy Court in the Case upon full administration of the CK Litigation Trust, and with respect to the other Debtor as soon as reasonably practicable after the Effective Date of the Plan.

**N. Termination.** The duties, responsibilities and powers of the Litigation Trustee will terminate on the date the CK Litigation Trust is dissolved under applicable law in accordance with the Plan and this Agreement, or by an Order of the Bankruptcy Court or by entry of a final decree closing the Case, whichever date is later

### SECTION III

### DISTRIBUTIONS

**A. Application of Trust Assets.** The Litigation Trustee on behalf of the CK Litigation Trust shall apply all other cash constituting Trust Assets and any proceeds therefrom in the order and reflecting the priorities set forth below:

**FIRST**, to pay all the costs and expenses of the CK Litigation Trust including, without limitation, funding of the Litigation Expense Reserve Account for the post-confirmation fees and expenses and any and all costs, expenses and liabilities incurred by the Litigation Trustee in connection with the performance of his duties under this Agreement, including the payment of any professionals, agents or other representatives (and designees) retained by the Litigation Trustee.

**SECOND**, to the Disbursing Agent for its fees and expenses and for the benefit of holders of Allowed Claims, classified and unclassified under the Plan in accordance with the terms and conditions of the Plan.

**B. Taxes.** The Litigation Trustee will comply with all tax withholding and reporting requirements imposed by all governmental entities, and all distributions or payments pursuant to this Agreement and the Plan will, to the extent applicable, be subject to such withholding and reporting requirements. The Litigation Trustee shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of this Agreement or the Plan, each entity receiving a distribution or payment pursuant to this Agreement or the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution or payment.

**C. Compliance with Laws.** Any and all distributions or payments of Trust Assets shall be in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

**D. Final Disbursements of CK Litigation Trust.** The Litigation Trustee is authorized to terminate the CK Litigation Trust in accordance with the terms of this Agreement and the Plan when the Litigation Trustee determines that no further disbursements of the respective assets of the CK Litigation Trust are possible, among other conditions.

**E. Estate Representatives.** Pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, the Litigation Trustee shall serve as the representative of the Estate and the CK Litigation Trust on and following the Effective Date.

## SECTION IV

### SUCCESSOR TRUSTEES

**A. Removal.** The Litigation Trustee may only be removed by order of the Bankruptcy Court, for cause, including: (a) fraud, gross negligence or willful misconduct in connection with the affairs of the CK Litigation Trust; (b) physical or mental disability that substantially prevents the Litigation Trustee from performing the duties as Litigation Trustee



hereunder; or (c) breach of fiduciary duty. The Disbursing Agent shall be entitled to seek the removal of the Litigation Trustee pursuant to this subsection.

**B. Resignation.** The Litigation Trustee may resign by giving not less than sixty (60) days' prior written notice thereof to the Reorganized WUCC, the Disbursing Agent and the Bankruptcy Court. Such resignation shall become effective on the later to occur of (i) the date specified in such notice and (ii) the selection of a Successor Trustee (defined herein) and the acceptance by such Successor Trustee of such appointment, unless otherwise ordered by the Bankruptcy Court.

**C. Appointment of Successor Trustee.** In the event of the death, resignation or removal of the Litigation Trustee, the former members of the Committee shall appoint a successor to the Litigation Trustee ("Successor Trustee"). Notice of any Successor Trustee shall be filed with the Bankruptcy Court and provided to the Beneficiaries. Any Successor Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the CK Litigation Trust's records. Thereupon, such Successor Trustee shall, without any further act, become vested with all the Trust Assets, properties, rights, powers, trusts and duties of his or her or its predecessor in the CK Litigation Trust with like effect as if originally named herein; provided, however, that a removed or resigning trustee shall, nevertheless, when requested in writing by the Successor Trustee, execute and deliver an instrument or instruments conveying and transferring to such Successor Trustee under the CK Litigation Trust all of the rights in connection with the Trust Assets, properties, rights, powers, trusts and duties of such predecessor trustee.

**D. Trust Continuance.** The death, resignation or removal of the Litigation Trustee shall not operate to terminate the CK Litigation Trust created by this Agreement or revoke any existing agency (other than the agency of such Litigation Trustee as Litigation Trustee) created pursuant to the terms of this Agreement or invalidate any action therefore taken by the Litigation Trustee. The Litigation Trustee agrees that the provisions of this Agreement shall be binding on or inure to the benefit of any Successor Trustee.

**E. Turnover of Documents.** Upon the resignation or removal of the Litigation Trustee, the Litigation Trustee shall promptly: (a) execute and deliver, by the effective date of resignation or removal, all such documents, instruments, and other writings as may be required to effect the termination of the Litigation Trustee's capacity under this Agreement and conveyance of the Trust Assets there held by the Litigation Trustee to the Successor Trustee; (b) deliver to the Successor Trustee all documents, instruments, books, records and other writings relating to the CK Litigation Trust as may be in the possession or under control of the Litigation Trustee; and (c) otherwise assist and cooperate in effecting the assumption of the rights, powers, duties and obligations under this Agreement by the Successor Trustee.

## SECTION V

### REPORTING

**A. Tax and Other Reports.** As soon as practicable after the end of each calendar year, and as soon as practicable upon termination of the CK Litigation Trust, the Litigation

Trustee shall submit to the Bankruptcy Court a written report including: (i) financial statements of the CK Litigation Trust at the end of such calendar year or period and the receipts and disbursements of the CK Litigation Trust for such period; (ii) a description of any action taken by the Litigation Trustee in the performance of his duties, which materially and adversely affects the CK Litigation Trust and of which notice has not previously been given to the Beneficiaries; and (iii) subject to Section V.B hereof, a separate statement for each Beneficiary setting forth the holder's share of items of income, gain, loss, deduction or credit and instructing all such holders to report such items on their federal income tax returns. The Litigation Trustee shall promptly submit additional appropriate reports to the Bankruptcy Court and whenever an adverse material event or change occurs which effects either the CK Litigation Trust or the rights of the Beneficiaries hereunder.

**B. Federal Income Tax.**

1. Grantor Trust Status. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Litigation Trustee of a private letter ruling if the Litigation Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Litigation Trustee), the Litigation Trustee shall file returns for the CK Litigation Trust as a grantor trust pursuant to Treasury Regulation § 1.671-1 through 4(a).

2. Allocations of CK Litigation Trust Taxable Income. All of the CK Litigation Trust's income is subject to tax on a current basis. Subject to the provisions of Section V.B.1 hereof, allocations of CK Litigation Trust taxable income among Beneficiaries shall be determined by reference to the manner in which an amount of cash equal to such taxable income would be distributed (without regard to any restriction on distributions described herein) if, immediately prior to such deemed distribution, the CK Litigation Trust had distributed all of its other assets (valued for this purpose at their tax book value) to Beneficiaries (treating to the extent determined by the Litigation Trustee in his sole discretion, any holder of a Disputed Claim against the Debtor, for this purpose, as a current Beneficiary entitled to distributions), taking into account all prior and concurrent distributions from the CK Litigation Trust (including all distributions held in reserve pending the resolution of Disputed Claims). Similarly, taxable losses of the CK Litigation Trust will be allocated among Beneficiaries by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Trust Assets. The tax book value of the Trust Assets on the Effective Date for this purpose shall be as set forth in the liquidation analysis provided in the Disclosure Statement, or, if acquired later, the fair market value of such assets on the date such assets were acquired by the CK Litigation Trust, adjusted in either case in accordance with tax accounting principles prescribed by the IRS Code, the regulations promulgated thereunder and other applicable administrative and judicial authorities and pronouncements.

**C. Other.** The Litigation Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the CK Litigation Trust, that are required to be filed by any applicable governmental unit or under applicable law, guidelines, rules and regulations.

## SECTION VI

### TRANSFER OF BENEFICIARY'S INTERESTS

**A. Transfer of Beneficial Interests.** Each of the Beneficiaries may sell, transfer, assign or otherwise dispose of directly or indirectly ("Transfer"), the beneficial interests owned by it; provided, however, that (a) such Transfer does not subject the CK Litigation Trust to the resignation requirements of either the Securities and Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended; (b) any such Transfer is not carried out on a national security exchange or system of automated dissemination of quotations of securities prices; (c) the CK Litigation Trust will not participate in the establishment of a market for its beneficial interests or the inclusions beneficial interests thereon, nor will it recognize any transaction made on such market for any purpose that could subject the CK Litigation Trust to entitle level taxation for state and federal income tax purposed or affect the CK Litigation Trust tax status for state or federal income tax purposes; and (d) upon the closing of any such Transfer, in writing, of such transfer and a new address for the transfer, provided, however, that failing such notice, the Litigation Trustee shall not have any legal obligation to recognize the transferee as the legal owner of the beneficial interest.

## SECTION VII

### MISCELLANEOUS PROVISIONS

**A. Amendment; Waiver.** This Agreement can be amended, waived, modified or changed after the Effective Date; provided, however, that in no event shall a change be made to this Agreement that would be inconsistent with the Plan or adversely affect the federal income tax status of the CK Litigation Trust as a "grantor trust."

**B. Intention of Parties to Establish Grantor Trust.** This Agreement is intended to create a "liquidating trust", as defined in Treasury Regulations § 301.7701-4(d), to be taxed as a grantor trust for federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as a grant or trust.

**C. Preservation of Privilege.** In connection with the rights, claims, and Causes of Action that constitute the Trust Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents, work-product or communications (whether written or oral) transferred to the CK Litigation Trust shall vest in the CK Litigation Trust and its representatives, and the Debtor and the Litigation Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges.

**D. Cooperation.** The Debtor or Reorganized Debtor as the case may be shall provide the Litigation Trustee with copies of such of its books and records as the Litigation Trustee shall reasonably require for the purpose of performing his duties and exercising his powers hereunder.

**E. Laws as to Construction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to rules governing the conflict of law.

**F. Relationship to Plan.** The principal purpose of this Agreement is to aid in the implementation and effectuation of the Plan, and therefore, is subject to the provisions of the Plan. In the event of a conflict between the Plan and this Agreement, this Agreement shall control.

**G. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law unless this Agreement, as modified, will no longer effectuate the intent of the parties hereto in all material respects.

**H. Professionals of the Litigation Trustee.** The Litigation Trustee shall retain LNBYB as counsel to the CK Litigation Trust. The Litigation Trustee may employ and retain such other professionals as the Litigation Trustee deems necessary and appropriate. Such professionals shall be paid from the Litigation Expense Reserve Account in accordance with this Agreement.

**I. Retention of Jurisdiction; Venue.** The Bankruptcy Court shall retain jurisdiction over any dispute pertaining to this Agreement to the fullest extent permitted under applicable law and the Plan. In the event that the Bankruptcy Court lacks jurisdiction or fails or refuses to exercise jurisdiction, the parties agree to bring any claims or causes of action arising out of, relating to or in connection with the Agreement in the United States District Court for the District of Utah, and hereby irrevocably submit to the jurisdiction of such Court. The parties hereto irrevocably waive any objection to the laying of venue in any action, suit or proceeding arising out of, relating to or in connection with this Agreement that is brought in the aforementioned Court and further waive any claim of forum non conveniens.

**J. Notices.** Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person for whom such notice is intended at such address as set forth below or such other address as filed with the Bankruptcy Court.

If to the Debtor, Reorganized Debtor, the CK Litigation Trust or the Litigation Trustee:

Debtor or Reorganized Debtor:

LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.  
Attn: Martin J. Brill  
10250 Constellation Blvd., Suite 1700  
Los Angeles, CA 90067

CK Litigation Trust or the Litigation Trustee:

A. John A. Bryan, Jr.  
8439 Sunset Blvd., Suite 402  
West Hollywood, CA 90069

Disbursing Agent:

Disbursement Services, LLC  
1690 Pinetree Drive  
Pittsburgh, PA 15241

Committee Counsel:

MCGUIREWOODS LLP  
Attn: Michael J. Roesenthaler, Esquire  
625 Liberty Avenue, 23<sup>rd</sup> Floor  
Pittsburgh, PA 15222

**K. Notices if to a Beneficiary.** Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person for whom such notice is intended to the name and address determined in accordance with Section III.A hereof.

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

**M. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

*[Remainder of this page intentionally left blank – signatures on following pages]*

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

WESTERN UTAH COPPER COMPANY

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

OFFICIAL COMMITTEE OF UNSECURED CREDITORS

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

LITIGATION TRUSTEE:

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

**EXHIBIT "2"**

**WUCC LITIGATION TRUST AGREEMENT**

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UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH

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IN RE:

WESTERN UTAH COPPER COMPANY,

Debtor.

Case No. 10-29159-WTT  
(Jointly Administered with  
Case No. 10-30002)

Chapter 11

Honorable William T. Thurman  
United States Bankruptcy Judge

**Filed Electronically**

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**LITIGATION TRUST AGREEMENT**

by and among

WESTERN UTAH COPPER COMPANY  
as Debtor and Debtor-in-possession,

and

OFFICIAL COMMITTEE OF UNSECURED CREDITORS  
as representatives of Beneficiaries

and

A. JOHN A. BRYAN, JR.

as Litigation Trustee

Dated: \_\_\_\_\_, 2012



THIS AGREEMENT ("Agreement") is made this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and among Western Utah Copper Company ("Debtor"), the Official Committee of Unsecured Creditors ("Committee") and A. John A. Bryan, Jr. (together with any successors, the "Litigation Trustee") under the Plan (as defined below).

**RECITALS:**

A. On May 18, 2010, the Debtor filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). The case is currently pending before the United States Bankruptcy Court for the District of Utah ("Bankruptcy Court") and the Honorable William T. Thurman at Case No. 10-29159-WTT under the caption *In re Western Utah Copper Company*, which is being jointly administered with Case No. 10-30002-WTT (the "Case").

B. By order, dated [\_\_\_\_\_, 2012], the Bankruptcy Court confirmed the First Amended Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code Proposed by the Debtors As Amended September 10, 2012 (as same may have been or may be amended or modified, the "Plan").<sup>1</sup>

C. Article 6 of the Plan calls for, *inter alia*, the creation of the WUCC Litigation Trust to hold and reduce to Cash all Trust Assets, for the benefit of the Beneficiaries, to resolve and object to Claims, and to turn over proceeds of Trust Assets to the Disbursing Agent for distribution to Beneficiaries in accordance with the Plan.

E. The WUCC Litigation Trust is created on behalf of, and for the benefit of, the Beneficiaries.

F. The WUCC Litigation Trust is created pursuant to, and to effectuate, the Plan for the primary purpose of liquidating the Trust Assets for the benefit of the Beneficiaries as a trust, in accordance with Treasury Regulation § 301.7701-4(d), and Revenue Procedure 94-45 I.R.B. 1994-28, 124, (July 11, 1994) ("Revenue Procedure 94-45") (or any subsequent Revenue Procedures that may be issued), with no objective to continue or engage in the conduct of a trade or business except to the extent reasonably necessary to, and consistent with, the purpose of the WUCC Litigation Trust.

G. The Beneficiaries of the WUCC Litigation Trust will be treated as the grantors of the WUCC Litigation Trust and deemed owners of the Trust Assets. The WUCC Litigation Trust requires the Litigation Trustee to file returns for the WUCC Litigation Trust as a grantor trust pursuant to Treasury Regulation § 1.671-1 through 4(a).

H. The WUCC Litigation Trust is intended to qualify as a "grantor trust" for federal income tax purposes with the Beneficiaries treated as the grantors and owners of the trust.

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<sup>1</sup> Capitalized terms used herein without definition shall have the respective meanings assigned to such terms in the Plan.

I. All of the WUCC Litigation Trust's income and/or recoveries are to be treated as subject to tax on a current basis to the Beneficiaries who will be responsible for payment of any tax due.

J. Subject to Section I.F hereof, the WUCC Litigation Trust contains a fixed determinable termination date that is not more than five years from the date of creation of the WUCC Litigation Trust and that is reasonable based on all the facts and circumstances.

K. The investment powers of the Litigation Trustee other than those reasonably necessary to maintain the value of the Trust Assets and to further the purpose of the WUCC Litigation Trust, are limited to powers to invest in demand and time deposits, such as short-term certificates (or overnight swaps) of deposit, in banks or other savings institutions, or other temporary, liquid investments, such as Treasury bills.

L. The WUCC Litigation Trust is required to distribute to the Disbursing Agent for the benefit of the Beneficiaries its net income plus all net proceeds from litigation recoveries and the sale or other liquidation of assets, except that the WUCC Litigation Trust may, upon receipt of the consent of the Disbursing Agent which consent shall not be unreasonably withheld, retain an amount of net proceeds or net income reasonably necessary to maintain the value of the Trust Assets and to fund the Litigation Expense Reserve Account.

NOW, THEREFORE, in consideration of the promises and the mutual covenants and agreements contained herein and in the Plan, the Debtor, the Committee, and the Litigation Trustee agree as follows:

## SECTION I

### THE LITIGATION TRUST

**A. Creation.** In accordance with section 6.3 of the Plan, on the Effective Date of the Plan, the WUCC Litigation Trust is hereby created.

**B. Objective and Purpose.** The WUCC Litigation Trust shall be established and maintained for the sole purpose of liquidating the Trust Assets, and distributing proceeds thereof, in accordance with Treasury Regulation 30.1.7701 - 4(d) and resolving and administering Claims, with no objection to continue or engage in the conduct of a trade or business.

**C. Acceptance.** The Litigation Trustee accepts the terms, provisions and conditions of this Agreement and the Plan and agrees to observe, perform and abide hereby and thereby.

**D. Intention of Parties to Establish Grantor Trust.** This Agreement is intended to create a grantor trust for the United States federal income tax purposes, and to the extent provided by law, shall be governed and construed in all respects as such a grantor trust. The WUCC Litigation Trust is not intended to constitute nor shall the formation of the WUCC Litigation Trust be interpreted as creating an association, partnership or joint venture of any kind.

**E. Transfer of Assets to WUCC Litigation Trust.**

1. Except as set forth below, on the Effective Date, right, title and interest to the Trust Assets shall vest in the WUCC Litigation Trust as trust assets consistent with section 6.3(c) of the Plan (“Trust Assets”).

2. Except as set forth below, on the Effective Date, the Estate shall be deemed to assign, set over, transfer and convey to the WUCC Litigation Trust all of its right, title and interest in the Trust Assets. To the extent that certain Trust Assets, because of their nature or because they will accrue subsequent to the Effective Date, cannot be assigned, set over, transferred or conveyed to the WUCC Litigation Trust on the Effective Date, such assets shall be deemed assigned, set over, transferred and conveyed to the WUCC Litigation Trust as soon as practical after the Effective Date.

3. Trust Assets shall not include any and all Cash (other than the initial funding of the WUCC Litigation Trust in the sum of \$50,000), the Deferred Sale Compensation allocable to WUCC or its creditors (which shall be paid to the Disbursing Agent), the Reorganized CK Note (which shall be executed in favor of the Disbursing Agent) or any tax attributes held by Debtor (which shall be retained by Reorganized WUCC). Notwithstanding the foregoing, this paragraph shall not be construed in any way that would bar the Litigation Trustee from initiating and prosecuting claims objections.

4. The transfer of Trust Assets to the Litigation Trust shall be made for the benefit of the Beneficiaries, in each case, but only to the extent the Beneficiaries are entitled to distributions under the Plan.

5. For all purposes of the Internal Revenue Code of 1986 (“IRS Code”), as amended, all Persons (including, without limitation, the Debtor, the Litigation Trustee and the Beneficiaries) shall treat the transfer of the Trust Assets to the WUCC Litigation Trust through the Debtor and/or agents of the Debtor as set forth in this Section I.E, as the deemed transfer of such assets to the Beneficiaries followed by the deemed transfer of such assets by the Beneficiaries to the WUCC Litigation Trust. Thus, the Beneficiaries shall be treated as the grantors and owners of the WUCC Litigation Trust for federal income tax purposes.

6. The Litigation Trustee and the Beneficiaries will value the Trust Assets as set forth in section 6.3(o)(ii)(B) of the Plan and such valuations will be consistently used for all federal income tax purposes.

#### **F. Termination of WUCC Litigation Trust.**

1. The WUCC Litigation Trust will terminate no later than the fifth (5th) anniversary of the Effective Date; provided, however, on or prior to the date six (6) months prior to such termination, the Bankruptcy Court, upon motion by a party in interest, may extend the term of the WUCC Litigation Trust for a finite period if it is necessary or appropriate in furthering the liquidating purpose thereof. Multiple extensions can be obtained so long as Bankruptcy Court approval is obtained at least six (6) months prior to the expiration of each extended term; provided, however, that the Trust may not receive an extension that would adversely affect the status of the trust as a liquidating trust and grantor trust for federal income tax purposes.

2. Prior to and upon termination of the WUCC Litigation Trust, the Trust Assets will be distributed to the Beneficiaries in accordance with the Plan and subject to this Agreement. If at any point prior to such termination date, the Litigation Trustee determines that further disbursements of the Trust Assets are unwarranted, the Litigation Trustee shall make a final disbursement to the Disbursing Agent.

3. The Litigation Trustee shall not unduly prolong the duration of the WUCC Litigation Trust and shall at all times endeavor to resolve, settle or otherwise dispose of all claims that constitute Trust Assets and to effect the distribution of the Trust Assets for the benefit of Beneficiaries in accordance with the terms hereof and terminate the WUCC Litigation Trust as soon as practicable.

## SECTION II

### LITIGATION TRUSTEE

**A. Appointment.** A. John A. Bryan, Jr. shall serve as the Litigation Trustee under the Plan, and the Litigation Trustee hereby accepts such appointment and agrees to serve in such capacity, upon the Effective Date of the Plan. A Successor Trustee (as defined in Section V.C hereof) may be appointed in the event that the Litigation Trustee is removed or resigns pursuant to this Agreement or the Litigation Trustee otherwise vacates the position.

**B. Generally.** The Litigation Trustee's powers are exercisable solely in a fiduciary capacity consistent with, and in furtherance of, the purposes of this WUCC Litigation Trust and not otherwise, except that the Litigation Trustee may administer the Trust Assets as permitted by the provisions of Section II.D hereof. The Litigation Trustee shall have the authority to bind the WUCC Litigation Trust, but shall for all purposes hereunder be acting in the capacity as Litigation Trustee and not personally or individually. The Litigation Trustee shall not be obligated to give any bond, surety or other security for the performance of any duties or obligations hereunder. The Litigation Trustee shall be entitled to engage in all such activities as the Litigation Trustee deems necessary and appropriate, in the Litigation Trustee's sole discretion, except where the Disbursing Agent's approval may be required as set forth herein; provided, however, that such activities do not conflict with the purpose of the WUCC Litigation Trust and are in the best interests of the Beneficiaries; and provided, further, that the Litigation Trustee shall devote such time and effort as is necessary to timely and properly fulfill all such duties.

**C. Scope of Authority.** The responsibilities and authority of the Litigation Trustee shall include: (1) prosecuting, settling or other resolution of Causes of Action; (2) administering and liquidating the Trust Assets; (3) facilitating the prosecution or settlement of objections to and estimations of Claims against the Debtor; (4) calculating and implementing all distributions in accordance with the Plan and this Agreement; (5) filing all required tax returns of the WUCC Litigation Trust and paying taxes of the WUCC Litigation Trust and all other obligations on behalf of the WUCC Litigation Trust from funds held by the WUCC Litigation Trust; (6) periodic reporting to the Bankruptcy Court and requesting parties in interest of the status of the Claims resolution process; and (7) such other responsibilities as may be vested in the Litigation

Trustee pursuant to the Plan, this Agreement, any Final Order of the Bankruptcy Court or as may be necessary and proper to carry out the provisions of the Plan.

**D. Powers.**

1. In connection with the administration of the WUCC Litigation Trust, except as otherwise set forth in this Agreement or the Plan, the Litigation Trustee is authorized to perform any and all acts necessary and reasonable to accomplish the purposes of the WUCC Litigation Trust in consultation with the Disbursing Agent. Without limiting, but subject to the foregoing, and subject in all respects to the other terms and conditions of this Agreement, the Litigation Trustee shall be expressly authorized, but shall not be required, to:

(a) review, analyze and, as appropriate, prosecute Causes of Action, objections to Claims, and any claims arising after the Petition Date ("Post-Petition Date Claims"), including any Administrative Expense Claims;

(b) upon consent of the Disbursing Agent, which consent shall not be unreasonably withheld, compromise, settle and resolve any Disputed Claims upon such terms and conditions as the Litigation Trustee deems appropriate and in the best interests of the WUCC Litigation Trust without further approval of the Bankruptcy Court. All compromises and settlements shall be deemed final and binding upon all parties in interest in the Case;

(c) upon consent of the Disbursing Agent, which consent shall not be unreasonably withheld, review, litigate and settle (without further approval of the Bankruptcy Court) or otherwise resolve Claims and Post-Petition Date Claims (including any Administrative Expense Claims), or other disputes involving or arising out of alleged environmental contamination and/or remediation;

(d) maintain all accounts, make distributions to the Disbursing Agent for the benefit of Beneficiaries of the WUCC Litigation Trust from the Trust Assets and take other actions consistent with the Plan in the name of the WUCC Litigation Trust, provided, however, that the Litigation Trustee shall not be entitled to use the Debtor's bank accounts that are in existence as of the Effective Date and shall be required to open new bank or other depository accounts in the name of the WUCC Litigation Trust as may be necessary or appropriate in the discretion of the Litigation Trustee to enable the Litigation Trustee to administer the WUCC Litigation Trust in accordance with the terms of this Agreement;

(e) subject to section I(F)(3) hereof, invest funds in and withdraw, make distributions and pay expenses, taxes, and other obligations owed by the WUCC Litigation Trust from funds held by the Litigation Trustee in accordance with the Plan and this Agreement;

(f) maintain, in respect of the WUCC Litigation Trust and the Beneficiaries, books and records relating to the assets and income of the WUCC

Litigation Trust and the payment of expenses of, and liabilities of, claims against or assumed by, the WUCC Litigation Trust in such detail and for such period of time as may be necessary to enable him to make full and proper accounting in respect thereof in accordance with this and to comply with applicable provisions of law. Except as provided herein, nothing in this Agreement requires the WUCC Litigation Trust or the Litigation Trustee to file any accounting or seek approval of any court with respect to the administration of the WUCC Litigation Trust, or as a condition for making any payment or distribution out of the Trust Assets. Beneficiaries and/or the Disbursing Agent shall have the right upon thirty (30) days' prior written notice delivered to the Litigation Trustee to inspect such books and records, provided that, if so requested, such Beneficiary shall have entered into a confidentiality agreement satisfactory in form and substance to the Litigation Trustee.;

(g) retain or engage, with the Disbursing Agent's consent, which consent shall not be unreasonably withheld, but without the necessity of obtaining any approval from the Bankruptcy Court, such employees, independent contractors, professional persons, and agents as are appropriate, necessary or desirable to complete (i) disbursements to the Disbursing Agent and (ii) the general administration of the WUCC Litigation Trust as required by this Agreement and applicable law;

(h) upon notice to and consent of the Disbursing Agent, which consent shall not be unreasonably withheld, incur any reasonable and necessary expenses on behalf of the WUCC Litigation Trust in carrying out the Litigation Trustee's obligations and responsibilities on behalf of the WUCC Litigation Trust and make ordinary and reasonable disbursements from Trust Assets to pay the ordinary and necessary expenses of administering the WUCC Litigation Trust, without the necessity of providing any notice or seeking or obtaining any approval of the Bankruptcy Court with respect to such disbursements;

(i) make interim and final disbursements of the Trust Assets to the Disbursing Agent for the benefit of Beneficiaries of the WUCC Litigation Trust in accordance with the terms of this Agreement, the Plan and applicable law;

(j) execute, deliver, file and/or record such contracts, instruments, releases, indentures, and other agreements or documents, and to take such actions, as may be necessary, desirable or appropriate to administer the WUCC Litigation Trust;

(k) prepare and file tax and informational returns on behalf of the WUCC Litigation Trust as required by applicable federal, state and local law, and in accordance with the terms of this Agreement;

(l) file with the Bankruptcy Court and/or the Office of the United States Trustee the reports and other documents required by the Plan or otherwise required to close the Case;

(m) upon notice to and consent of the Disbursing Agent, which consent shall not be unreasonably withheld, take all other actions not inconsistent with the provisions of the Plan or the Agreement that the Litigation Trustee deems reasonably necessary or desirable in connection with the administration of the WUCC Litigation Trust;

**E. Additional Powers.** Except as otherwise set forth in this Agreement or in the Plan, and subject to the retained jurisdiction of the Bankruptcy Court as provided for in the Plan, but without prior or further authorization, the Litigation Trustee may control and exercise authority over the Trust Assets and over the protection, conservation and disposition thereof. No person dealing with the WUCC Litigation Trust shall be obligated to inquire into the authority of the Litigation Trustee in connection with the protection, conservation or disposition of the Trust Assets. It is intended that a signed copy of this Agreement serve as adequate proof of the Litigation Trustee's authority to act if such proof is required for any reason by any third party.

**F. Limitation of Litigation Trustee's Authority.**

1. No Trade or Business. The Litigation Trustee shall not, and shall not be authorized to, engage in any trade or business with respect to the Trust Assets or any proceeds therefrom except to the extent reasonably necessary or appropriate to, and consistent with, the purpose of the WUCC Litigation Trust and the Litigation Trustee shall take such actions consistent with the prompt orderly liquidation of the Trust Assets as are required by applicable law and consistent with the treatment of the WUCC Litigation Trust as a WUCC Litigation Trust under Treasury Regulation § 301.7701-4(d) and Revenue Procedure 94-45 (or any subsequent Revenue Procedures that may be issued), and such actions permitted herein.

2. Released Claims. The Litigation Trustee shall not have any authority to pursue any Claims and/or Causes of Action waived, exculpated or released in accordance with the provisions of the Plan or Final Order of the Bankruptcy Court.

3. Investment and Safekeeping of the Trust Assets. All Trust Assets received by the WUCC Litigation Trust shall, until distributed or paid over as herein provided, be held in trust for the benefit of the Disbursing Agent, but need not be segregated unless and to the extent required by applicable law or by the Plan. The Litigation Trustee shall be under no liability for interest or producing income on any Trust Assets received by the WUCC Litigation Trust hereunder and held for distribution or payment to the Beneficiaries. Investments of any Trust Assets held by the WUCC Litigation Trust shall be administered in a manner in which individuals of ordinary prudence, discretion and judgment would act in the management of their own affairs; provided, however, that the right and power of the Litigation Trustee to invest the Trust Assets, the proceeds thereof, or any income earned by the WUCC Litigation Trust, shall be limited to the right and power to invest such assets (pending periodic distributions in accordance with this Section II.F.3 hereof) in demand and time deposits, such as short-term certificates of deposit, in banks or other savings institutions, or other temporary liquid investments, such as Treasury bills; and, provided, further, that the scope of any such permissible investments shall be limited to include only those investments that a WUCC Litigation Trust, within the meaning of Treasury Regulation § 301.7701-4(d) and Revenue Procedure 94-45 (or any subsequent Revenue Procedures that may be issued), may be permitted to hold, pursuant to the Treasury Regulations,

or any modification in the IRS guidelines, whether set forth in IRS rulings, other IRS pronouncements or otherwise.

4. Limiting Transfers. The Litigation Trustee shall not take, or cause the WUCC Litigation Trust to take, any action that would cause the interests in the WUCC Litigation Trust to be considered readily tradable on a secondary market (or a substantial equivalent thereof) within the meaning of Section 7704(b)(2) of the IRS Code, and Treasury Regulations § 1.7704-1(c), and the Litigation Trustee shall not permit any transfer of an interest in the WUCC Litigation Trust if it would cause the WUCC Litigation Trust (were it be classified as a partnership rather than a grantor trust) to be treated as a “publicly traded partnership” as defined in IRS Code § 7704.

**G. Liability of Litigation Trustee.** In no event shall the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors or any of the Litigation Trustee’s professionals, agents or representatives (or their designees) be held personally liable for any claim asserted against the WUCC Litigation Trust, the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors and/or any of the Litigation Trustee’s professionals, agents or representatives (or their designees), except to the extent occasioned by or based their upon their own fraud, willful misconduct or gross negligence. Specifically, the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors or any of the Litigation Trustee’s professionals, agents or representatives (or their designees) shall not be liable for any negligence or any error of judgment in either case made in good faith, in the exercise of its or their business judgment or with respect to any action taken or omitted to be taken in good faith, except to the extent that the action taken or omitted to be taken by the Litigation Trustee, the Litigation Trustee’s officers, employees, independent contractors or any of the Litigation Trustee’s professionals, agents or representatives (or their designees) is determined by a Final Order of a court of competent jurisdiction to be due to their own respective fraud, gross negligence or willful misconduct.

**H. Reliance by Litigation Trustee.** Except as otherwise provided in Section II.F hereof:

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

2. The Litigation Trustee may consult with legal counsel, financial or accounting advisors and other professionals, and the Litigation Trustee shall not be liable for any action taken or omitted to be taken by him in accordance with the advice thereof; and

3. All persons or entities hired by, retained by, doing business with or otherwise dealing with the Litigation Trustee shall look only to the Trust Assets to satisfy any liability incurred by the Litigation Trustee on behalf of the WUCC Litigation Trust to such persons or entities in carrying out the terms of this Agreement, and the Litigation Trustee shall have no personal obligation to satisfy any such liability, except to the extent such liability or obligation arises as a result of the fraud, gross negligence or willful misconduct of the Litigation



Trustee as determined in accordance with Section II.G of this Agreement, in which case the Trust Assets shall not be subject to such claims or liabilities.

**I. Authorization to Expend Trust Assets.** Upon notice to and the consent of the Disbursing Agent, which consent shall not be unreasonably withheld, the Litigation Trustee may expend the Trust Assets (i) to pay expenses of administration of the WUCC Litigation Trust (including, but not limited to, the fees and expenses of the Litigation Trustee, its officers, employees, and independent contractors and any of its professionals, agents or representatives, any taxes imposed on the WUCC Litigation Trust or in respect of the Trust Assets, and any fees and expenses incurred in connection with any Causes of Action), and (ii) to satisfy other liabilities incurred or assumed by the WUCC Litigation Trust (or to which the assets are otherwise subject) in accordance with this Agreement or the Plan.

**J. Compensation of the Litigation Trustee.**

1. The costs and expenses of the WUCC Litigation Trust, including the fees and expenses of the Litigation Trustee and its retained professionals, shall be paid from the WUCC Litigation Trust. Such costs and expenses shall be treated as a first priority in right of distribution, from the WUCC Litigation Trust. The Litigation Trustee shall retain such amounts as are reasonably necessary (at the discretion of the Litigation Trustee) to meet the future fees and expenses of interest in administering the WUCC Litigation Trust in the Litigation Expense Reserve Account.

2. The Litigation Trustee shall be entitled to reasonable compensation on a contingency basis, as agreed upon by the Litigation Trustee and the Committee prior to the Effective Date. The professionals and independent contractors of the Litigation Trustee shall be entitled to a contingency fee not to exceed forty percent (40%) of the proceeds of a respective Cause of Action, plus reasonable expenses actually incurred in connection with the Cause of Action. The Litigation Trustee shall not pay any professionals without notice to and the consent of the Disbursing Agent, which consent shall not be unreasonably withheld. All proposed contingency fee arrangements shall be filed with the Bankruptcy Court no later than twenty-one (21) days prior to the Confirmation Hearing.

3. All compensation and other amounts payable to the Litigation Trustee shall be paid solely from the Trust Assets. If the cash in the WUCC Litigation Trust shall be insufficient to compensate and reimburse the Litigation Trustee, as the case may be, for any amounts to which he is entitled hereunder, then the Litigation Trustee is hereby authorized to reduce to cash in a commercially reasonable manner that portion of the Trust Assets necessary so as to effect such compensation and reimbursement.

**K. Exculpation; Indemnification.** From and after the Effective Date, the Litigation Trustee, the Litigation Trustee's officers, employees, independent contractors, or any of the Litigation Trustee's professionals, agents or representatives (or their designees) shall be and hereby are exculpated by all persons, and entities including, without limitation, holders of Claims against the Debtor and other parties in interest, from any and all claims, causes of action and other assertions of liability arising out of the discharge of the powers and duties conferred upon the Litigation Trustee by this Agreement, the Plan or any order of the Bankruptcy Court entered

pursuant to or in furtherance of the Plan or this Agreement, or applicable law or otherwise, except only for actions or omissions to act only to the extent determined by a Final Order of a court of competent jurisdiction to be due to the fraud, gross negligence or willful misconduct of the Litigation Trustee, the Litigation Trustee's officers, employees, independent contractors, or any of the Litigation Trustee's professionals, agents or representatives (or their designees) after the Effective Date. No holder of a Claim against the Debtor or any other party in interest will have or be permitted to pursue any claim or cause of action against the Litigation Trustee, the WUCC Litigation Trust or the Litigation Trustee's officers, employees, independent contractors, professionals, agents or representatives (or their designees) for making payments in accordance with the Plan or this Agreement or for implementing the provisions of the Plan or this Agreement except in cases of fraud, gross negligence or willful misconduct. The WUCC Litigation Trust shall indemnify, defend and hold harmless the Litigation Trustee, the Litigation Trustee's officers, employees, independent contractors and any of the Litigation Trustee's professionals, agents or representatives (or their designees) from and against any and all claims, causes of action, liabilities, obligations, losses, damages or expenses (including attorneys' fees) (except to the extent determined by a Final Order of a court of competent jurisdiction to arise out of the fraud, gross negligence or willful misconduct of the Litigation Trustee, or any of the Litigation Trustee's officers, employees, independent contractors, or any of the Litigation Trustee's professionals, agents or representatives (or their designees) but this parenthetical shall only apply to those individuals or entities to which such finding or findings of fraud, gross negligence or willful misconduct shall have been made) to the fullest extent permitted by applicable law. Any action taken or omitted to be taken with the approval of the Bankruptcy Court will conclusively be deemed not to constitute fraud, gross negligence or willful misconduct.

**L. Confidentiality.** The Litigation Trustee shall, and shall cause the Litigation Trustee's officers, employees, independent contractors or any of the Litigation Trustee's professionals, agents or representatives (or their designees) to, during the period that the Litigation Trustee serves as Litigation Trustee under this Agreement hold strictly confidential and not use for personal gain any material, non-public information of or pertaining to the Debtor or any Beneficiary or any entity to which any of the Trust Assets relate or of which the Litigation Trustee has become aware in its capacity as such, other than in connection with the Litigation Trustee carrying out the objectives and purposes of the WUCC Litigation Trust.

**M. Final Decree.** It shall be the duty of the Litigation Trustee to seek and obtain a final decree or decrees from the Bankruptcy Court in the Case upon full administration of the WUCC Litigation Trust, and with respect to the other Debtor as soon as reasonably practicable after the Effective Date of the Plan.

**N. Termination.** The duties, responsibilities and powers of the Litigation Trustee will terminate on the date the WUCC Litigation Trust is dissolved under applicable law in accordance with the Plan and this Agreement, or by an Order of the Bankruptcy Court or by entry of a final decree closing the Case, whichever date is later

### SECTION III

### DISTRIBUTIONS

**A. Application of Trust Assets.** The Litigation Trustee on behalf of the WUCC Litigation Trust shall apply all other cash constituting Trust Assets and any proceeds therefrom in the order and reflecting the priorities set forth below:

**FIRST**, to pay all the costs and expenses of the WUCC Litigation Trust including, without limitation, funding of the Litigation Expense Reserve Account for the post-confirmation fees and expenses and any and all costs, expenses and liabilities incurred by the Litigation Trustee in connection with the performance of his duties under this Agreement, including the payment of any professionals, agents or other representatives (and designees) retained by the Litigation Trustee.

**SECOND**, to the Disbursing Agent for its fees and expenses and for the benefit of holders of Allowed Claims, classified and unclassified under the Plan in accordance with the terms and conditions of the Plan.

**B. Taxes.** The Litigation Trustee will comply with all tax withholding and reporting requirements imposed by all governmental entities, and all distributions or payments pursuant to this Agreement and the Plan will, to the extent applicable, be subject to such withholding and reporting requirements. The Litigation Trustee shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of this Agreement or the Plan, each entity receiving a distribution or payment pursuant to this Agreement or the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution or payment.

**C. Compliance with Laws.** Any and all distributions or payments of Trust Assets shall be in compliance with applicable laws, including, but not limited to, applicable federal and state securities laws.

**D. Final Disbursements of WUCC Litigation Trust.** The Litigation Trustee is authorized to terminate the WUCC Litigation Trust in accordance with the terms of this Agreement and the Plan when the Litigation Trustee determines that no further disbursements of the respective assets of the WUCC Litigation Trust are possible, among other conditions.

**E. Estate Representatives.** Pursuant to section 1123(b)(3)(B) of the Bankruptcy Code, the Litigation Trustee shall serve as the representative of the Estate and the WUCC Litigation Trust on and following the Effective Date.

## SECTION IV

### SUCCESSOR TRUSTEES

**A. Removal.** The Litigation Trustee may only be removed by order of the Bankruptcy Court, for cause, including: (a) fraud, gross negligence or willful misconduct in connection with the affairs of the WUCC Litigation Trust; (b) physical or mental disability that substantially prevents the Litigation Trustee from performing the duties as Litigation Trustee

hereunder; or (c) breach of fiduciary duty. The Disbursing Agent shall be entitled to seek the removal of the Litigation Trustee under this subsection.

**B. Resignation.** The Litigation Trustee may resign by giving not less than sixty (60) days' prior written notice thereof to the Reorganized WUCC, the Disbursing Agent and the Bankruptcy Court. Such resignation shall become effective on the later to occur of (i) the date specified in such notice and (ii) the selection of a Successor Trustee (defined herein) and the acceptance by such Successor Trustee of such appointment, unless otherwise ordered by the Bankruptcy Court.

**C. Appointment of Successor Trustee.** In the event of the death, resignation or removal of the Litigation Trustee, the former members of the Committee shall appoint a successor to the Litigation Trustee ("Successor Trustee"). Notice of any Successor Trustee shall be filed with the Bankruptcy Court and provided to the Beneficiaries. Any Successor Trustee appointed hereunder shall execute an instrument accepting such appointment hereunder and shall file such acceptance with the WUCC Litigation Trust's records. Thereupon, such Successor Trustee shall, without any further act, become vested with all the Trust Assets, properties, rights, powers, trusts and duties of his or her or its predecessor in the WUCC Litigation Trust with like effect as if originally named herein; provided, however, that a removed or resigning trustee shall, nevertheless, when requested in writing by the Successor Trustee, execute and deliver an instrument or instruments conveying and transferring to such Successor Trustee under the WUCC Litigation Trust all of the rights in connection with the Trust Assets, properties, rights, powers, trusts and duties of such predecessor trustee.

**D. Trust Continuance.** The death, resignation or removal of the Litigation Trustee shall not operate to terminate the WUCC Litigation Trust created by this Agreement or revoke any existing agency (other than the agency of such Litigation Trustee as Litigation Trustee) created pursuant to the terms of this Agreement or invalidate any action therefore taken by the Litigation Trustee. The Litigation Trustee agrees that the provisions of this Agreement shall be binding on or inure to the benefit of any Successor Trustee.

**E. Turnover of Documents.** Upon the resignation or removal of the Litigation Trustee, the Litigation Trustee shall promptly: (a) execute and deliver, by the effective date of resignation or removal, all such documents, instruments, and other writings as may be required to effect the termination of the Litigation Trustee's capacity under this Agreement and conveyance of the Trust Assets there held by the Litigation Trustee to the Successor Trustee; (b) deliver to the Successor Trustee all documents, instruments, books, records and other writings relating to the WUCC Litigation Trust as may be in the possession or under control of the Litigation Trustee; and (c) otherwise assist and cooperate in effecting the assumption of the rights, powers, duties and obligations under this Agreement by the Successor Trustee.

## SECTION V

### REPORTING

**A. Tax and Other Reports.** As soon as practicable after the end of each calendar year, and as soon as practicable upon termination of the WUCC Litigation Trust, the Litigation

Trustee shall submit to the Bankruptcy Court a written report including: (i) financial statements of the WUCC Litigation Trust at the end of such calendar year or period and the receipts and disbursements of the WUCC Litigation Trust for such period; (ii) a description of any action taken by the Litigation Trustee in the performance of his duties, which materially and adversely affects the WUCC Litigation Trust and of which notice has not previously been given to the Beneficiaries; and (iii) subject to Section V.B hereof, a separate statement for each Beneficiary setting forth the holder's share of items of income, gain, loss, deduction or credit and instructing all such holders to report such items on their federal income tax returns. The Litigation Trustee shall promptly submit additional appropriate reports to the Bankruptcy Court and whenever an adverse material event or change occurs which effects either the WUCC Litigation Trust or the rights of the Beneficiaries hereunder.

**B. Federal Income Tax.**

1. Grantor Trust Status. Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the issuance of applicable Treasury Regulations, the receipt by the Litigation Trustee of a private letter ruling if the Litigation Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Litigation Trustee), the Litigation Trustee shall file returns for the WUCC Litigation Trust as a grantor trust pursuant to Treasury Regulation § 1.671-1 through 4(a).

2. Allocations of WUCC Litigation Trust Taxable Income. All of the WUCC Litigation Trust's income is subject to tax on a current basis. Subject to the provisions of Section V.B.1 hereof, allocations of WUCC Litigation Trust taxable income among Beneficiaries shall be determined by reference to the manner in which an amount of cash equal to such taxable income would be distributed (without regard to any restriction on distributions described herein) if, immediately prior to such deemed distribution, the WUCC Litigation Trust had distributed all of its other assets (valued for this purpose at their tax book value) to Beneficiaries (treating to the extent determined by the Litigation Trustee in his sole discretion, any holder of a Disputed Claim against the Debtor, for this purpose, as a current Beneficiary entitled to distributions), taking into account all prior and concurrent distributions from the WUCC Litigation Trust (including all distributions held in reserve pending the resolution of Disputed Claims). Similarly, taxable losses of the WUCC Litigation Trust will be allocated among Beneficiaries by reference to the manner in which an economic loss would be borne immediately after a liquidating distribution of the remaining Trust Assets. The tax book value of the Trust Assets on the Effective Date for this purpose shall be as set forth in the liquidation analysis provided in the Disclosure Statement, or, if acquired later, the fair market value of such assets on the date such assets were acquired by the WUCC Litigation Trust, adjusted in either case in accordance with tax accounting principles prescribed by the IRS Code, the regulations promulgated thereunder and other applicable administrative and judicial authorities and pronouncements.

**C. Other.** The Litigation Trustee shall also file (or cause to be filed) any other statements, returns or disclosures relating to the WUCC Litigation Trust, that are required to be filed by any applicable governmental unit or under applicable law, guidelines, rules and regulations.

## SECTION VI

### TRANSFER OF BENEFICIARY'S INTERESTS

**A. Transfer of Beneficial Interests.** Each of the Beneficiaries may sell, transfer, assign or otherwise dispose of directly or indirectly ("Transfer"), the beneficial interests owned by it; provided, however, that (a) such Transfer does not subject the WUCC Litigation Trust to the resignation requirements of either the Securities and Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended; (b) any such Transfer is not carried out on a national security exchange or system of automated dissemination of quotations of securities prices; (c) the WUCC Litigation Trust will not participate in the establishment of a market for its beneficial interests or the inclusions beneficial interests thereon, nor will it recognize any transaction made on such market for any purpose that could subject the WUCC Litigation Trust to entitle level taxation for state and federal income tax purposed or affect the WUCC Litigation Trust tax status for state or federal income tax purposes; and (d) upon the closing of any such Transfer, in writing, of such transfer and a new address for the transfer, provided, however, that failing such notice, the Litigation Trustee shall not have any legal obligation to recognize the transferee as the legal owner of the beneficial interest.

## SECTION VII

### MISCELLANEOUS PROVISIONS

**A. Amendment; Waiver.** This Agreement can be amended, waived, modified or changed after the Effective Date; provided, however, that in no event shall a change be made to this Agreement that would be inconsistent with the Plan or adversely affect the federal income tax status of the WUCC Litigation Trust as a "grantor trust."

**B. Intention of Parties to Establish Grantor Trust.** This Agreement is intended to create a "liquidating trust", as defined in Treasury Regulations § 301.7701-4(d), to be taxed as a grantor trust for federal income tax purposes and, to the extent provided by law, shall be governed and construed in all respects as a grant or trust.

**C. Preservation of Privilege.** In connection with the rights, claims, and Causes of Action that constitute the Trust Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents, work-product or communications (whether written or oral) transferred to the WUCC Litigation Trust shall vest in the WUCC Litigation Trust and its representatives, and the Debtor and the Litigation Trustee are authorized to take all necessary actions to effectuate the transfer of such privileges.

**D. Cooperation.** The Debtor or Reorganized Debtor as the case may be shall provide the Litigation Trustee with copies of such of its books and records as the Litigation Trustee shall reasonably require for the purpose of performing his duties and exercising his powers hereunder.

**E. Laws as to Construction.** This Agreement shall be governed by and construed in accordance with the laws of the State of Utah, without giving effect to rules governing the conflict of law.

**F. Relationship to Plan.** The principal purpose of this Agreement is to aid in the implementation and effectuation of the Plan, and therefore, is subject to the provisions of the Plan. In the event of a conflict between the Plan and this Agreement, this Agreement shall control.

**G. Severability.** If any provision of this Agreement or the application thereof to any person or circumstance shall be finally determined by a court of competent jurisdiction to be invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and such provision of this Agreement shall be valid and enforced to the fullest extent permitted by law unless this Agreement, as modified, will no longer effectuate the intent of the parties hereto in all material respects.

**H. Professionals of the Litigation Trustee.** The Litigation Trustee shall retain LNBYB as counsel to the WUCC Litigation Trust. The Litigation Trustee may employ and retain such other professionals as the Litigation Trustee deems necessary and appropriate. Such professionals shall be paid from the Litigation Expense Reserve Account in accordance with this Agreement.

**I. Retention of Jurisdiction; Venue.** The Bankruptcy Court shall retain jurisdiction over any dispute pertaining to this Agreement to the fullest extent permitted under applicable law and the Plan. In the event that the Bankruptcy Court lacks jurisdiction or fails or refuses to exercise jurisdiction, the parties agree to bring any claims or causes of action arising out of, relating to or in connection with the Agreement in the United States District Court for the District of Utah, and hereby irrevocably submit to the jurisdiction of such Court. The parties hereto irrevocably waive any objection to the laying of venue in any action, suit or proceeding arising out of, relating to or in connection with this Agreement that is brought in the aforementioned Court and further waive any claim of forum non conveniens.

**J. Notices.** Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person for whom such notice is intended at such address as set forth below or such other address as filed with the Bankruptcy Court.

If to the Debtor, Reorganized Debtor, the WUCC Litigation Trust or the Litigation Trustee:

Debtor or Reorganized Debtor:

LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.  
Attn: Martin J. Brill  
10250 Constellation Blvd., Suite 1700  
Los Angeles, CA 90067

WUCC Litigation Trust or the Litigation Trustee:

A. John A. Bryan, Jr.  
8439 Sunset Blvd., Suite 402  
West Hollywood, CA 90069

Disbursing Agent:

Disbursement Services, LLC  
1690 Pinetree Drive  
Pittsburgh, PA 15241

Committee Counsel:

MCGUIREWOODS LLP  
Attn: Michael J. Roeschenthaler, Esquire  
625 Liberty Avenue, 23<sup>rd</sup> Floor  
Pittsburgh, PA 15222

**K. Notices if to a Beneficiary.** Any notice or other communication hereunder shall be in writing and shall be deemed to have been sufficiently given, for all purposes, if deposited, postage prepaid, in a post office or letter box addressed to the person for whom such notice is intended to the name and address determined in accordance with Section III.A hereof.

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

**M. Counterparts.** This Agreement may be executed in multiple counterparts, each of which shall be deemed an original but all of which taken together shall constitute one and the same instrument.

*[Remainder of this page intentionally left blank – signatures on following pages]*



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

WESTERN UTAH COPPER COMPANY

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

OFFICIAL COMMITTEE OF UNSECURED CREDITORS

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

LITIGATION TRUSTEE:

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

ORDER SIGNED

**EXHIBIT "B"**

**LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.**

Martin J. Brill (Calif. Bar No. 53220)  
David B. Golubchik (Calif. Bar No. 185520)  
Krikor J. Meshefejian (Calif. Bar No. 255030)  
10250 Constellation Blvd., Suite 1700  
Los Angeles, CA 90067  
Telephone: (310) 229-1234  
Facsimile (310) 229-1244  
*Reorganization Counsel for Chapter 11  
Debtors and Debtors-in-Possession*

**DION-KINDEM & CROCKETT**

Steven R. Skirvin (Utah Bar No. 7626)  
222 South Main Street, Suite 500  
Salt Lake City, UT 84101  
Telephone: (801) 990-2811  
Facsimile: (801) 951-7194  
*Local Counsel for Chapter 11 Debtors and  
Debtors-in-Possession*

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH**

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IN RE: Cases No. 10-29159-WTT  
(Jointly Administered with  
WESTERN UTAH COPPER COMPANY, Cases No. 10-30002)  
Debtor. Chapter 11

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IN RE: Honorable William T. Thurman  
United States Bankruptcy Judge  
COPPER KING MINING CORPORATION, **Filed Electronically**  
Debtor.

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**STIPULATION REGARDING TREATMENT AND PAYMENT OF  
CERTAIN PROFESSIONALS' FEES UNDER CONFIRMED JOINT PLAN  
OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY  
CODE PROPOSED BY DEBTORS, AS AMENDED ON SEPTEMBER 10, 2012**

Western Utah Copper Company (“WUCC” and together with Copper King Mining Corporation, the “Debtors”), and Levene, Neale, Bender, Yoo & Brill L.L.P., McGuireWoods LLP, Affeld, Grivakes and Zucker LLP, and A. John A. Bryan, Jr. (collectively, the “Professionals”) hereby stipulate as follows<sup>1</sup>:

**RECITALS**

A. At a hearing held on October 30, 2012 at 2:00 p.m., the Bankruptcy Court confirmed that certain “Joint Plan Of Reorganization Under Chapter 11 Of The Bankruptcy Code Proposed By Debtors, As Amended On September 10, 2012” (the “Plan”) [Docket No. 914], which was proposed by the Debtors, subject to the Debtors entering into a written agreement with the Professionals regarding the payment of their Allowed Administrative Expense Claims.

B. The Plan provides that all Professionals or other Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code shall be paid in full by the Disbursing Agent from the appropriate Estate’s assets in such amounts as are allowed by the Bankruptcy Court (A) upon the date upon which the order relating to any such Allowed Administrative Expense Claim is entered, or (B) upon such other terms as may be mutually agreed upon by and among the holder of such an Allowed Administrative Expense Claim, Debtors (or Reorganized Debtor as the case may be), the Committee (if still in existence) and the Disbursing Agent.

C. There is insufficient Cash in the Estates to pay all Allowed Administrative Expense Claims in full on the Effective Date of the Plan. At the present time the WUCC Estate

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<sup>1</sup> Capitalized terms not otherwise defined shall have the same meaning ascribed to such term in the Plan.

has approximately \$800,000 on hand to make the payments required to be made by the Plan, which amount should allow the Disbursing Agent to make the payments set forth in Paragraph 4 below and still make a distribution to Professionals of at least thirty percent (30%) of their Allowed Administrative Expense Claims. In order to allow the Plan to go effective and in accord with 11 U.S.C. § 1129(a)(9), the Professionals have agreed to confirmation of the Plan despite WUCC's inability to pay their Allowed Administrative Expense Claims in full on the Effective Date, provided that they are paid pursuant to the terms set forth herein. In so doing, the Professionals are not waiving or discharging (a) any portion of their Allowed Administrative Expense Claims, or any other Administrative Expense Claims that may be Allowed in the future (collectively herein, the "Allowed Administrative Expense Claims"); (b) treatment of their Allowed Administrative Expense Claims in accordance with the Bankruptcy Code, except as specifically modified herein, or in the Plan; or (b) their right to receive a *pro rata* share of available Cash on the Effective Date on account of their Allowed Administrative Expense Claims, to the extent such Cash exists.

D. The Professionals, on the one hand, and WUCC, on the other hand, have agreed upon the following terms of payment on account of the Professionals' Allowed Administrative Expense Claims.

#### **AGREEMENT**

1. As set forth in the Plan, in consideration for the delay in payment in full of the Professionals' Allowed Administrative Expense Claims on the Effective Date and the Professionals' agreement notwithstanding to confirmation of the Plan, the Professionals shall receive their Pro Rata Share (including the professionals of Copper King Mining Corporation who also enter into a similar stipulation to be filed in that Case) of 1,500,000 shares of New

Common Stock (estimated to be 15% of the issued and outstanding New Common Stock after the Transaction) based upon the amount of such deferred, unpaid Allowed Administrative Expense Claims in both Cases. The Professionals are not agreeing to waive any rights associated with their Allowed Administrative Expense Claims including, without limitation, the amount of their Allowed Administrative Expense Claims, the right to be paid in full as required by the Bankruptcy Code, or the right to receive their Pro Rata Share of available Cash on the Effective Date;

3. A Professional's receipt of the New Common Stock will not diminish the amount or validity of its Allowed Administrative Expense Claim, and the distribution of the New Common Stock is intended solely to compensate such Professional for the delay in payment and is not in lieu of payment in full of a Professional's Allowed Administrative Expense Claim.;

4. The Professional agree that the Disbursing Agent may pay (a) all other Allowed Administrative Expense Claims of Non-Professionals, (b) the Allowed Administrative Expense Claims of Dion-Kidem & Crockett and Anderson & Karrenberg in accordance with the Plan, and (c) Allowed Non-Tax Priority Claims relating to priority wage Claims, before making distributions to the Professionals;

5. The Disbursing Agent shall provide the Professionals with quarterly reports evidencing the amounts collected by the Disbursing Agent and the amounts available for distribution pursuant to the terms of the Plan;

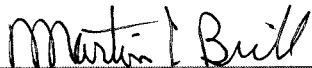
6. Except as otherwise set forth herein or otherwise agreed upon by and among the Professionals in the WUCC Case, distributions made to Professionals in WUCC's Case shall be made on a *pro rata* basis as Cash is available or collected by the Disbursing Agent; and

8. The Bankruptcy Court shall retain jurisdiction to resolve any disputes related to

this stipulation.

Dated: November 9, 2012

**LEVENE, NEALE, BENDER, YOO  
& BRILL L.L.P.**



Martin J. Brill (Calif. Bar No. 53220)  
David B. Golubchik (Calif. Bar No. 185520)  
Krikor J. Meshefejian (Calif. Bar No. 255030)  
*Reorganization Counsel for Chapter 11  
Debtors and Debtors-in-Possession*

**MCGUIREWOODS LLP**

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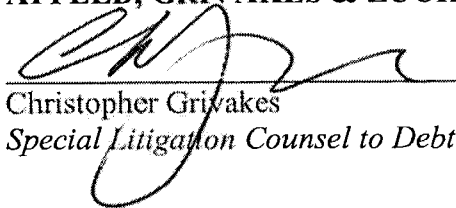
Michael J. Roeschenthaler  
Scott E. Schuster  
McGuireWoods LLP  
*Counsel for Official Committee of Unsecured  
Creditors*

**A. JOHN A. BRYAN, JR., FOR AND ON BEHALF OF WESTERN UTAH COPPER  
COMPANY AND COPPER KING MINING CORPORATION AND INDIVIDUALLY AS  
A PROFESSIONAL**

---

A. John A. Bryan, Jr.  
*Chief Restructuring Officer for Chapter 11  
Debtors and Debtors-In-Possession*

**AFFELD, GRIVAKES & ZUCKER LLP**



Christopher Grivakes  
*Special Litigation Counsel to Debtors*

this stipulation.

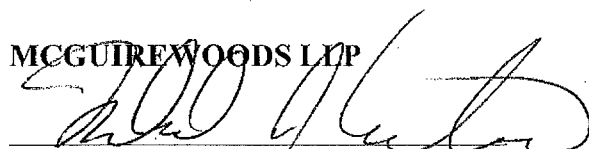
Dated: November 9, 2012

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Krikor J. Meshefejian (Calif. Bar No. 255030)  
*Reorganization Counsel for Chapter 11  
Debtors and Debtors-in-Possession*

**MCGUIREWOODS LLP**



---

Michael J. Roesenthaler  
Scott E. Schuster  
McGuireWoods LLP  
*Counsel for Official Committee of Unsecured  
Creditors*

**A. JOHN A. BRYAN, JR., FOR AND ON BEHALF OF WESTERN UTAH COPPER  
COMPANY AND COPPER KING MINING CORPORATION AND INDIVIDUALLY AS  
A PROFESSIONAL**

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A. John A. Bryan, Jr.  
*Chief Restructuring Officer for Chapter 11  
Debtors and Debtors-In-Possession*

**AFFELD, GRIVAKES & ZUCKER LLP**

---

Christopher Grivakes  
*Special Litigation Counsel to Debtors*



this stipulation.

Dated: November 9, 2012

**LEVENE, NEALE, BENDER, YOO  
& BRILL L.L.P.**

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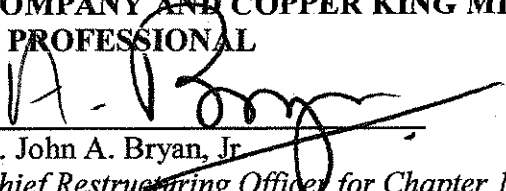
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Debtors and Debtors-in-Possession*

**MCGUIREWOODS LLP**

---

**Michael J. Roeschenthaler  
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Counsel for Official Committee of Unsecured**

**A. JOHN A. BRYAN, JR., FOR AND ON BEHALF OF WESTERN UTAH COPPER  
COMPANY AND COPPER KING MINING CORPORATION AND INDIVIDUALLY AS  
A PROFESSIONAL**



---

A. John A. Bryan, Jr.  
*Chief Restructuring Officer for Chapter 11  
Debtors and Debtors-In-Possession*

**AFFELD, GRIVAKES & ZUCKER LLP**

---

Christopher Grivakes  
Special Litigation Counsel to Debtors

**CERTIFICATE OF SERVICE**

1. On the 9<sup>th</sup> day of November 2012, I served the following document:

**STIPULATION REGARDING TREATMENT AND PAYMENT OF CERTAIN PROFESSIONALS' FEES UNDER CONFIRMED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY DEBTORS, AS AMENDED ON SEPTEMBER 10, 2012**

2. I served the above-named document by the following means to the persons as listed below:

- a. ECF System (see attached service list)**
- b. United States mail, postage fully prepaid**
- c. Personal Service**

I personally delivered the document(s) to the person(s) at these address(es):

- For a party represented by an attorney, delivery was made by handing the document(s) to the attorney or by leaving the document(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place in the office.
- For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place with someone of suitable age and discretion residing there.
- d. By direct email (as opposed to through the ECF System)**  
Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- e. By Fax transmission**  
Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of fax transmission is attached.
- f. By Messenger**  
I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a messenger for service.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 9<sup>th</sup> day of November 2012.

By: Stephanie Reichert

/s/ Stephanie Reichert  
Signature

SERVICE VIA ECF NOTICE

- J. Thomas Beckett tbeckett@parsonsbehle.com, ecf@parsonsbehle.com;kstankevitz@parsonsbehle.com
- J. Thomas Beckett tbeckett@pblutah.com, ecf@parsonsbehle.com;kstankevitz@parsonsbehle.com
- Scott S. Bell ECF@parsonsbehle.com
- David P. Billings dbillings@parsonsbehle.com,  
aubery.mitchell@akerman.com,michelle.milne@akerman.com,zach.abend@akerman.com
- Alan C. Bradshaw abradshaw@mc2b.com, lnordgran@mc2b.com
- Martin J. Brill mjb@lnbyb.com
- Glenn R. Bronson grb@princeyeates.com, katie@princeyeates.com
- Laurie A. Cayton tr laurie.cayton@usdoj.gov,  
James.Gee@usdoj.gov;Lindsey.Huston@usdoj.gov;Rinehart.Peshell@usdoj.gov;Suzanne.Verhaal@usdoj.gov
- Joseph M.R. Covey calendar@parrbrown.com
- Scott A. Cummings cummings.scott@dorsey.com, bingham.karen@dorsey.com;smith.ron@dorsey.com
- Steven W. Dougherty sdougherty@aklawfirm.com, peggy@aklawfirm.com
- Kenyon D. Dove kdove@smithknowles.com, dcouch@smithknowles.com
- Anna W. Drake annadrake@att.net
- Mark E. Freedlander mfreedlander@mcguirewoods.com, hhickman@mcguirewoods.com
- David B. Golubchik dbg@lnbyb.com, angela@lnbyb.com
- M. Darin Hammond dhammond@smithknowles.com, astevenson@smithknowles.com
- Mark E. Hindley mehindley@stoel.com, rross@stoel.com;slcdocket@stoel.com
- Mark H. Howard Mark.H.Howard@irscounsel.treas.gov
- Mary Margaret Hunt hunt.peggy@dorsey.com,  
long.candy@dorsey.com;smith.ron@dorsey.com;slc.lit@dorsey.com
- David W. Hunter davidh@dixontruman.com
- Annette W. Jarvis jarvis.annette@dorsey.com,  
smith.ron@dorsey.com;slc.lit@dorsey.com;brown.patricia@dorsey.com
- Justin Calvin Jetter jjetter@utah.gov
- Paul Justensen justensen.paul@dorsey.com
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- Steven G. Loosle sloosle@klmrlaw.com, ljavadi@klmrlaw.com
- Adelaide Maudsley maudsley@chapman.com, jemery@chapman.com
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- Quinn A. Sperry qsperry@mbt-law.com, tmoore@mbt-law.com
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- Steven C. Strong scs@pkhlawyers.com, tm@pkhlawyers.com
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- Engels Tejada etejeda@swlaw.com, jkoolhoven@swlaw.com;docket\_slc@swlaw.com
- Michael F. Thomson thomson.michael@dorsey.com
- United States Trustee USTPRegion19.SK.ECF@usdoj.gov

ORDER SIGNED

**EXHIBIT "C"**

**LEVENE, NEALE, BENDER, YOO  
& BRILL, L.L.P.**

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David B. Golubchik (Calif. Bar No. 185520)  
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*Local Counsel for Chapter 11 Debtors and  
Debtors-in-Possession*

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**UNITED STATES BANKRUPTCY COURT  
DISTRICT OF UTAH**

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IN RE: Cases No. 10-29159-WTT  
(Jointly Administered with  
WESTERN UTAH COPPER COMPANY, Cases No. 10-30002)  
Debtor. Chapter 11

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IN RE: Honorable William T. Thurman  
United States Bankruptcy Judge  
COPPER KING MINING CORPORATION, **Filed Electronically**  
Debtor.

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**STIPULATION REGARDING TREATMENT AND PAYMENT OF  
CERTAIN PROFESSIONALS' FEES UNDER CONFIRMED JOINT PLAN  
OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY  
CODE PROPOSED BY DEBTORS, AS AMENDED ON SEPTEMBER 10, 2012**

Copper King Mining Corporation (“CK” and together with Western Utah Copper Company, the “Debtors”), and Levene, Neale, Bender, Yoo & Brill L.L.P., McGuireWoods LLP, Dorsey & Whitney LLP and A. John A. Bryan, Jr. (collectively, the “Professionals”) hereby stipulate as follows<sup>1</sup>:

**RECITALS**

A. At a hearing held on October 30, 2012 at 2:00 p.m., the Bankruptcy Court confirmed that certain “Joint Plan Of Reorganization Under Chapter 11 Of The Bankruptcy Code Proposed By Debtors, As Amended On September 10, 2012” (the “Plan”) [Docket No. 914], which was proposed by the Debtors, subject to the Debtors entering into a written agreement with the Professionals regarding the payment of their Allowed Administrative Expense Claims.

B. The Plan provides that all Professionals or other Persons seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 327, 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code shall be paid in full by the Disbursing Agent from the appropriate Estate’s assets in such amounts as are allowed by the Bankruptcy Court (A) upon the date upon which the order relating to any such Allowed Administrative Expense Claim is entered, or (B) upon such other terms as may be mutually agreed upon by and among the holder of such an Allowed Administrative Expense Claim, Debtors (or Reorganized Debtor as the case may be), the Committee (if still in existence) and the Disbursing Agent.

C. There is insufficient Cash in the Estates to pay all Allowed Administrative Expense Claims in full on the Effective Date of the Plan. In order to allow the Plan to go

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<sup>1</sup> Capitalized terms not otherwise defined shall have the same meaning ascribed to such term in the Plan.

effective and in accord with 11 U.S.C. § 1129(a)(9), the Professionals have agreed to confirmation of the Plan despite CK's inability to pay their Allowed Administrative Expense Claims in full on the Effective Date, provided that they are paid pursuant to the terms set forth herein.. In so doing, the Professionals are not waiving or discharging (a) any portion of their Allowed Administrative Expense Claims, or any other Administrative Expense Claims that may be Allowed in the future (collectively herein, the "Allowed Administrative Expense Claims"); (b) treatment of their Allowed Administrative Expense Claims in accordance with the Bankruptcy Code, except as specifically modified herein, or in the Plan; or (b) their right to receive a *pro rata* share of available Cash on the Effective Date on account of their Allowed Administrative Expense Claims, to the extent such Cash exists.

D. The Professionals, on the one hand, and CK, on the other hand, have agreed upon the following terms of payment on account of the Professionals' Allowed Administrative Expense Claims.

#### **AGREEMENT**

1. As set forth in the Plan, in consideration for the delay in payment in full of the Professionals' Allowed Administrative Expense Claims on the Effective Date and the Professionals' agreement notwithstanding to confirmation of the Plan, the Professionals shall receive their Pro Rata Share (including the professionals of Western Utah Copper Company who also enter into a similar stipulation to be filed in that Case) of 1,500,000 shares of New Common Stock (estimated to be 15% of the issued and outstanding New Common Stock after the Transaction) based upon the amount of such deferred, unpaid Allowed Administrative Expense Claims in both Cases. The Professionals are not agreeing to waive any rights associated with their Allowed Administrative Expense Claims including, without limitation, the amount of their

Allowed Administrative Expense Claims, the right to be paid in full as required by the Bankruptcy Code, or the right to receive their Pro Rata Share of available Cash on the Effective Date;

3. A Professional's receipt of the New Common Stock will not diminish the amount or validity of its Allowed Administrative Expense Claim, and the distribution of the New Common Stock is intended solely to compensate such Professional for the delay in payment and is not in lieu of payment in full of a Professional's Allowed Administrative Expense Claim.;

4. The Professional agree that the Disbursing Agent may pay all other Allowed Administrative Expense Claims of Non-Professionals, and may pay the Allowed Administrative Expense Claims of Dion-Kidem & Crockett and Anderson & Karrenberg in accordance with the Plan, before making distributions to the Professionals;

5. The Disbursing Agent shall provide the Professionals with quarterly reports evidencing the amounts collected by the Disbursing Agent and the amounts available for distribution pursuant to the terms of the Plan;

6. Except as otherwise set forth herein or otherwise agreed upon by and among the Professionals in the CK Case, distributions made to Professionals shall be on a *pro rata* basis to the Professionals and shall be made as the Disbursing Agent deems appropriate as Cash is collected ; provided, however, that the Disbursing Agent must make a distribution to the Professionals when there is \$500,000 in his account; and

7. All of the Professionals' Allowed Administrative Expense Claims shall be paid in full by no later than December 31, 2013. In the event of a default, each Professional shall be entitled to all costs of collection, including reasonable attorney's fees and costs.

8. The Bankruptcy Court retains jurisdiction to resolve any disputes related to this



stipulation.

Dated: November 9, 2012

**LEVENE, NEALE, BENDER, YOO  
& BRILL L.L.P.**

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Martin J. Brill (Calif. Bar No. 53220)  
David B. Golubchik (Calif. Bar No. 185520)  
Krikor J. Meshefejian (Calif. Bar No. 255030)  
*Reorganization Counsel for Chapter 11  
Debtors and Debtors-in-Possession*

**MCGUIREWOODS LLP**

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*/s/ Michael J. Roeschenthaler*  
**Michael J. Roeschenthaler**  
**Scott E. Schuster**  
**Counsel for Official Committee of Unsecured**

**A. JOHN A. BRYAN, JR., FOR AND ON BEHALF OF WESTERN UTAH COPPER  
COMPANY AND COPPER KING MINING CORPORATION AND INDIVIDUALLY AS  
A PROFESSIONAL**

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A. John A. Bryan, Jr.  
*Chief Restructuring Officer for Chapter 11  
Debtors and Debtors-In-Possession*

**DORSEY & WHITNEY LLP**

---

Peggy Hunt  
Scott Cummings  
*Counsel to Official Committee of Equity Security Holders*

stipulation.

Dated: November 9, 2012

**LEVENE, NEALE, BENDER, YOO  
& BRILL L.L.P.**



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Peggy Hunt  
Scott Cummings  
*Counsel to Official Committee of Equity Security Holders*

stipulation.

Dated: November 9, 2012

**LEVENE, NEALE, BENDER, YOO  
& BRILL L.L.P.**

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Martin J. Brill (Calif. Bar No. 53220)  
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Debtors and Debtors-In-Possession*

**DORSEY & WHITNEY LLP**



---

Peggy Hunt  
Scott Cummings  
*Counsel to Official Committee of Equity Security Holders*

**CERTIFICATE OF SERVICE**

1. On the 9<sup>th</sup> day of November 2012, I served the following document:

**STIPULATION REGARDING TREATMENT AND PAYMENT OF CERTAIN PROFESSIONALS' FEES UNDER CONFIRMED JOINT PLAN OF REORGANIZATION UNDER CHAPTER 11 OF THE BANKRUPTCY CODE PROPOSED BY DEBTORS, AS AMENDED ON SEPTEMBER 10, 2012**

2. I served the above-named document by the following means to the persons as listed below:

- a. ECF System (see attached service list)**
- b. United States mail, postage fully prepaid**
- c. Personal Service**

I personally delivered the document(s) to the person(s) at these address(es):

- For a party represented by an attorney, delivery was made by handing the document(s) to the attorney or by leaving the document(s) at the attorney's office with a clerk or other person in charge, or if no one is in charge by leaving the document(s) in a conspicuous place in the office.
- For a party, delivery was made by handing the document(s) to the party or by leaving the document(s) at the person's dwelling house or usual place with someone of suitable age and discretion residing there.
- d. By direct email (as opposed to through the ECF System)**  
Based upon the written agreement of the parties to accept service by email or a court order, I caused the document(s) to be sent to the persons at the email addresses listed below. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful.
- e. By Fax transmission**  
Based upon the written agreement of the parties to accept service by fax transmission or a court order, I faxed the document(s) to the persons at the fax numbers listed below. No error was reported by the fax machine that I used. A copy of the record of fax transmission is attached.
- f. By Messenger**  
I served the document(s) by placing them in an envelope or package addressed to the persons at the addresses listed below and providing them to a messenger for service.

I declare under penalty of perjury that the foregoing is true and correct.

Dated this 9<sup>th</sup> day of November 2012.

By: Stephanie Reichert

/s/ Stephanie Reichert  
Signature

SERVICE VIA ECF NOTICE

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