

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

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In re: : Chapter 11
: :
CERES CAPITAL PARTNERS, LLC, : Case No. 08-11390 (ALG)
: :
Debtor. :
: :
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**FIRST AMENDED PREPACKAGED CHAPTER 11 PLAN OF
CERES CAPITAL PARTNERS, LLC**

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Dated: New York, New York
May 21, 2008

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Ceres Capital Partners, LLC, debtor and debtor in possession in the above-captioned chapter 11 case, proposes the following first amended prepackaged chapter 11 plan pursuant to section 1121(a) of title 11 of the United States Code:

ARTICLE I

DEFINITIONS AND INTERPRETATION

Definitions. As used in the Plan, the following terms shall have the respective meanings specified below, unless the context otherwise requires:

1.1 Administrative Expense Claim means any Claim, other than a Senior Lender Secured Claim, under sections 503(b) and 507(a)(1) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the assets of the Debtor, any actual and necessary expenses of operating the business of the Debtor, all compensation and reimbursement of expenses allowed by the Bankruptcy Court under sections 330 or 503 of the Bankruptcy Code, and any fees and charges assessed against the Debtor under section 1930 of chapter 123 of title 28 of the United States Code.

1.2 Allowed means any Claim, (a) proof of which was timely and properly filed, or if no proof of claim was timely and properly filed, which is listed by the Debtor on its Schedules as liquidated in amount and not disputed or contingent, and in either case, (i) as to which no objection to the allowance thereof or request for estimation has been interposed or (ii) to the extent any objection to the allowance thereof or request for estimation interposed in accordance with clause (i) has been determined by a Final Order in favor of the holder of such Claim, (b) to the extent allowed by a Final Order or the provisions of the Plan, or (c) that is an Administrative Expense Claim the amount to which the Debtor and the claimant have agreed should be allowed pursuant to a written agreement. Unless otherwise specified in the Plan or by order of the Bankruptcy Court, “Allowed Administrative Expense Claim” and “Allowed Claim” shall not, for purposes of computing distributions under the Plan, include interest on such Claim from and after the Commencement Date, except as provided in section 506(b) of the Bankruptcy Code. A

Claim which is Allowed as of the Record Date and which may thereby entitle the holder of such Claim to vote on the Plan, shall not be deemed Allowed for purposes of distributions in accordance with the Plan unless the Claim is not a Disputed Claim and the time for objections to Claims as established by the Plan or Bankruptcy Court Order has expired.

1.3 Assumed Agreements means the executory contracts and unexpired leases identified on Schedule 9.1 annexed hereto.

1.4 Bankruptcy Code means Title 11 of the United States Code, as amended from time to time.

1.5 Bankruptcy Court means the United States District Court for the Southern District of New York, having jurisdiction over the Chapter 11 Case, and, to the extent of the reference of the Chapter 11 Case pursuant to 28 U.S.C. § 157(a), the United States Bankruptcy Court for the Southern District of New York.

1.6 Bankruptcy Rules means the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Case, including the local rules of the Bankruptcy Court.

1.7 Budget means the budget annexed hereto as Exhibit A, as modified with the consent of the Debtor and the Senior Lender Agent on or prior to the Effective Date, which (a) shall be in accordance with the terms and conditions of the Plan in all respects, and (b) provides a line-item breakdown, subject to any Permitted Variance, of any and all expenses and reserves to be (i) funded out of the Plan Operations Fund, (ii) funded out of the Carve-Out Fund, and (iii) otherwise funded out of Cash Collateral on and after the Confirmation Date. Any amendments to the Budget, other than the Permitted Variance, shall be subject to the approval and consent of the Senior Lender Agent.

1.8 Business Day means any day other than a Saturday, a Sunday, any other day on which commercial banks in New York City, New York are required or authorized to close by law or executive order.

1.9 BuyerCo means Ivy Square Ltd., a Delaware corporation.

1.10 BuyerCo Asset Purchase Agreement means an asset purchase agreement, substantially in the form annexed hereto as Exhibit B, that provides for the sale of the Residual Assets and the sale of the Farmington Agreement from the Debtor to BuyerCo in exchange for not less than \$50,000 (subject to adjustments) payable to the Debtor, which agreement shall be acceptable in form and substance to the Debtor, BuyerCo and the Senior Lender Agent.

1.11 Buyout Action means any and all rights, claims, causes of action, suits and proceedings of the Debtor for the recovery of payments, principal, interest, fees, or other property transferred by or on behalf of the Debtor prior to the Commencement Date to any third party (other than a Released Party) in connection with or arising out of transactions related to the Stanfield Buyout (as defined in the Section III.A.1.e of the Disclosure Statement), including, without limitation, to holders of Equity Interests which were not holders as of the Commencement Date.

1.12 Buyout Prosecution Rights has the meaning given such term in Section 6.10(b).

1.13 Carve-Out Fund means a segregated fund containing \$475,000 in Cash, which is to be funded from one or more of Cash Collateral or proceeds of Collateral securing the Class 2 Claim, proceeds of the sale of the Residual Assets to BuyerCo, and direct or indirect contributions by certain officers, directors and holders of Equity Interests of the Debtor, which shall serve as the sole and exclusive source for (a) providing a distribution to holders of Allowed General Unsecured Claims, (b) funding the Disputed General Unsecured Claims Reserve, and (c) paying the approved fees and expenses of the Creditors Committee, including all fees and expenses of Arent Fox LLP, Mahoney Cohen & Company, and each member of the Creditors Committee.

1.14 Cash means cash and cash equivalents, including, but not limited to, bank deposits, checks, and other similar items.

1.15 Cash Collateral means Cash which is the proceeds of Senior Lender Collateral.

1.16 Cash Collateral Order means the Final Order Under 11 U.S.C. §§ 105, 361, 362, and 363 and Fed. R. Bankr. P. 2002, 4001 and 9014 (I) Authorizing Debtor to Use Cash Collateral, (II) Granting Adequate Protection to Pre-Petition Secured Parties, and (III) Granting Relief From The Automatic Stay, and any interim order relating thereto to the extent it remains in effect and not superseded by a final order, and any and all amendments thereto or extensions thereof, which order(s) shall be acceptable in form and substance to the Senior Lender.

1.17 Causes of Action means any and all rights, claims, causes of action, suits and proceedings of the Debtor, including actions commenced, or that may be commenced before or after the Effective Date by or on behalf of the Debtor and/or the Estate, pursuant to sections 502(d), 544, 545, 547, 548, 549, 550, 551 and 553(b) of the Bankruptcy Code or under similar provisions of applicable state law; *provided*, that the Causes of Action shall not include the Buyout Action.

1.18 Chapter 11 Case means the voluntary case under chapter 11 of the Bankruptcy Code, commenced by the Debtor in the Bankruptcy Court, styled "In re Ceres Capital Partners, LLC," case number 08-11390 (ALG).

1.19 Claim has the meaning assigned to such term in section 101(5) of the Bankruptcy Code.

1.20 Class means any group of substantially similar Claims or Equity Interests classified by the Plan pursuant to section 1123(a)(1) of the Bankruptcy Code.

1.21 Collateral means any property or interest in property of the Estate of the Debtor subject to a lien to secure the payment or performance of a Claim, which lien is valid, perfected and enforceable under applicable law, and is not subject to avoidance under the Bankruptcy Code or other applicable law.

1.22 Commencement Date means April 17, 2008, the date on which the Debtor commenced the Chapter 11 Case.

1.23 Confirmation Date means the date upon which the Bankruptcy Court enters an order confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

1.24 Confirmation Hearing means the hearing or hearings held by the Bankruptcy Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

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

1.26 Credit Agreement means the Credit Agreement, dated as of January 31, 2007, as amended, supplemented or otherwise modified prior to the Commencement Date, among the Debtor, the Senior Lender, and the Senior Lender Agent, and all ancillary documents and agreements referred to therein or executed in connection therewith.

1.27 Creditors Committee means the statutory committee of unsecured creditors appointed by the Office of the United States Trustee in the Chapter 11 Case pursuant to section 1102 of the Bankruptcy Code.

1.28 Debtor means Ceres Capital Partners, LLC both before and after the Commencement Date as debtor in possession pursuant to section 1107 of the Bankruptcy Code.

1.29 Debtor Releasers shall have the meaning assigned to such term in Section 11.3(b) of the Plan.

1.30 Disclosure Statement means the disclosure statement relating to the Plan, including, without limitation, all exhibits and schedules thereto, as such may be amended and ultimately approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code.

1.31 Disputed means, with respect to a Claim, any such Claim (a) as to which no Proof of Claim was timely and properly filed and that is scheduled by the Debtor as disputed, unliquidated or contingent, or (b) proof of which was timely and properly filed, and (i) which has been or is listed on the Schedules as unliquidated, disputed or contingent, and which has not been resolved by written agreement of the parties or by an order of the Bankruptcy Court or (ii) as to which the Debtor or any other party-in-interest, has interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules, which objection or request for estimation has not been withdrawn or determined by a Final Order. Prior to (x) the filing of an objection to a Claim or (y) the expiration of the time within which to object to such Claim set forth in the Plan or otherwise established by order of the Bankruptcy Court, for purposes of the Plan, a Claim shall be considered a Disputed Claim if (i) the amount of the Claim specified in the proof of Claim exceeds the amount of the Claim scheduled by the Debtor as other than disputed, contingent or unliquidated or (ii) the Claim is not listed on the Schedules. Because the holders of Allowed Equity Interests will not receive any distributions on account of such Equity Interests, no Equity Interest, or any portion thereof, shall be considered a Disputed Claim.

1.32 Disputed Administrative/Priority Claims Reserve means an amount of Cash funded from the Plan Operations Fund as provided for in the Budget to satisfy Claims of (i) the

holders of Disputed Administrative Expense Claims and Disputed Priority Claims under the Plan if all such Claims are subsequently Allowed and (ii) holders of Disputed Other Secured Claims if all such Claims that would be classified as Administrative Expense Claims or Priority Claims if the claimants' security interests were determined to be invalid or unenforceable are subsequently Allowed as Administrative Expense Claims or Priority Claims; *provided, however*, that aggregate amount of the paid Administrative Claims under the Plan and the amount of the Disputed Administrative/Priority Claims Reserve shall not exceed the aggregate amount of the line items for Administrative Claims or Priority Claims set forth in the Budget.

1.33 Disputed Claims Reserves mean the Disputed Administrative/Priority Claims Reserve and the Disputed General Unsecured Claims Reserve.

1.34 Disputed General Unsecured Claims Reserve means an amount of Cash funded from the Carve-Out Fund to make distributions on account of Claims of holders of Disputed General Unsecured Claims under the Plan if such Claims are subsequently Allowed.

1.35 Effective Date means the date on which the Plan shall become effective, which date shall be as soon as reasonably practicable after the date on which the conditions specified in section 10.2 of the Plan have been satisfied or waived.

1.36 Equity Interest means any membership interest in the Debtor or the interest of any holder of equity securities of the Debtor represented by the current issued and outstanding membership interests in the Debtor, including any existing options, warrants or rights, contractual or otherwise, to acquire such membership interest or equity securities.

1.37 Estate means the estate created pursuant to section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Case.

1.38 Farmington Agreement means that certain Amended and Restated Investment Management Agreement, dated as of December 24, 2007, between Farmington Finance Ltd. and the Debtor, as amended, supplemented or otherwise modified prior to the Commencement Date.

1.39 Farmington Payment means one or more Cash payments totaling \$1,500,000 in the aggregate paid or to be paid to the Debtor or BuyerCo, as the case may be, on or after May 5, 2008 pursuant to the Farmington Agreement.

1.40 Farmington Reimbursement Payment means \$190,000 which shall be paid to the Senior Lender Agent out of the Farmington Payment reflecting certain of the Debtor's anticipated, operating expenses (excluding professional fees) to be paid from pre- and post-petition Cash Collateral.

1.41 Final Order means an order of the Bankruptcy Court as to which the time to appeal, petition for *certiorari* or move for reargument or rehearing has expired and as to which no appeal, petition for *certiorari* or motion for reargument or rehearing is then pending or as to which any right to appeal, petition for *certiorari* or move to reargue or rehear shall have been waived in writing in form and substance satisfactory to the Debtor or, in the event that an appeal, writ of certiorari or reargument or rehearing thereof has been sought, such order of the Bankruptcy Court shall have been upheld by the highest court to which such order was appealed,

or from which *certiorari*, reargument or rehearing was sought and the time to take any further appeal, petition for *certiorari* or move for reargument or rehearing shall have expired.

1.42 General Unsecured Claim means any Claim against the Debtor that is not a Secured Claim, Administrative Expense Claim, Priority Claim, Senior Lender Unsecured Deficiency Claim, or XL Note Claim.

1.43 GUC Cap has the meaning given such term in Section 6.10(c).

1.44 Impaired means any Claim or Equity Interest that is “impaired” within the meaning of section 1124 of the Bankruptcy Code.

1.45 IRC means the Internal Revenue Code of 1986, as amended.

1.46 IRS means the United States Internal Revenue Service.

1.47 Lender Group means the Senior Lender, the Senior Lender Agent, XL Capital Finance (Europe) plc, and each of their respective parents, subsidiaries, and/or affiliates.

1.48 Other Secured Claim means any Secured Claim other than a Senior Lender Secured Claim.

1.49 Permitted Variance means any increase in any line-item expenditure reflected in the Budget; *provided*, that unless the Debtor and the Senior Lender Agent agree otherwise and in writing, (i) the amount of the increase of any one line item in the Budget shall not exceed 10% of the amount reflected in the Budget attached hereto and (ii) in no event shall the total amount of increases for all line items in the Budget exceed more than \$75,000.

1.50 Person means any individual, corporation, partnership, association, joint venture, estate, trust, unincorporated organization or governmental unit or subdivision thereof or other entity.

1.51 Plan means this chapter 11 plan, including all exhibits and schedules annexed hereto, either in its present form or as it may be altered, amended or modified from time to time.

1.52 Plan Administrator means Charles M. Berk.

1.53 Plan Operations Fund means a segregated fund in an aggregate amount not to exceed the line item(s) in the Budget for the Plan Operations Fund, containing (a) an amount of Cash, which shall be funded from one or more of Cash Collateral or proceeds of the Collateral securing the Class 2 Claims, proceeds of the sale of the Residual Assets to BuyerCo, and direct or indirect contributions by certain officers, directors and holders of Equity Interests of the Debtor, that is determined by the Debtor and the Senior Lender Agent to be sufficient for use by the Plan Administrator, to pay all costs of executing the Plan and winding up the affairs of the Debtor, including, but not limited to, (i) costs of retaining professionals, employees, and consultants, (ii) the fees and expenses of the Plan Administrator, (iii) costs incurred in connection with the prosecution of objections to General Unsecured Claims, (iv) costs incurred in connection with the prosecution of Causes of Action, (v) at the request of the Senior Lender

Agent, costs incurred in connection with cooperating in the prosecution of the Buyout Action, and (vi) amounts necessary to fund the Disputed Administrative/Priority Claims Reserve and to pay, pursuant to Section 6.3(g) of the Plan, the taxes which the Plan Administrator estimates will be attributable to earnings of the Disputed Administrative/Priority Claims Reserve, plus (b) an amount of Cash determined by the Debtor and the Senior Lender Agent sufficient to pay the fees and disbursements of professionals retained by the Debtor which remain unpaid as of the Effective Date; *provided, however*, that the Plan Operations Fund shall not be used for the making of distributions to holders of Allowed General Unsecured Claims hereunder.

1.54 Priority Claim means a Priority Tax Claim or Priority Non-Tax Claim.

1.55 Priority Non-Tax Claim means any Claim, other than an Administrative Expense Claim or a Priority Tax Claim, entitled to priority in payment under section 507(a) of the Bankruptcy Code.

1.56 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.

1.57 Pro Rata means the proportion that the amount of any Claim in a particular class bears to the aggregate amount of all Claims in such Class, including Disputed Claims.

1.58 Record Date means 5:00 p.m. prevailing Eastern time on March 19, 2008.

1.59 Released Party means (a) any current or former officer, director, member, employee, agent, representative, attorney, accountant, financial advisor or other professional of the Creditors Committee (including its members), Plan Administrator or the Debtor who served in such capacity on or after the Commencement Date, (b) each holder of an Equity Interest that was a holder as of the Commencement Date, (c) each member of the Lender Group and each current or former shareholder, director, officer, agent, member, employee, attorney, consultant, and/or professional advisor of any member of the Lender Group, (d) XL Reinsurance America Inc. and XL SGS Holdings Inc., and each of their respective parents, subsidiaries and/or affiliates and each of the foregoing's current or former shareholders, directors, officers, agents, employees, attorneys, consultants and/or professional advisors, and (e) BuyerCo and its officers, directors and shareholders. Except as set forth in this definition, a Released Party shall not include any holder of Equity Interests which was not a holder as of the Commencement Date.

1.60 Reserve Account Agreement means the Reserve Account Agreement, dated as of November 27, 2007, as amended, supplemented or otherwise modified prior to the Commencement Date, among Harris N.A., Farmington Finance Ltd., the Debtor and the Senior Lender Agent.

1.61 Reserve Deposit has the meaning given such term in Section 1 of the Reserve Account Agreement.

1.62 Residual Assets means all of the tangible and intangible assets and rights of the Debtor (including, without limitation, the Farmington Payment), *less* (i) the tangible assets necessary to pay the Farmington Reimbursement Payment and reserved to fund the Plan Operation Fund and the Carve-Out Fund, (ii) those tangible assets which are required to be

distributed on account of the Allowed Senior Lender Secured Claim, the Allowed Administrative Expense Claims, the Allowed Priority Claims and the Allowed Other Secured Claims pursuant to the terms of this Plan and in compliance with the Budget, and (iii) the Causes of Action and the Buyout Action.

1.63 Schedules means the schedules of assets and liabilities and the statements of financial affairs filed by the Debtor pursuant to section 521 of the Bankruptcy Code and Bankruptcy Rule 1007, including any supplements or amendments thereto through the Confirmation Date.

1.64 Secured Claim means a Claim held by any entity against the Debtor secured by Collateral, but only to the extent of the value, as set forth in the Plan, as agreed to by the holder of such Claim and the Debtor and the Senior Lender Agent, or as determined by Final Order pursuant to section 506(a) of the Bankruptcy Code, of such entity's interest in the Estates' interest in such Collateral; *provided, however*, that a Secured Claim shall not include any portion of the Claim to the extent that the value of such entity's interest is less than the amount of such Claim.

1.65 Senior Lender means BMO Capital Markets Financing, Inc., as the sole Lender under the Credit Agreement.

1.66 Senior Lender Agent means Bank of Montreal (Chicago Branch), or its successor, as administrative agent, under the Credit Agreement.

1.67 Senior Lender Collateral means the collateral set forth in the Credit Agreement in which the Senior Lender possesses valid, binding, perfected, enforceable first priority security interests and liens, and consisting of substantially all of the assets and property of the Debtor.

1.68 Senior Lender Secured Claim means (a) any Secured Claim of the Senior Lender arising pursuant to the Credit Agreement and (b) the administrative expense claims under section 507(b) of the Bankruptcy Code of the Senior Lender and Senior Lender Agent arising from, under, or with respect to the Cash Collateral Order, which for the purposes of the Plan shall be equal to the amount of all consideration or value of Senior Lender Collateral actually received or to be received by the Senior Lender and Senior Lender Agent pursuant to the provisions of Section 4.2(b) herein as a non-avoidable permanent Cash pay down of any obligation owed to them.

1.69 Senior Lender Unsecured Deficiency Claim means the Allowed Claim, other than a Secured Claim, of the Senior Lender arising pursuant to the Credit Agreement and Cash Collateral Order and shall be deemed to be the maximum amount allowable to the extent the total amount of any and all outstanding obligations of the Debtor under the Credit Agreement and Cash Collateral Order owing to the Senior Lender Agent and Senior Lender exceeds the amount distributed to and actually received by and actually paid to the Senior Lender pursuant to the provisions of Section 4.2(b) herein as a non-avoidable permanent Cash pay down of any obligation owed to them.

1.70 Tax Claim means a (a) Priority Tax Claim or (b) an Administrative Expense Claim or Secured Claim to the extent such Administrative Expense Claim or Secured Claim is a Claim based on taxes due to a taxing authority.

1.71 Transfer Taxes means any sales, use, notarial, or other transfer taxes (including any interest, penalties or other additions thereto) of the Debtor that have been or may be assessed with respect any sale of assets by the Debtor since the Commencement Date.

1.72 Treasury Regulations means final, temporary and proposed regulations promulgated by the U.S. Treasury Department in respect of the IRC.

1.73 United States Trustee means the United States Trustee for the Southern District of New York.

1.74 Voting Agent means Epiq Systems – Bankruptcy Solutions.

1.75 XL Investor means XL SGS Holdings Inc., and its parents, subsidiaries, and/or affiliates.

1.76 XL Note means that certain 12-1/2% Senior Subordinated Note due January 31, 2014 made by the Debtor in favor of XL Capital Finance (Europe) plc.

1.77 XL Note Claim means any Claim arising pursuant to the XL Note.

Other Terms. A term used in the Plan that is not defined shall have the meaning ascribed to that term, if any, in the Bankruptcy Code.

Construction Of Certain Terms.

(a) The words “herein,” “hereof,” “hereto,” “hereunder,” and others of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained in the Plan.

(b) Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include the singular and the plural and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, the feminine and the neuter.

ARTICLE II

TREATMENT OF UNCLASSIFIED CLAIMS -- ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS

2.1 Administrative Expense Claims. Except to the extent the holder of an Allowed Administrative Expense Claim agrees otherwise, each holder of an Allowed Administrative Expense Claim shall be paid in respect of such Allowed Claim to the extent and in the amounts provided for in the Budget, but in all respects, subject to the limitations set forth in Section 6.8 of the Plan, (a) the full amount thereof in Cash, as soon as practicable after the later of (i) the

Effective Date and (ii) the date on which such Claim becomes an Allowed Claim, or upon other agreed terms between the holder of such claim and the Debtor or the Plan Administrator, as applicable, or (b) such lesser amount as the holder of an Allowed Administrative Expense Claim and the Debtor or the Plan Administrator might otherwise agree. The Debtor has estimated that the aggregate amounts of allowable Administrative Expense Claims, including those specifically provided for and set forth in the Plan (which includes the Disputed Administrative/Priority Claims Reserves and such Administrative Expense Claims), shall not exceed the line items amount set forth in Budget for Administrative Expenses.

2.2 Priority Tax Claims. Except to the extent the holder of an Allowed Priority Tax Claim agrees otherwise, each holder of an Allowed Priority Tax Claim, shall be paid in respect of such Allowed Claim to the extent and in the amounts provided for in the Budget, but in all respects, subject to the limitations set forth in Section 6.8 of the Plan either (a) the full amount thereof, without post-petition interest or penalty, in Cash, as soon as practicable after the later of (i) the Effective Date and (ii) the date on which such Claim becomes an Allowed Claim, or (b) such lesser amount as the holder of an Allowed Priority Tax Claim and the Debtor (or, following the Effective Date, the Plan Administrator) agree, subject to the consent of the Senior Lender Agent. The Debtor has estimated that the aggregate amounts of allowable Priority Tax Claims shall not exceed the line item referred to in the Budget for Priority Tax Claims.

ARTICLE III

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

The following table designates the Classes of Claims, other than Administrative Expense Claims and Priority Tax Claims, and Equity Interests in the Debtor, 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>STATUS</u>
Class 1 – Priority Non-Tax Claims	Not Impaired / Deemed to accept
Class 2 – Senior Lender Secured Claims	Impaired / Entitled to vote
Class 3 – Other Secured Claims.....	Not Impaired / Deemed to accept
Class 4 – General Unsecured Claims	Impaired / Entitled to vote
Class 5 – XL Note Claims.....	Impaired / Deemed to reject
Class 6 –Equity Interests.....	Impaired / Deemed to reject

ARTICLE IV

TREATMENT OF CLAIMS AND EQUITY INTERESTS

4.1 Class 1 – Priority Non-Tax Claims.

(a) **Impairment and Voting.** Class 1 is not impaired by the Plan. For purposes of the Plan, each holder of an Allowed Claim in Class 1 is conclusively deemed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

(b) **Distributions.** On the Effective Date, or as soon thereafter as is reasonably practical, each holder of an Allowed Priority Non-Tax Claim against the Debtor shall receive an amount in Cash equal to the Allowed amount of such Priority Non-Tax Claim to the extent and in the amounts provided for in the Budget, but in all respects, subject to the limitations set forth in Section 6.8 of the Plan; *provided, however*, that in the event there exists any Disputed Priority Non-Tax Claims on the Effective Date, the Plan Administrator shall at all times hold and maintain Cash in an amount equal to that portion of the Disputed Administrative/Priority Claims Reserve attributable to all Disputed Priority Non-Tax Claims. The Debtor has estimated that the aggregate amounts of allowable Priority Non-Tax Claims shall not exceed the line item referred to in the Budget as Priority Tax Claims.

4.2 Class 2 – Senior Lender Secured Claim.

(a) **Impairment and Voting.** Class 2 is impaired by the Plan. Each holder of an Allowed Claim in Class 2 is entitled to vote to accept or reject the Plan.

(b) **Distributions.** The Senior Lender, on account of its Allowed Senior Lender Secured Claim, shall retain any payments made by the Debtor under the Credit Agreement prior to and after the Commencement Date and shall receive, on the Effective Date (or, with respect to the Reserve Deposit, the pre-petition payment on the day on which the Reserve Deposit was released pursuant to the Reserve Account Agreement and Farmington Agreement), or as soon thereafter as is reasonably practical, (i) the Reserve Deposit as and to the extent provided in the Reserve Account Agreement and Farmington Agreement, (ii) all Cash held by the Plan Administrator (excluding any portion of the Farmington Payment (less an amount equal to the Farmington Reimbursement Payment)) in excess of the Cash (a) necessary to pay holders of Allowed Administrative Expense Claims, Allowed Priority Claims and Allowed Other Secured Claims (to the extent not paid by surrender of the Collateral securing any such Allowed Other Secured Claim) on the Effective Date to the extent set forth in the Budget, and (b) utilized to establish the Carve-Out Fund and the Plan Operations Fund, (iii) an interest in the Causes of Action (thereby entitling the holder of the Allowed Senior Lender Secured Claim to a portion of the proceeds distributed in connection with the Causes of Action pursuant to Section 6.10(a) of the Plan), and (iv) a 100% ownership interest in the Buyout Action (provided that the proceeds, if any, of the Buyout Action shall be shared with the holders of Allowed General Unsecured Claims in accordance with Section 6.10(b) of the Plan) (and the Senior Lender and Senior Lender Agent are hereby granted standing to bring or assign any such Buyout Action). All distributions to the Senior Lender referred to in this Section 4.2(b) with respect to its Allowed Senior Lender Secured Claims shall be a permanent pay down and not subject to set

off, avoidance or recoupment and shall be made to the Senior Lender Agent on behalf of the Senior Lender, and the Senior Lender Agent shall for the purpose of this Plan distribute to the Senior Lender, with respect to its Allowed Senior Lender Secured Claim, all such distributions in accordance with the terms of the Credit Agreement. In addition, each of the Debtor, the holders of the Equity Interests, BuyerCo, the Senior Lender Agent, the Senior Lender and the holders of Allowed General Unsecured Claims intend that the sale of Residual Assets to BuyerCo pursuant to Section 6.1 of the Plan and the cancellation of the Equity Interests pursuant to Section 4.6(b) of the Plan be treated as, and by order of the Bankruptcy Court for all purposes the transactions shall be treated as, (i)(x) the sale by the Debtor of the Residual Assets to BuyerCo for \$not less than \$50,000 (subject to adjustments), their net fair market value, (y) the Debtor's abandonment, pursuant to section 554 of the Bankruptcy Code and for all tax purposes, of its rights to its name and other intangible assets it holds or is deemed to hold (other than the Debtor's interests in the Causes of Action and the Buyout Action), and (z) the allocation for U.S. federal income tax purposes of the resulting loss to the holders of Equity Interests, followed by (ii) a transfer by the Debtor of Cash as a payment on the Debtor's obligations (A) under the Credit Agreement for the Senior Lender Secured Claim and (B) on account of the Allowed General Unsecured Claims ultimately followed by (iii) the liquidation of the Debtor. The Senior Lender Secured Claim and Senior Lender Unsecured Deficiency Claim shall each be deemed an Allowed Claim for all purposes of the Plan.

4.3 Class 3 – Other Secured Claims.

(a) **Impairment and Voting.** Class 3 is not impaired by the Plan. Each holder of an Allowed Claim in Class 3 is not entitled to vote to accept or reject the Plan and shall be conclusively deemed to have accepted the Plan.

(b) **Distributions.** Each holder, if any, of an Allowed Other Secured Claim against the Debtor will, at the election of the Debtor: (i) be paid such holder's Allowed Other Secured Claim in full in Cash to the extent and in the amounts provided for in the Budget, but in all respects, subject to the limitations set forth in Section 6.8 of the Plan; (ii) be paid the proceeds of the sale or disposition of the property securing such Allowed Other Secured Claim (to the extent of the value of the Debtor's interest in such property) as the case may be; (iii) receive the property securing such Claim; or (iv) be paid such other distributions as necessary to satisfy the requirements of the Bankruptcy Code; *provided*, that any such distributions shall be consistent with the Budget.

4.4 Class 4 – General Unsecured Claims.

(a) **Impairment and Voting.** Class 4 is impaired by the Plan. Each holder of an Allowed Claim in Class 4 is entitled to vote to accept or reject the Plan.

(b) **Distributions.** On the Effective Date, or as soon thereafter as reasonably practical, each holder of an Allowed General Unsecured Claim will receive (i) one or more distributions of their respective Pro Rata share of the Carve-Out Fund; *provided, however*, that the holder of the Senior Lender Unsecured Deficiency Claim has waived its entitlement to any distributions from such Carve-Out Fund, and (ii) an interest in the Causes of Action (thereby

entitling holders of Allowed General Unsecured Claims to a portion of the proceeds distributed in connection with the Causes of Action pursuant to Section 6.10(a) of the Plan).

4.5 Class 5 – XL Note Claims.

(a) **Impairment and Voting.** Class 5 is impaired under the Plan. For purposes of the Plan, each holder of an XL Note Claim is conclusively deemed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

(b) **Distributions.** On the Effective Date, the XL Note shall be cancelled without further action under any applicable agreement, law, regulation, order or rule. No holder of any XL Note Claim shall be entitled to any distribution of any assets of the Debtor under this Plan.

4.6 Class 6 – Equity Interests.

(a) **Impairment and Voting.** Class 6 is impaired by the Plan. For purposes of the Plan, each holder of an Allowed Equity Interest in Class 6 is conclusively presumed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

(b) **Distributions.** On the Effective Date, the membership interests and other instruments evidencing Equity Interests in the Debtor shall be cancelled without further action under any applicable agreement, law, regulation, order or rule, and the Equity Interests evidenced thereby shall be extinguished. No holder of any Equity Interest shall be entitled to any distribution of any assets of the Debtor under this Plan.

ARTICLE V

ACCEPTANCE OR REJECTION OF THE PLAN

5.1 Voting of Claims. Each holder of an Allowed Claim as of the Record Date in Classes 2 and 4 shall be entitled to vote to accept or reject the Plan.

5.2 Acceptance by Impaired Class. Consistent with section 1126(c) of the Bankruptcy Code, and except as provided for in section 1126(e) of the Bankruptcy Code, a Class of creditors shall have accepted the Plan if it is accepted by at least two-thirds in dollar amount and more than one-half in number of the holders of Allowed Claims of such Class that have timely and properly voted to accept or reject the Plan.

5.3 Presumed Acceptances of Plan. Classes 1 and 3 are not Impaired under the Plan and, therefore, are conclusively presumed to have accepted the Plan.

5.4 Presumed Rejections of Plan. Classes 5 and 6 are Impaired under the Plan and conclusively presumed to have rejected the Plan.

5.5 Cram Down. The Debtor requests that, in the event that Class 2 accepts the Plan, the Bankruptcy Court confirm the Plan in accordance with the provisions of section 1129(b) of

the Bankruptcy Code to satisfy the requirements for confirmation of the Plan over the presumed rejection of Classes 5 and 6.

ARTICLE VI

IMPLEMENTATION

6.1 Sale of Residual Assets. On the Effective Date, the Debtor shall consummate the sale, pursuant to sections 1123(a)(5)(B) and (D) of the Bankruptcy Code and the BuyerCo Asset Purchase Agreement, of (i) the Residual Assets, free and clear of all liens, claims and encumbrances (including those held by the Senior Lender Agent on behalf of the Senior Lender), and (ii) the Debtor's right, title and interest in and to the Assumed Agreements to BuyerCo in exchange for a net fair market value purchase price of not less than \$50,000 (subject to adjustments) in Cash. BuyerCo will satisfy all of the transfer provisions of the Farmington Agreement in order for it to qualify as a valid transferee thereunder. Neither BuyerCo nor its shareholders shall (i) sell, issue, convey, assign or otherwise transfer any stock of, or direct or indirect interest in, BuyerCo to a person that is related to the Debtor or anyone who held Equity Interests in the Debtor, or to a person that would cause BuyerCo to be related to the Debtor or anyone who held Equity Interests in the Debtor, or (ii) enter into a transaction that would cause BuyerCo to be related to the Debtor or anyone who held Equity Interests in the Debtor under the IRC or the Treasury Regulations or that might otherwise result in any adverse tax consequences to the Debtor or any of the holders of Equity Interests. The above transfer restriction shall, as a condition of any transfer, be binding upon any transferee, assignee or successor of BuyerCo and its shareholders and other equity holders. The sale and the abandonment of any intangible assets (other than the Causes of Action and the Buyout Action) (as described in Sections 4.2(b) and 7.1 hereof) shall take place prior to the Effective Date.

6.2 Powers.

(a) On the Effective Date, the authority, power and incumbency of the persons then acting as members and officers of the Debtor shall be terminated and such directors and officers shall be deemed to have resigned.

(b) On the Effective Date, (i) the Plan Administrator shall be appointed and shall, subject to Section 6.5 of the Plan, succeed to such powers as would have been applicable to the Debtor's officers and members, (ii) subject to Article IV of the Plan, following the sale of the Residual Assets pursuant to the BuyerCo Asset Purchase Agreement and the Debtor's abandonment of its name and any other intangible assets (other than the Causes of Action and the Buyout Action) it holds or is deemed to hold (as described in Sections 4.2(b) and 7.1 hereof) the Debtor shall, pursuant to Section 7.1(a) hereof, assign and transfer absolutely and unconditionally to the Plan Administrator all of its remaining assets (other than the Buyout Action), including, without limitation, its rights under the Reserve Account Agreement and the Causes of Action, and (iii) the Debtor shall be authorized to be (and, by the conclusion of the winding up of their affairs, shall be) dissolved.

(c) On the Effective Date, the Plan Administrator shall establish and fund, the Carve-Out Fund and the Plan Operations Fund pursuant to the terms of the Plan and the Budget.

After the Effective Date, the Debtor shall have no liability to holders of Claims or Equity Interests other than as provided for in the Plan.

(d) All assets transferred to the Plan Administrator pursuant to Section 7.1(a) of the Plan shall be subject only to the obligation of the Plan Administrator to pay (i) holders of Allowed Administrative Expense Claims and Allowed Priority Claims, as set forth herein, (ii) holders of Allowed Other Secured Claims, as set forth herein, (iii) holders of Allowed Senior Lender Secured Claim, as set forth herein, (iv) holders of Allowed General Unsecured Claims, as set forth herein, (v) professional fees and expenses that have not been paid as of the Effective Date through the Plan Operations Fund and the Carve-Out Fund, (vi) costs, fees and expenses in connection with the wind down of the Estate through the Plan Operations Fund, (vii) costs, fees and expenses in connection with the prosecution of Causes of Action and objections to General Unsecured Claims through the Plan Operations Fund, and (viii) any other expenses incurred and unpaid, or to be incurred by the Debtor or the Plan Administrator in respect of consummation of the Plan and winding up of the Estates through the Plan Operations Fund (including tax expenses under Section 6.3(g) of the Plan).

(e) In addition, (i) in the event there exists any Disputed Administrative Expense Claims, Disputed Priority Claims or Disputed Other Secured Claims, on the Effective Date, the Plan Administrator shall at all times hold and maintain Cash in the Disputed Administrative/Priority Claims Reserve in accordance with the amount set forth in the Budget, which amount is estimated to be the amount that is necessary to make distributions from the Administrative/Priority Claims Reserve to (A) the holders of Disputed Administrative Expense Claims and Disputed Priority Claims if all such Claims are subsequently Allowed and (B) the holders of Disputed Other Secured Claims if all such Claims that would be classified as Administrative Expense Claims or Priority Claims if the claimants' security interests were determined to be invalid or unenforceable are subsequently Allowed as Administrative Expense Claims or Priority Claims (without waiving any rights of the Debtor or the Plan Administrator to challenge whether any of the Disputed Other Secured Claims would be an Allowed Administrative Expense Claim or Allowed Priority Claim hereunder), and (ii) in the event there exists any Disputed General Unsecured Claims on the Effective Date, the Plan Administrator shall at all times hold and maintain sufficient Cash in the Disputed General Unsecured Claims Reserve in an amount no less than that which would be required to be distributed to holders of Disputed General Unsecured Claims under the Plan if all such Claims are subsequently Allowed. Any Cash remaining in the Disputed Administrative/Priority Claims Reserve after the resolution and/or disallowance by Final Order of any Disputed Administrative Expense Claim or Disputed Priority Claim, as the case may be, shall be released from the applicable Disputed Claims Reserve and distributed to the holders of Allowed Senior Lender Secured Claim in accordance with Section 4.2(b) of the Plan. Any Cash remaining in the Disputed General Unsecured Claims Reserve after the resolution and/or disallowance by Final Order of any Disputed General Unsecured Claim shall be released from the Disputed General Unsecured Claims Reserve and distributed to the holders of Allowed General Unsecured Claims in accordance with Section 4.4(b) of the Plan.

6.3 Plan Administrator. The salient terms of the Plan Administrator's employment, including the Plan Administrator's duties and powers, are set forth in the Plan Administrator Agreement. In general, the Plan Administrator shall act for the Estate in a fiduciary capacity as

applicable to a board of directors, subject to the provisions hereof. For the purposes of the Plan and the Chapter 11 Case, the Plan Administrator shall be considered a successor to the Debtor and/or an estate representative appointed pursuant to section 1123(b)(3) of the Bankruptcy Code. The duties and powers of the Plan Administrator shall include the following, but in all cases shall be consistent with Section 6.18 and all other terms of the Plan:

(a) To exercise all power and authority that may be or could have been exercised, commence all proceedings that may be or could have been commenced, and take all actions that may be or could have been taken by the Debtor with like effect as if authorized, exercised, and taken by unanimous action of the Debtor's officers, members, and interest holders; *provided, however*, that if such action materially affects the rights of the Senior Lender, then the Plan Administrator may only act with the consent of the Senior Lender Agent;

(b) To maintain the Debtor's accounts, make distributions, and take other actions consistent with the Plan and the implementation hereof;

(c) Subject to the applicable provisions of the Plan, to collect and liquidate all assets of the Estate pursuant to the Plan and to administer the winding-up of the affairs of the Debtor;

(d) To incur any reasonable and necessary expenses in connection with the liquidation and conversion of the assets of the Estate to Cash;

(e) To object to Claims and prosecute Causes of Action, and to compromise or settle any Claims and Causes of Action and enter into any agreement or execute any document required by or consistent with the Plan relating to any Claims and Causes of Action, without supervision or approval of the Bankruptcy Court, free of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, the local rules of the Bankruptcy Court, and the guidelines and requirements of the United States Trustee, other than those restrictions expressly imposed by the Plan or the Confirmation Order, and/or to seek Bankruptcy Court approval for any settlements made with respect to Claims and Causes of Action; *provided*, that if the Senior Lender Agent abandons or assigns the Buyout Action to the Plan Administrator in accordance with Section 6.10(b)(2), then the rights of the Plan Administrator with respect to the Causes of Action as provided in this subparagraph (e) shall also apply to the Buyout Action;

(f) To make decisions, without further Bankruptcy Court approval, regarding the retention or engagement of professionals, employees, and consultants by the Plan Administrator and to pay, from the Plan Operations Fund, the fees and charges incurred by the Plan Administrator on or after the Effective Date for fees and other expenses of professionals, disbursements, expenses, or related support services relating to the winding down of the Debtor and implementation of the Plan;

(g) To seek a determination of tax liability under section 505 of the Bankruptcy Code or otherwise, to file any tax or information returns with respect to the Plan Operations Fund, the Disputed Claims Reserves and the Carve-Out Fund, and to pay (either directly or, to the extent applicable, through distributions to the holders of Equity Interests that are liable for such taxes), unless such taxes would be the liability of the holder of a Claim other

than a holder of an Equity Interest, (i) from the Plan Operations Fund any taxes (including estimated taxes, if applicable) incurred after the Effective Date attributable to earnings of the Disputed Administrative/Priority Claims Reserve and (ii) from the Carve-Out Fund any taxes (including estimated taxes, if applicable) incurred after the Effective Date attributable to earnings of the Disputed General Unsecured Claims Reserve;

(h) To collect any accounts receivable or other claims of the Debtor or the Estate not otherwise disposed of pursuant to the Plan;

(i) To invest Cash in accordance with section 345 of the Bankruptcy Code or as otherwise permitted by a Final Order and as deemed appropriate by the Plan Administrator;

(j) Except as otherwise provided herein, to enter into any agreement or execute any document required by or consistent with the Plan and perform all of the Debtor's obligations thereunder;

(k) To abandon in any commercially reasonable manner, including abandonment or donation to a charitable organization of its choice, any assets, if it concludes that they are of no benefit to the Estate;

(l) To implement and/or enforce all provisions of the Plan;

(m) To take all other actions not inconsistent with the provisions of the Plan which the Plan Administrator deems reasonably necessary or desirable with respect to administering the Plan; *provided, however*, if any such other action proposed to be taken or not taken by the Plan Administrator materially affects the Senior Lender, then the Plan Administrator may only act with the consent of the Senior Lender Agent; and

(n) To collect and liquidate all assets of the Estate pursuant to the Plan and administer the winding up of the affairs of the Debtor, including, but not limited to, causing the dissolution of the Debtor and closing the Chapter 11 Case.

6.4 Investment Power. The right and power of the Plan Administrator to invest any Cash transferred to the Plan Administrator, the Cash proceeds from the liquidation of any assets transferred to the Plan Administrator and any income earned by the Plan Administrator shall be limited to the right and power to invest such Cash in United States Treasury Bills, interest-bearing certificates of deposit, tax exempt securities or investments permitted by section 345 of the Bankruptcy Code or otherwise authorized by the Bankruptcy Court, using prudent efforts to enhance the rates of interest earned on such Cash without inordinate credit risk or interest rate risk; *provided, however*, that the Plan Administrator may expend its Cash (a) as reasonably necessary to meet contingent liabilities and to maintain the value of the assets of the Estate during the Debtor's liquidation, (b) to pay reasonable administrative expenses which have been incurred (including, but not limited to, any taxes imposed on the Plan Administrator or fees and expenses in connection with litigation), (c) to fund the distribution to holders of Disputed Claims to the extent such Claims are subsequently Allowed and (d) to satisfy other liabilities incurred or assumed by the Plan Administrator (or to which the assets of the Plan Administrator are otherwise subject) in accordance with the Plan or order of the Bankruptcy Court.

6.5 Taxes. Notwithstanding any other provision herein, the holders of Equity Interests will control the Debtor's income tax return filings and other tax matters (including, for this purpose, the continuation of the Debtor for U.S. federal income tax purposes after the Effective Date); *provided, however*, that the costs and expenses and any liability associated with the filing of any tax returns and any tax liabilities of the Debtor (other than those described in Section 6.9 of the Plan) resulting therefrom shall not be more than the amounts set forth in the Budget; *provided, further, however*, that if such costs, expenses, and liability exceed the amounts set forth in the Budget, such excess amounts shall not reduce the amounts distributed to the holders of the Allowed Senior Lender Secured Claim and in all events the holders of Equity Interests shall control such tax returns and other tax matters. Any tax refund that the Debtor becomes entitled to shall become an asset of the Estate and shall be distributed to the holder of the Allowed Senior Lender Secured Claim.

6.6 Operations of Plan Administrator. The Plan Administrator shall, in an expeditious but orderly manner and subject to the provisions of this Plan, liquidate and convert to Cash the assets of the Estate (to the extent provided herein), make timely distributions and not unduly prolong the duration of the Chapter 11 Case. In so doing, the Plan Administrator shall exercise its reasonable business judgment in liquidating the assets of the Estate to maximize recoveries. The Plan Administrator shall have no liability to the Debtor, the Estate, the holders of any Claims or Equity Interests, the Senior Lender, or any other party for the outcome of any decisions, made or not made, or actions, taken or not taken, in connection with its role as Plan Administrator except for gross negligence or willful misconduct.

6.7 Resignation, Death, or Removal of Plan Administrator. The Plan Administrator may resign at any time upon 60 days' written notice to the Bankruptcy Court and the United States Trustee. In the event of any the resignation, removal, death or incapacity of the Plan Administrator, the Senior Lender Agent and the Creditors Committee, upon notice to the parties entitled to notice under this Plan, may appoint a new Plan Administrator. No successor Plan Administrator under the Plan shall in any event have any liability or responsibility for the acts or omissions of any of his or her predecessors. Every successor Plan Administrator appointed pursuant to the Plan shall execute, acknowledge and deliver to the Bankruptcy Court an instrument in writing accepting such appointment under the Plan, and thereupon such successor Plan Administrator, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of his or her predecessor.

6.8 The Budget. Other than shall be set forth in the Budget, the Senior Lender shall have no obligation to fund, from Cash Collateral or from any other source, (i) any items not specifically set forth or otherwise provided for in the Budget, or (ii) any amounts in excess of any amounts or line items set forth in the Budget, unless otherwise agreed to in writing between the Senior Lender Agent and Debtor or Plan Administrator, as applicable. Other than (i) the income taxes on any income earned on the amounts in the Plan Operations Fund, the Carve-Out Fund, and the Disputed Claims Reserves, which will be paid out of such Plan Operations Fund, the Carve-Out Fund or relevant Disputed Claims Reserve as applicable to the extent they are the liabilities of the Debtor, the holders of the Equity Interests, the Estate, the Plan Operations Fund, the Carve-Out Fund, or the Disputed Claims Reserves, or (ii) as set forth in the Budget, the Plan Administrator shall not pay out of funds held by the Plan Operations Fund or from Cash Collateral (y) any items not specifically set forth or otherwise provided for in the Budget, or (z)

any amounts in excess of any amounts or line items set forth in the Budget. The Budget may not be amended, unless such amendment is agreed to in writing between the Senior Lender Agent and Debtor or Plan Administrator, as applicable.

6.9 Plan Operations Fund. The Plan Administrator shall pay plan administration costs from the Plan Operations Fund, including, but not limited to, professionals' fees related to and taxes of the Plan Operations Fund and the Disputed Claims Reserves pursuant to, and in a manner consistent with the Budget. In connection with the foregoing, there may be taxes on any income earned on the amounts in the Plan Operations Fund, the Carve-Out Fund, and the Disputed Claims Reserves and such taxes will be paid out of such Plan Operations Fund, the Carve-Out Fund or relevant Disputed Claims Reserve as applicable to the extent they are the liabilities of the Debtor, the holders of the Equity Interests, the Estate, the Plan Operations Fund, the Carve-Out Fund, or the Disputed Claims Reserves. After all costs associated with the Plan Operations Fund have been paid in accordance with the Budget, and/or upon the reasonable determination that the funds in the Plan Operations Fund exceed the amounts necessary to pay the expenses for which such fund is established and for which are provided for in the Budget, the remaining or excess funds, as applicable, in the Plan Operations Fund shall be distributed by the Plan Administrator to the Senior Lender Agent for the benefit of the holder(s) of the Senior Lender Secured Claim.

6.10 Causes of Action and Buyout Action. Pursuant to the compromise of controversies embodied in the Plan, the Debtor, the Senior Lender and the Creditors Committee have agreed that the ownership, rights, and responsibilities of such parties to the Causes of Action and the Buyout Action shall be allocated as follows:

(a) On the Effective Date, the Debtor shall transfer its interest in the Causes of Action to the Plan Administrator to hold as agent for, and on behalf of, the holder of the Allowed Senior Lender Secured Claim and the holders of Allowed General Unsecured Claims. The net proceeds received from the Causes of Action will be paid to the Plan Administrator to distribute as follows: (i) to pay all fees and expenses of the Plan Administrator and his or her professionals of investigating and prosecuting the Causes of Action, (ii) to the extent available, the next \$50,000 of such proceeds shall be distributed to the Senior Lender Agent, and (iii) 90% of the remaining proceeds shall be paid to the Senior Lender Agent, and 10% of the remaining proceeds shall be paid to the holders of Allowed General Unsecured Claims.

(b) (1) On the Effective Date, the Debtor shall transfer its interest in the Buyout Action to the Senior Lender Agent to hold as agent for, and on behalf of, the holder of the Allowed Senior Lender Secured Claim. The Senior Lender Agent shall retain sole and absolute discretion over the investigation, prosecution, settlement and control (the "**Buyout Prosecution Rights**") of the Buyout Action and 100% of the recovery thereof, but may, at its discretion, request the reasonable cooperation of the Plan Administrator and his or her advisors from time to time, which the Plan Administrator and his or her advisors shall provide, with the understanding that the Plan Administrator and its advisors are not required to provide cooperation if their fees, costs and expenses are not reasonably provided for. The net proceeds received as a result of the Buyout Action shall be paid (after payment first of the costs and expenses of the Senior Lender Agent in investigating and prosecuting the Buyout Action, including attorneys' fees,

expenses, court costs and expert witness costs and expenses) as follows: (i) 95% of the remaining proceeds shall be paid to the Senior Lender Agent, and (ii) 5% shall be paid to the holders of General Unsecured Claims on account of their Allowed General Unsecured Claims.

(2) In the event the Senior Lender Agent determines, in its sole discretion, to abandon the Buyout Prosecution Rights, it shall abandon such Buyout Prosecution Rights to the Plan Administrator, which abandonment shall be effectuated by the Senior Lender Agent's delivery of a notice to the Plan Administrator indicating the Senior Lender Agent's intention to abandon the Buyout Prosecution Rights, together with such other documents of assignment as may be necessary to effectuate the abandonment or assignment of the Buyout Prosecution Rights to the Plan Administrator. Following any abandonment or assignment of the Buyout Prosecution Rights to the Plan Administrator, the net proceeds received by the Plan Administrator in connection with the Buyout Action shall be paid as follows: (i) to pay all fees and expenses of the Plan Administrator and his or her professionals for investigating and prosecuting the Buyout Action, including attorneys' fees, expenses, court costs and expert witness costs and expenses, and (ii) 95% of the remaining proceeds shall be paid to the Senior Lender Agent, and 5% shall be paid to the holders of Allowed General Unsecured Claims.

(c) For purposes of the distribution of the proceeds of the Causes of Action and the Buyout Action, the aggregate amount of General Unsecured Claims shall be deemed to be capped at \$1,550,000 (the "**GUC Cap**"), such that the maximum aggregate amount of the proceeds payable to the holders of Allowed General Unsecured Claims shall not exceed \$1,225,000 (such amount representing the difference between the GUC Cap and the \$325,000 payable under the Plan to holders of Allowed General Unsecured Claims from the Carve-Out Fund after the fees and expense of the Creditors Committee are paid).

6.11 Distributions of Cash. Any payment of Cash made by the Debtor or the Plan Administrator pursuant to the Plan may be made at the option of the Debtor or the Plan Administrator, as the case may be, either by check drawn on a domestic bank or by wire transfer from a domestic bank. All distributions to the Class 2 Claims shall be made to the Senior Lender Agent for the benefit of Senior Lender as set forth in Section 4.2 of the Plan because it is a partial payment of the principal owing.

6.12 Distributions Free and Clear. Any distributions or transfers by the Plan Administrator, including, but not limited to, distributions to any holder of an Allowed Claim, shall be free and clear of any liens, claims and encumbrances, and no other entity, including the Debtor or the Plan Administrator shall have any interest, legal, beneficial or otherwise, in assets transferred pursuant to the Plan.

6.13 Time Bar to Cash Payments. Except for distributions to the Senior Lender and Senior Lender Agent under Section 4.2 hereof, checks issued by the Plan Administrator 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 Plan Administrator by the holder of the Allowed Claim to whom such check originally was 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 day period following the date of issuance of such check. Thereafter, the amount represented by such voided check shall irrevocably revert to the fund from which such amount was distributed, and any Claim in respect of such voided check shall be discharged and forever barred from assertion against the Debtor and their property or the Plan Administrator.

6.14 Withholding and Reporting Requirements. In connection with the Plan, the Debtor or the Plan Administrator 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.

6.15 Delivery of Distributions and Undeliverable Distributions. Except for distributions to the Senior Lender and Senior Lender Agent under Section 4.2 hereof, distributions to holders of Allowed Claims shall be made at the last known address of each such holder, unless superseded by a new address as set forth (a) on a proof of claim filed by a holder of an Allowed Claim or (b) in another writing notifying the Plan Administrator (at the addresses set forth in the Plan) of a change of address. If any holder's distribution is returned as undeliverable, no further distributions to such holder shall be made unless and until the Plan Administrator is notified of such holder's then-current address, at which time all missed distributions shall be made to such holder, without interest. All demands for undeliverable distributions shall be made on or before ninety (90) days after the date such undeliverable distribution was initially made. Thereafter, the amount represented by such undeliverable distribution shall irrevocably revert to the fund from which such amount was distributed, and any Claim in respect of such undeliverable distribution shall be discharged and forever barred from assertion against the Debtor and their property, or the Plan Administrator.

6.16 Setoffs. Except as to the Class 2 Claim and the treatment provided for such claim in Section 4.2 hereof, or for such other Claims as may be otherwise provided in the Plan, the Confirmation Order, or in agreements previously approved by Final Order, the Debtor or the Plan Administrator, pursuant to law (including section 553 of the Bankruptcy Code), may offset against any Claim (other than a Secured Claim), including an Administrative Expense Claim, before any distribution is made on account of such Claim, and all of the claims, rights, and causes of action of any nature that the Debtor or the Plan Administrator may hold against the holder of such Claim.

6.17 Compromise of Controversies. Pursuant to Bankruptcy Rule 9019, and in consideration for the classification, distribution and other benefits provided under the Plan, the provisions of this Plan shall constitute a good faith compromise and settlement of all Claims and controversies resolved pursuant to the Plan (other than the Causes of Action and the Buyout Action). The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of each of the foregoing compromises or settlements and all other compromises and settlements provided for in the Plan, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are in the best interests of the Debtor, the Plan Administrator, the Estates, creditors, and other parties-in-interest, and are fair, equitable, and within the range of reasonableness.

6.18 Cessation of Business Activities. Notwithstanding anything else contained in the Plan, the Plan Administrator shall not conduct or engage in any business activities on behalf of

the Debtor or the Estate, other than liquidation activities, prosecution of the Causes of Action and winding up the Debtor.

6.19 Allocation of Distributions. Distributions to any holder of an Allowed Claim shall be allocated first to the principal portion of any such Allowed Claim, and, only after the principal portion (as defined for federal income tax purposes) of any such Allowed Claim is satisfied in full, to any portion of such Allowed Claim comprising prepetition interest (but solely to the extent that interest is an allowable portion of such Allowed Claim).

6.20 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 succeeding Business Day.

6.21 Termination of Duties of Plan Administrator. The duties of the Plan Administrator will terminate after the Debtor has been dissolved and all assets or the proceeds of the liquidation thereof held by or controlled by the Plan Administrator have been distributed in accordance with the terms of this Plan and after material completion of all other duties and functions set forth herein, but in no event later than five (5) years after the Effective Date, unless extended by order of the Bankruptcy Court.

ARTICLE VII

MEANS FOR IMPLEMENTATION AND EXECUTION OF THE PLAN

7.1 Debtor's Post-Confirmation Role; Dissolution. The Debtor shall perform each of the following acts as soon as practicable on or after the Effective Date:

(a) **Transfers to the Plan Administrator.** On the Effective Date, following the Debtor's sale of the Residual Assets and the Debtor's interests in the Farmington Agreement to BuyerCo pursuant to the BuyerCo Asset Purchase Agreement as described in Section 6.1 of the Plan, the Debtor shall, pursuant to section 554 of the Bankruptcy Code and for all tax purposes, abandon its right to its name and any other intangible assets it holds or is deemed to hold (other than the Causes of Action and the Buyout Action). Following such sale and abandonment, all of the Cash then held by the Debtor (less the amount of Cash to be transferred to the Senior Lender Agent pursuant to Section 4.2(b) of the Plan (which shall include the Farmington Reimbursement Payment)), shall be transferred to the Plan Administrator, on behalf of and as agent to the Debtor, by operation of the Plan, to enable the Plan Administrator to carry out the provisions of, and make distributions in accordance with, this Plan. Upon such transfer, the Debtor, the Senior Lender Agent and the Senior Lender shall have no further responsibilities with respect to making distributions under the Plan. Concurrently with such transfer, (i) the Debtor shall provide notice of the Effective Date to Farmington, (ii) the Debtor shall cease any and all of its business operations and shall not thereafter conduct or engage in any trade or business of any sort (*provided, however*, that if the sale and abandonment described above occurs prior to the Effective Date, the Debtor shall cease its business operations as of such earlier date), and immediately thereafter (iii) the Equity Interests will be cancelled, ultimately followed by the liquidation of the Debtor.

(b) **Closing of the Chapter 11 Case.** When all Disputed Claims have become Allowed Claims or have been disallowed by Final Order, and all remaining assets of the Debtor have been liquidated and converted into Cash (other than those assets abandoned by the Debtor or the Plan Administrator), and such Cash has been distributed in accordance with the Plan, the Plan Administrator shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and the Bankruptcy Rules, including, without limitation, the filing of a final distribution report and request for a final decree, which shall include an accounting of receipts and expenditures of the Plan Administrator and his or her professionals, including those related to the prosecution of the Causes of Action. A copy of such final distribution report and request for a final decree shall be served on the Senior Lender Agent.

(c) **Dissolution.** Immediately following its completion of the acts required by the Plan (and all distributions required to be made by the Plan Administrator under the Plan have been made), or as soon thereafter as is practical, the Plan Administrator shall file a certificate of dissolution for the Debtor, after which the Debtor shall be deemed dissolved under the applicable laws of the state in which the Debtor is incorporated.

(d) **Closing of the Books.** In the event there is a transfer of an equity ownership interest in the Debtor on the Effective Date for U.S. federal income tax purposes, the various items of the Debtor's income, gain, loss, deduction, and credit as computed for U.S. federal income tax purposes shall be allocated using the "closing of the books" method to take into account the varying interests of the holders of equity ownership interests in the Debtor in a manner consistent with IRC Sections 706 and 108(e)(8), provided that the holders of equity ownership interests agree that this Section 7.1(d) shall be implemented in a manner so that the holders of Equity Interests prior to the Effective Date shall be allocated all such items that arise on or before the Effective Date.

7.2 Books and Records.

(a) Upon the Effective Date, the Debtor shall transfer to the Plan Administrator copies of all of the books and records of the Debtor, which books and records will be (a) sold to BuyerCo in accordance with the terms of and subject to the conditions set forth in the BuyerCo Asset Purchase Agreement, and (b) stored and preserved by BuyerCo, and not deleted or destroyed by BuyerCo without the consent of the Senior Lender Agent. Upon the Effective Date, the Plan Administrator shall succeed to all privileges and rights of the Debtor. The Debtor (or its successors (including the Plan Administrator), as well as its current and former officers and directors), the Senior Lender, the Senior Lender Agent and the XL Investor (or any designated representative of the foregoing) shall be entitled, pursuant to this Section 7.2(a), to reasonable access to any books and records sold to BuyerCo and/or to access to the copies thereof transferred to the Plan Administrator for all necessary corporate purposes, including, without limitation, defending or prosecuting litigation (including Causes of Action), determining insurance coverage, and filing tax returns pursuant to Section 6.5 of the Plan, or otherwise; *provided, however*, that in the case of inspection pursuant to this Section 7.2(a) of such books and records by the XL Investor (or its designated representative), any and all costs and expenses related to such inspection are to be borne solely by the XL Investor.

(b) For the purpose of this Section and Section 6.3(b) of the Plan, 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 the Debtor maintained by or in possession of third parties and all of the claims and rights of the Debtor in and to their books and records, wherever located.

7.3 Corporate Action. Upon the Effective Date, the Debtor 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. The filing of certificates of dissolution or certificates of merger by the Plan Administrator in accordance with Section 7.1 of the Plan is hereby authorized and approved in all respects without further action under applicable law, regulation, order or rule, including, without express or implied limitation, any action by the stockholders or the Board of Directors of the Debtor.

7.4 Effectuating Documents and Further Transactions. Each of the officers of the Debtor is authorized and directed to execute, deliver, file or record such contracts, instruments, releases, indentures and other agreements or documents and take such actions as the Plan Administrator determines to be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

7.5 Enforcement of XL Note Subordination. Notwithstanding anything herein to the contrary, in accordance with section 510(a) of the Bankruptcy Code, the subordination and turnover provisions contained in the XL Note shall be enforced by the Senior Lender in accordance with their respective terms. To the extent the holder, or any predecessor, successor or assign of such holder, of the XL Note receives any payment or distribution under the Plan or otherwise on account of such holder's Claims under the XL Note, such payment or distribution shall be held in trust for the benefit of the Senior Lender and forthwith paid over to the Senior Lender for application to and payment of the Senior Lender Secured Claim in accordance with such subordination provisions.

ARTICLE VIII

PROCEDURES FOR RESOLVING AND TREATING DISPUTED CLAIMS

8.1 No Distribution Pending Allowance. Notwithstanding any other provision of the Plan, no Cash or other property shall be distributed under the Plan on account of any Disputed Claim, unless and until such Claim becomes an Allowed Claim. The Senior Lender Secured Claim and Senior Lender Unsecured Deficiency Claim shall be deemed Allowed for all purposes hereunder as set forth in Sections 1.67, 1.68, 4.2 and 4.4 of the Plan.

8.2 Resolution of Disputed Claims. Unless otherwise ordered by the Bankruptcy Court after notice and a hearing, the Debtor, and following the Effective Date, the Plan Administrator, shall have the right to the exclusion of all others to make and file objections to Claims (other than the Senior Lender Secured Claim and the Senior Lender Unsecured Deficiency Claim, which are Allowed for purposes of the Plan in the amounts set forth in Sections 4.2(b) and 4.4(b) of the Plan, respectively), and shall serve a copy of each objection upon the holder of the Claim to which the objection is made as soon as practicable. Objections

to Claims shall, subject to the Local Rules for the United States Bankruptcy Court—Southern District of New York, be filed by notice of presentment with the Bankruptcy Court and served upon each affected creditor within ninety (90) days of the Effective Date; *provided, however*, that such deadline may be extended by the Bankruptcy Court upon motion of the Plan Administrator. From and after the Confirmation Date, all objections shall be litigated to a Final Order except to the extent the Plan Administrator elects to withdraw any such objection or the Plan Administrator and the claimant elect to compromise, settle or otherwise resolve any such objection, in which event they may settle, compromise or otherwise resolve any Disputed Claim without approval of the Bankruptcy Court.

8.3 Estimation. The Plan Administrator may request that the Bankruptcy Court estimate any Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Plan Administrator has previously objected to such Claim, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time. In the event that the Bankruptcy Court estimates any Disputed Claim, that estimated amount may constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtor (or the Plan Administrator) may elect to pursue any supplemental proceedings to object to any ultimate payment of such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily 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.

8.4 Allowance of Disputed Claims. If, on or after the Effective Date, any Disputed Claim in a Class that is entitled to receive a distribution under the Plan becomes an Allowed Claim, the Plan Administrator shall, no later than the twentieth (20th) Business Day of the first month following the month in which the Claim becomes an Allowed Claim, distribute Cash to the holder of such Allowed Claim in an aggregate amount sufficient to pay to such holder of a Disputed Claim the amount that such holder would have been entitled to receive under the Plan if such Claim had been an Allowed Claim on the Effective Date. The applicable Disputed Claims Reserve shall be reduced by any such distribution under this Section of the Plan.

8.5 Disallowance of Claims Without Further Order of the Bankruptcy Court. As of the Confirmation Date, any prepetition Claim that is scheduled as disputed, contingent or unliquidated in amount, and for which a proof of Claim has not been filed, shall be deemed disallowed and expunged, without further act or deed.

ARTICLE IX

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

9.1 Assumption of Executory Contracts and Unexpired Leases. On the Effective Date, the Assumed Agreements will be deemed assumed by the Debtor in accordance with, and subject to, the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, and immediately thereafter assigned to BuyerCo pursuant to the BuyerCo Asset Purchase Agreement. Without amending or altering any prior order of the Bankruptcy Court approving the assumption or rejection of any executory contract or unexpired lease, entry of the

Confirmation Order by the Bankruptcy Court shall constitute approval of the assumption and assignment of the Assumed Agreements pursuant to sections 365(a) and 1123 of the Bankruptcy Code. To the extent any provision in the Assumed Agreements (including, without limitation, any “change of control” provision) restricts or prevents, or purports to restrict or prevent, or is breached or deemed breached by, the Debtor’s assumption of the Assumed Agreements, then such provisions shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-Debtor party thereto to terminate such Assumed Agreements or to exercise any other default-related rights with respect thereto.

9.2 Rejection of Executory Contracts and Unexpired Leases. Subject to Section 9.1 hereof, on the Confirmation Date, all executory contracts and unexpired leases that exist between the Debtor and any Person shall be deemed rejected as of the Confirmation Date, including, but not limited to those set forth on Schedule 9.2, except for (a) any executory contract or unexpired lease that has been assumed pursuant to an order of the Bankruptcy Court entered prior to the Confirmation Date, and (b) any executory contract or unexpired lease as to which either a notice of assumption of or a motion for approval of the assumption of such contract or lease has been filed and served prior to the Confirmation Date.

9.3 Approval of Rejection of Executory Contracts and Unexpired Leases. Entry of the Confirmation Order shall constitute the approval, pursuant to section 365(a) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected pursuant to the Plan.

9.4 Claims Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to the Plan. Claims arising out of the rejection of an executory contract or unexpired lease pursuant to the Plan shall be (a) filed and served upon the Plan Administrator within thirty (30) days of the Confirmation Date, or be forever barred, and (b) classified as Class 4 – General Unsecured Claims, and distributions shall be paid out accordingly.

ARTICLE X

EFFECTIVENESS OF THE PLAN

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

(a) The Bankruptcy Court shall have entered a Confirmation Order in form and substance satisfactory to the Debtor and the Senior Lender Agent;

(b) The Bankruptcy Court shall have entered an order approving the Disclosure Statement in form and substance satisfactory to the Debtor and the Senior Lender Agent; and

(c) Class 2 shall have voted to accept the Plan.

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

(a) At least ten (10) days shall have passed since entry of the Confirmation Order, and stay of the Confirmation Order shall then be in effect; and

(b) The Debtor shall have sufficient Cash on hand to fund the Carve-Out Fund and the Plan Operations Fund, and the Senior Lender shall have advised the Debtor in writing that the Budget for the Debtor and the Plan Administrator for the period from and after the Effective Date through the expected date by which all remaining assets of the Debtor will have been liquidated and converted into Cash (other than those assets abandoned by the Debtor or the Plan Administrator) has been approved by the Senior Lender.

10.3 Waiver of Conditions. Notwithstanding the foregoing, pursuant to the Plan and the Confirmation Order, the Debtor reserves the right, with the approval of the Senior Lender Agent, to waive the occurrence of the conditions precedent set forth in Section 10.1(c), and with the approval of the Senior Lender Agent and the Creditors Committee, Section 10.2(a) of the Plan. Any such waiver of Section 10.2(a) may be effected at any time, without notice, without leave or order of the Bankruptcy Court, and without any formal action other than proceeding to consummate the Plan. 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 the Debtor decides, after obtaining the consent of the Senior Lender Agent and the Creditors Committee, which consent shall not be unreasonably withheld, that one of the conditions precedent set forth in Section 10.2 of the Plan above cannot be satisfied and the occurrence of such condition is not waived or cannot be waived, then the Debtor shall file a notice of the failure of the Effective Date with the Bankruptcy Court.

10.4 Effect of Nonoccurrence of the Conditions to Consummation. If each of the conditions to the occurrence of the Effective Date has not been satisfied or duly waived on or before the first Business Day that is thirty (30) days after the Confirmation Date, or such later date as shall be agreed by the Debtor, the Senior Lender Agent and the Creditors Committee, the Confirmation Order may be vacated by the Bankruptcy Court. If the Confirmation Order is vacated pursuant to this Section, 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 the Debtor.

ARTICLE XI

EFFECTS OF CONFIRMATION

11.1 Vesting of Assets in Plan Administrator.

(a) As of the Effective Date, following the sale of the Residual Assets pursuant to the BuyerCo Asset Purchase Agreement and the Debtor's abandonment of its name and any other intangible assets (other than the Causes of Action and the Buyout Action) that it holds or is deemed to hold (as described in Sections 4.2(b) and 7.1 hereof), the remaining property of the Estate shall vest in the Debtor and, in accordance with Articles VI and VII of the Plan and subject to the exceptions contained therein, shall be transferred to the Plan Administrator pursuant to Section 7.1(a) hereof.

(b) From and after the Effective Date, the Plan Administrator may dispose of assets free of any restrictions of the Bankruptcy Code, but in accordance with the provisions of the Plan.

(c) As of the Effective Date, all assets transferred to the Plan Administrator pursuant to the Plan shall be free and clear of all Claims, except as provided in the Plan or the Confirmation Order.

11.2 Cancellation of Securities. Immediately after the completion of the actions specified in Section 7.1(a) of the Plan, all Equity Interests in the Debtor, the XL Note, and any other note, bond, indenture or other instrument or document evidencing or creating any indebtedness or obligation of any of the Debtor shall be deemed canceled on the Effective Date; *provided, however*, that subject to the releases and waivers granted pursuant to Section 11.3 of the Plan, all rights, claims and interests of the Senior Lender and Senior Lender Agent shall be reserved, including, but not limited to, those that exist or may exist (i) under the Cash Collateral Order, (ii) in accordance with the Debtor's interests in the Causes of Action and the Buyout Action assigned under Section 4.2(b) of the Plan and any and all cash, proceeds and recoveries received, recovered or resulting therefrom and (iii) in connection with the Senior Lender Unsecured Deficiency Claim against any person or entity other than the Debtor as well as the rights and interests of the Senior Lender and the Senior Lender Agent to enforce their rights, claims and interests under Cash Collateral Orders, assigned Causes of Action, the Buyout Action and Section 4.2 are hereby fully reserved and preserved.

11.3 Releases.

(a) **Satisfaction of Claims and Interests in the Debtor.** Except as otherwise provided for in Section 11.3(b) (c) and (d) below, the treatment to be provided for respective Allowed Claims against, or Equity Interests in, the Debtor pursuant to the Plan shall be in full satisfaction, settlement and release of such respective Claims and Equity Interests to the extent provided in the Plan.

(b) **Releases by Debtor.** *Except as otherwise specifically provided in Section 11.3(b) of the Plan, for good and valuable consideration, including in the case of the Senior Lender and the Senior Lender Agent, the funding of the Chapter 11 Case pursuant to the Cash Collateral Order, the funding to be provided by the Senior Lender under the Plan for the Carve-Out Fund and the Plan Operations Fund, and the obligations and undertakings of the Senior Lender and Senior Lender Agent set forth in the Plan; and in the case of the directors and officers of the Debtor, the direct and indirect funding to be provided by such directors and officers under the Plan for the Carve-Out Fund and the Plan Operations Fund; and in the case of the other Released Parties, the service of the Released Parties to facilitate the implementation of the Plan, the Released Parties, on and after the Effective Date, are released by the Debtor, the reorganized Debtor and any Person seeking to exercise the rights of the Estate, including without limitation, any successor to the Debtor or any representative of the Estate appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (including, but not limited to, the Plan Administrator) (collectively, the "Debtor Releasers") from any and all Claims, obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that*

the Debtor, or any person claiming derivatively through or on behalf of the Debtor would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Equity Interest or other Person, based in whole or in part upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date; provided, however, that for the avoidance of doubt, the foregoing release shall not include a release of any objection or defense that the Debtor Releasors may have with respect to any Claim, except to the extent any such Claim is Allowed under the Plan; provided, further, that that nothing in this paragraph shall be deemed to be a release by any of the Debtor Releasors, except as to the Released Parties, of (a) any Causes of Action, (b) the Buyout Action, and (c) any rights, claims and interests of the Senior Lender Agent related to the Senior Lender Unsecured Deficiency Claim and consideration and distributions to be received by the Senior Lender Agent and Senior Lender under Section 4.2 of the Plan.

(c) **Third Party Releases.** *On and after the Effective Date, except as otherwise specifically provided in Section 11.3(c) of the Plan, for good and valuable consideration, including in the case of the Senior Lender and Senior Lender Agent, the funding of the Chapter 11 Case pursuant to the Cash Collateral Order, the funding to be provided by the Senior Lender under the Plan for the Carve-Out Fund and the Plan Operations Fund, and the obligations and undertakings of the Senior Lender and Senior Lender Agent set forth in the Plan; and in the case of the directors and officers of the Debtor, the direct and indirect funding to be provided by such directors and officers under the Plan for the Carve-Out Fund and the Plan Operations Fund; and in the case of the other Released Parties, the service of the Released Parties to facilitate the implementation of the Plan, all Persons who, directly or indirectly, have held, hold or may hold Claims against the Debtor, including, without limitation, the Senior Lender, the Senior Lender Agent, and any holder of an XL Note Claim, or Equity Interests in the Debtor shall be deemed to have unconditionally released the Debtor and the Released Parties from any and all Claims, obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, including any derivative claims on behalf of the Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, that such Person would have been legally entitled to assert (whether individually or collectively), based in whole or in part upon any act or omission, transaction, agreement, event or other occurrence taking place on or before the Effective Date in any way relating or pertaining to (w) the purchase or sale, or the rescission of a purchase or sale, of any security of any Debtor, (x) the Debtor, (y) the Chapter 11 Case, or (z) the negotiation, formulation and preparation of the Plan, or any related agreements, instruments or other documents. Nothing in this paragraph shall be deemed to be a release by any of the Debtor Releasors, except as to the Released Parties, of (a) any Causes of Action, (b) the Buyout Action, and (c) any rights, claims and interests of the Senior Lender Agent related to the Senior Lender Unsecured Deficiency Claim and consideration and distributions to be received by the Senior Lender Agent and Senior Lender under Section 4.2 of the Plan.*

(d) **Injunction.** *As of the Confirmation Date, except as provided in the Plan or the Confirmation Order, all Persons who, directly or indirectly, have held, hold or may hold Claims against the Debtor or Equity Interests in the Debtor, are permanently enjoined from taking any of the following actions on account of any such Claims, debts, interests or liabilities, other than actions brought to enforce any rights or obligations under the Plan: (i) commencing or continuing in any manner any action or other proceeding against the Debtor, the Plan*

Administrator, the Released Parties or their respective properties; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtor, the Plan Administrator, the Released Parties or their respective properties; (iii) creating, perfecting or enforcing any lien or encumbrance against the Debtor, the Plan Administrator, the Released Parties or their respective properties; (iv) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtor the Plan Administrator, the Released Parties or their respective properties, and (v) commencing or continuing, in any manner or any place, any action that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order. For the avoidance of doubt, nothing in this paragraph shall be deemed to (i) be a release by any of the Debtor Releasers, except as to the Released Parties, of (a) any Causes of Action, (b) the Buyout Action, and (c) any rights, claims and interests of the Senior Lender Agent related to the Senior Lender Unsecured Deficiency Claim and consideration and distributions to be received by the Senior Lender Agent and Senior Lender under Section 4.2 of the Plan; and (ii) enjoin the prosecution by (x) the Senior Lender or Senior Lender Agent (or any assignee thereof) of the Buyout Action (other than against the Released Parties), or (y) the Plan Administrator of the Causes of Action (other than against the Released Parties).

(e) **Exculpation.** The Debtor and the Released Parties, and their members and professionals (acting in such capacity), shall neither have nor incur any liability to any Person for any act taken or omitted to be taken in connection with or related to the formulation, preparation, dissemination, implementation, administration, confirmation or consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan, or any act taken or omitted to be taken in connection with, in contemplation of, during or in any way related to the Chapter 11 Case, except for acts or omissions as a result of willful misconduct or gross negligence.

(f) **Taxes.** The Debtor is a Delaware limited liability company that is taxed as a partnership for federal income tax purposes. As such, any federal income tax liability is incurred and paid, if due, by its members. While the Plan anticipates significant cancellation of indebtedness income ("COD") to be allocated to the holders of the Equity Interests through the Debtor, it is not anticipated that this COD will create any federal income tax liability for the Debtor or the Estate. The holders of Equity Interests in the Debtor (all of which are members of the Debtor) are each subject to the jurisdiction of the Bankruptcy Court in the Chapter 11 Case in accordance with 26 U.S.C. § 108(d)(2), on a variety of bases. The holders of the Equity Interests should be entitled to the 26 U.S.C. § 108(a)(1) and (d)(6) exclusion from gross income for any and all COD that may arise from the Plan.

11.4 Release of Assets. Until the Effective Date, the Bankruptcy Court shall retain jurisdiction over the Debtor, its assets and properties and the Estate. Thereafter, jurisdiction of the Bankruptcy Court shall be limited as set forth in Article XII of the Plan, and the Plan Administrator shall perform and wind up the affairs of the Debtor as provided in the Plan.

11.5 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, the Debtor and their respective successors and

assigns, 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.

11.6 Term of Injunctions or Stays. Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Case pursuant to 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 Chapter 11 Case.

11.7 No Waivers/Survival of Cash Collateral Order Findings and Provisions. The terms and provisions set forth in the Plan and the Confirmation Order shall not in any way be deemed to alter, modify, supplement, supersede, waive, amend or otherwise affect the findings of fact, conclusions of law and other provisions set forth in the Cash Collateral Order, which shall not be inconsistent with the intent of the Plan, and all such findings of fact, conclusions of law and other provisions shall survive after the Effective Date and entry of the Confirmation Order.

11.8 Claims Preserved. As of the Effective Date, subject to the releases and waivers granted pursuant to Section 11.3 of the Plan, (a) the Plan Administrator shall succeed to the Debtor's interest in the Causes of Action, and the Plan Administrator shall have all requisite authorization, approval and standing to prosecute any Causes of Action in the name of, on behalf of, in the stead of, or as assignee of the Debtor, and (b) the Senior Lender Agent shall succeed to the Debtor's interest in the Buyout Action, and the Senior Lender Agent shall have all requisite authorization, approval and standing to prosecute the Buyout Action in the name of, on behalf of, in the stead of, or as assignee of the Debtor.

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 Chapter 11 Case 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 any motions for the assumption, assumption and assignment or rejection of executory contracts or unexpired leases and the allowance of any Claims resulting therefrom;
- (b) To determine any and all pending adversary proceedings, applications and contested matters relating to the Chapter 11 Case;
- (c) To hear and determine any objection to any Claims;
- (d) To hear and determine the Causes of Action;
- (e) To enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified or vacated;

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

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

(h) To hear and determine all applications for compensation and reimbursement of expenses of professionals under sections 330, 331 and 503(b) of the Bankruptcy Code;

(i) To hear and determine disputes arising in connection with the interpretation, implementation or enforcement of the Plan;

(j) To hear and determine any actions brought against the Plan Administrator;

(k) To recover all assets of the Debtor, property of the Estate and the assets of the Plan Administrator, wherever located;

(l) To hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code filed, or to be filed, with respect to tax returns for any and all taxable periods ending after the Commencement Date through the closing of the Chapter 11 Case);

(m) To hear any other matter consistent with the provisions of the Bankruptcy Code; and

(n) To enter a final decree closing the Chapter 11 Case.

ARTICLE XIII

MISCELLANEOUS PROVISIONS

13.1 Effectuating Documents and Further Transactions. Any officer of the Debtor is authorized and directed to execute, deliver, file or record such contracts, instruments, releases, and other agreements or documents and take such actions as the Plan Administrator determines to be reasonably necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

13.2 Exemption from Transfer Taxes. Pursuant to section 1146(a) 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 (including the BuyerCo Asset Purchase Agreement and transfers of assets held by the Plan Administrator), shall not be subject to any stamp, real estate transfer, mortgage recording, sales, use or other similar tax.

13.3 Pre-Confirmation Date Professional Fees and Expenses. Except as otherwise provided by the Bankruptcy Court, each professional person or firm retained with approval by order of the Bankruptcy Court or requesting compensation in the Chapter 11 Case pursuant to sections 330 or 503(b) of the Bankruptcy Code, other than professionals that the Debtor is authorized to pay in the ordinary course of business, shall be required to file an application for an allowance of final compensation and reimbursement of expenses in the Chapter 11 Case incurred through the Confirmation Date on or before a date that is thirty (30) days after the Effective Date. Objections to any such application shall be filed on or before a date to be set by the Bankruptcy Court in the Confirmation Order.

13.4 Post-Confirmation Date Fees and Expenses.

(a) **Fees and Expenses of Professionals After the Confirmation Date and Prior to the Effective Date.** Prior to the Effective Date, the Debtor 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 Confirmation Date, of the professional persons employed by the Debtor and the Creditors Committee 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 pursuant to, and in a manner consistent with, the Budget, unless otherwise agreed in writing between the Senior Lender Agent and the Debtor. The fees and expenses of such professionals shall be paid within ten (10) Business Days after submission of a detailed invoice therefor, copies of which shall be provided to counsel to the Debtor, the Senior Lender Agent and the Creditors Committee. If the Debtor, the Creditors Committee or the Senior Lender Agent disputes the reasonableness of any such invoice, the Debtor shall timely pay the undisputed portion of such invoice, and the Debtor or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of such portion of the invoice as is disputed.

(b) **Fees and Expenses of Professionals After the Effective Date.** After the Effective Date, the Plan Administrator 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 the Plan Administrator in connection with the implementation and consummation of the Plan, the Claims reconciliation process, prosecution of Causes of Actions (but not the Buyout Action), and any other matters as to which such professionals may be engaged pursuant to, and in a manner consistent, with the Budget, unless otherwise agreed in writing between the Plan Administrator and Senior Lender Agent. The fees and expenses of such professionals shall be paid within ten (10) Business Days after submission of a detailed invoice therefor. If the Plan Administrator disputes the reasonableness of any such invoice, the Plan Administrator shall timely pay the undisputed portion of such invoice, and the Plan Administrator or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of such portion of the disputed invoice.

(c) **Fees and Expenses of Plan Administrator.** The fees and expenses of the Plan Administrator shall be paid from the Plan Operations Fund in the ordinary course of business and without the necessity for any approval by the Bankruptcy Court, pursuant to the

terms of the Plan and further pursuant to, and in a manner consistent, with the Budget, unless otherwise agreed in writing between the Plan Administrator and Senior Lender Agent.

13.5 Payment of Statutory Fees. All fees due and payable pursuant to section 1930 of title 28, United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on or before the Effective Date, and any such fees which become due and payable after the Effective Date shall be payable from the Plan Operations Fund.

13.6 Modification of Plan. The Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan at any time prior to the entry of the Confirmation Order, subject to the consent of the Senior Lender Agent and the Creditors Committee. After the entry of the Confirmation Order, the Debtor may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code and with the consent of the Senior Lender Agent and the Creditors Committee, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan. A holder of an Allowed Claim that is deemed to have accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially and adversely change the treatment of the Claim of such holder.

13.7 Withdrawal or Revocation. Subject to the consent of the Senior Lender Agent the Debtor may withdraw or revoke the Plan at any time prior to the Confirmation Date. If the Debtor revokes or withdraws the Plan prior to the Confirmation Date, or if the Confirmation Date does not occur, then 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 the Debtor or any other person or to prejudice in any manner the rights of the Debtor or any other person in any further proceedings involving the Debtor.

13.8 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.

13.9 Notices. Any notices to or requests of the Debtor by parties-in-interest under or in connection with the Plan shall be in writing and served either by (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight delivery service, all charges prepaid, and shall be deemed to have been given when received by the following parties:

To the Company/Debtor:

CERES CAPITAL PARTNERS, LLC
500 Fifth Avenue, 37th Floor
New York, New York 10022

With copies to:

GOODWIN PROCTER LLP
Attorneys for the Debtor
The New York Times Building
620 Eighth Avenue
New York, New York 10018
(212) 813-8800
Attn: Emanuel C. Grillo, Esq.

To Senior Lender:

BANK OF MONTREAL (CHICAGO BRANCH)
115 South LaSalle Street, 12th Floor
Chicago, Illinois 60603
(312) 750-4300
Attn: Mr. Scott Purdy
Ms. Heather Turf

With copies to:

CHAPMAN & CUTLER LLP
Attorneys for the Senior Lender
111 West Monroe Street
Chicago, Illinois 60603-4080
(312) 845-3000
Attn: James E. Spiotto, Esq.

To the Creditors Committee or Plan Administrator:

ARENT FOX LLP
1675 Broadway
New York, New York 10019
(212) 484-3900
Attn: Robert M. Hirsh, Esq.

13.10 Severability. In the event that the Bankruptcy Court determines, prior to the Confirmation Date, that any provision of the Plan is invalid, void or unenforceable, the Bankruptcy Court shall, with the consent of the Debtor, the Senior Lender Agent and the Creditors Committee, 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 shall remain in full force and effect and shall 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.

13.11 Governing Law. Except to the extent the Bankruptcy Code or Bankruptcy Rules are applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York without giving effect to the principles of conflicts of law thereof.

13.12 Headings. Headings are used in the Plan for convenience and reference only, and shall not constitute a part of the Plan for any other purpose.

13.13 Exhibits. All Exhibits and schedules to the Plan are incorporated into and are a part of the Plan as if set forth in full herein.

13.14 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.

13.15 Dissolution of the Creditors Committee. On the Effective Date, the Creditors Committee shall be dissolved and the members thereof shall be released and discharged of and from all further authority, duties, responsibilities and obligations related to and arising from and in connection with the Chapter 11 Case, and the retention or employment of the Creditors Committee's attorneys, accountants and other agents shall terminate; *provided, however*, that immediately prior to the dissolution of the Creditors Committee, any and all analyses or work product prepared by and/or information obtained by the Creditors Committee or its attorneys, accountants and other agents related to the Causes of Action shall be transferred to the Plan Administrator and shall be deemed an asset of the Plan Administrator for purposes of the Plan; *provided, further, however*, the Creditors Committee shall continue to exist after such date solely with respect to (a) all applications filed pursuant to sections 330 and 331 of the Bankruptcy Code seeking payment of fees and expenses incurred by any professional retained by the Creditors Committee, and (b) for purposes of appointing a replacement Plan Administrator in accordance with Section 6.7.

Dated: New York, New York
May 21, 2008

CERES CAPITAL PARTNERS, LLC

By: /s/ David Carroll

Name: David Carroll

Title: Partner

SCHEDULE 9.1

Amended and Restated Investment Management Agreement, dated as of December 24, 2007, between Farmington Finance Ltd. and the Debtor, as amended, supplemented or otherwise modified prior to the Commencement Date

Equipment Lease Agreement, dated on or about June 26, 2007, between Mart Financial Group, Inc. and the Debtor, together with all schedules, attachments and addenda thereto or in connection therewith, as amended, supplemented or otherwise modified prior to the Commencement Date

Lease Agreement, dated as of April 20, 2007, between CIT Technology Financing Services, Inc. and the Debtor, together with all schedules, attachments and addenda thereto or in connection therewith, as amended, supplemented or otherwise modified prior to the Commencement Date

Lease Agreement, dated as of January 24, 2008, between University of Virginia Foundation and the Debtor

SCHEDULE 9.2

Amended and Restated Investment Advisory Agreement, dated as of March 15, 2006, between Berkeley Square Finance Ltd. and the Debtor (formerly known as Stanfield Global Strategies LLC), as amended, supplemented or otherwise modified prior to the Commencement Date

Amended and Restated Investment Advisory Agreement, dated as of June 1, 2004, between Mica Funding, LLC and the Debtor (formerly known as Stanfield Global Strategies LLC), as amended, supplemented or otherwise modified prior to the Commencement Date

Investment Advisory Agreement, dated as of December 15, 2006, between Mica Funding Ltd. and the Debtor (formerly known as Stanfield Global Strategies LLC), as amended, supplemented or otherwise modified prior to the Commencement Date

Amended and Restated Investment Advisory Agreement, dated as of November 14, 2003, between Stanfield Victoria Finance Ltd. and the Debtor (formerly known as Stanfield Global Strategies LLC), as amended, supplemented or otherwise modified prior to the Commencement Date

Master Lease Agreement, dated as of March 5, 2007, between Cisco Systems Capital Corporation and the Debtor, together with all schedules, attachments and addenda thereto or in connection therewith, as amended, supplemented or otherwise modified prior to the Commencement Date

Office Lease Agreement, dated as of February 1, 2007, between 527 Madison Owner LLC (successor-in-interest to NY-527 Madison, L.L.C.) and the Debtor

Exhibit A

Budget*

	<u>Budget</u>
Beginning Cash Position	121,524.96
Cash Inflow May 5, 2008	<u>500,000.00</u>
	<u>621,524.96</u>
Total Administrative Expense Claims	
Employee Payroll	213,750.00
Payroll benefits and related costs	20,638.50
Office and temporary help	1,000.00
Information services and Computer expense	750.00
Messenger & delivery	250.00
Professional Fees (Legal/Accounting etc)	110,000.00
Consulting	2,000.00
Telephone	1,000.00
Travel, lodging and related	10,000.00
Insurance	15,000.00
Dues and subscriptions	500.00
Miscellaneous	1,000.00
Repairs & Equipment Rental	<u>723.65</u>
Total	<u>376,612.15</u>
Priority Tax Claims	
Estimated 2008 NYC UBT	<u>60,000.00</u>
Total Tax Claims	<u>60,000.00</u>
Priority Non-Tax Claims	<u>-</u>
Other Secured Claims	
Cisco Equipment Lease	<u>-</u>
Total Other Secured Claims	<u>-</u>
Carve-Out Fund	<u>50,000.00</u>
Plan Operations Fund	<u>75,000.00</u>
Ending Cash Balance	<u>59,912.81</u>

* To be modified in accordance with Plan prior to Effective Date.

Exhibit B

BuyerCo Asset Purchase Agreement

ASSET PURCHASE AGREEMENT

THIS ASSET PURCHASE AGREEMENT (this "Agreement") is made as of _____, 2008, by and among Ceres Capital Partners LLC, a Delaware limited liability company and debtor and debtor in possession under the Bankruptcy Code ("Seller"), [BuyerCo], a _____ corporation ("Buyer") and Kevin P. Murphy ("Murphy").

WITNESSETH:

WHEREAS, the Seller manages an investment fund vehicle pursuant to that certain Amended and Restated Investment Management Agreement, dated as of December 24, 2007, between Farmington Finance Ltd. and the Debtor, as amended, supplemented or otherwise modified from time to time (the "Business");

WHEREAS, on April __, 2008, the Seller commenced a chapter 11 case by filing a voluntary petition for relief under chapter 11 of the Bankruptcy Code¹ and filed the Plan and Disclosure Statement with the Bankruptcy Court;

WHEREAS, on May __, 2008 the Bankruptcy Court entered an order approving the Disclosure Statement and confirming the Plan;

WHEREAS, on May __, 2008 the Effective Date occurred; and

WHEREAS, subject to the terms, limitations and conditions set forth herein, Seller wishes to sell, transfer, convey and deliver to Buyer, and Buyer wishes to purchase from Seller the "Residual Assets," which for purposes hereof and the Plan are defined as all of the tangible and intangible assets and rights of the Seller (including, without limitation, the Farmington Payment), *less* (i) the tangible assets necessary to pay the Farmington Reimbursement Payment and reserved to fund the Plan Operation Fund and the Carve-Out Fund, and (ii) those tangible assets which are required to be distributed on account of the Allowed Senior Lender Secured Claim (and also intangible assets consisting of the Causes of Action), the Allowed Administrative Expense Claims, the Allowed Priority Claims and the Allowed Other Secured Claims pursuant to the terms of this Plan and in compliance with the Budget.

NOW, THEREFORE, in order to consummate said purchase and sale, and in consideration of the premises and the mutual covenants and agreements stated herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

¹ Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Prepackaged Chapter 11 Plan of Ceres Capital Partners LLC, as filed with the United States Bankruptcy Court for the Southern District of New York (Case No. 08- __ (____)) [Docket No. __] (the "Plan").

ARTICLE I

PURCHASE, SALE AND DELIVERY

Section 1.1 *Residual Assets*. Subject to the terms and conditions of this Agreement, including Section 1.2 hereof, Seller agrees to sell, transfer, convey, assign and deliver to Buyer, and Buyer agrees to acquire, assume and purchase from Seller, the Residual Assets, which shall include, without limitation, the following:

(a) The contracts (the “Client Contracts”) listed on Schedule 1.1(a) attached hereto;

(b) All equipment and inventory owned by Seller and used in the Business and identified on Schedule 1.1(b) attached hereto;

(c) All accounts, notes and other receivables of Seller as of the Closing Date and relating to the Business, less certain Cash constituting a portion of the Retained Assets;

(d) All transferable rights of Seller under express or implied warranties, if any, from the suppliers of Seller, manufacturers or others with respect to the Residual Assets;

(e) All of Seller’s books, operating and financial records, correspondence, files, vendor lists, customer lists, customer account information and other data used in or relating to the Business, which shall be stored and preserved by Buyer and not deleted or destroyed without the consent of the Senior Lender Agent; provided, however, that the Plan Administrator, the Senior Lender, Senior Lender Agent, and XL Investor (or a designated representative of the foregoing) shall be given reasonable access to such books and records in accordance with the terms of and subject to the conditions set forth in Section 7.2(a) of the Plan;

(f) All trade names, trademarks, copyrights and service marks owned or licensed by Seller; and

(g) All other tangible and intangible assets and properties owned by Seller and used in or useful for the Business (other than the Retained Assets), as well as all of the goodwill and any other intangible assets of the Seller (whether or not used in or connected to the Business).

Section 1.2 *Retained Assets*. Buyer is not purchasing, or assuming any obligations in respect of, the Retained Assets. “Retained Assets” means any asset which is not a Residual Asset, including, without limitation, (i) the tangible assets necessary to pay the Farmington Reimbursement Payment and reserved to fund the Plan Operation Fund and the Carve-Out Fund and (ii) those tangible and intangible assets, including, without limitation, Cash and Causes of Action (and any proceeds thereof), which are required to be distributed on account of the Allowed Senior Lender Secured Claim, the Allowed Senior Lender Unsecured Deficiency

Claim, the Allowed Administrative Expense Claims, the Allowed Priority Claims and the Allowed Other Secured Claims as provided under Section 4.2(b) of the Plan.

Section 1.3 *Purchase Price*. The purchase price to be paid for the Residual Assets (the “Purchase Price”) is \$50,000 in Cash, their fair market value, which is to be paid at Closing (as hereinafter defined) by wire transfer to the account or accounts designated in writing by Seller.

Section 1.4 *Transfer of Assets*. At Closing, pursuant to the Confirmation Order, Seller will transfer, assign and deliver to Buyer all right, title and interest in the Residual Assets.

Section 1.5 *Liabilities Assumed*. Buyer shall assume and shall be, or otherwise remain, liable for any of Seller’s obligations, liabilities or commitments that arise or accrue on and after the Effective Date with respect to the Residual Assets and under all Client Contracts and any other contracts, leases and agreements related to the Business. Other than as set forth in the immediately preceding sentence, it is understood and agreed that Buyer has not assumed, and expressly denies assumption hereby of, any liability, obligation or commitment of Seller or in connection with Seller’s assets or business operations.

Section 1.6 *Cessation of Seller’s Business Operations*. Following the Closing and pursuant to the Plan, Seller will cease its business operations and liquidate in accordance with the terms of the Plan. Seller hereby abandons any rights or interest in its name and any other intangible asset it is deemed to own or possess (whether or not connected to the Business) in accordance with Section 7.1(a) of the Plan.

Section 1.7 *Purchase Price Allocation*. The parties agree to allocate the Purchase Price (and all other capitalizable costs) among the Residual Assets for all tax purposes in accordance with the allocation schedule attached hereto as Exhibit A. The parties agree not to take a tax position that is inconsistent with such allocation schedule unless required to do so by applicable law.

ARTICLE II

BANKRUPTCY COURT ORDER; REPRESENTATIONS AND WARRANTIES

Section 2.1 *Bankruptcy Court Order and Findings*. The Seller shall obtain Bankruptcy Court approval of this sale pursuant to the Plan, and the Confirmation Order shall contain the following findings of fact that will inure to the benefit of Buyer and its successors and assigns as follows:

(a) Organization, Standing and Authority. Seller is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Delaware, and has full power and authority to own, operate and lease its assets in the manner currently owned, operated and leased by it and to carry on its business as now conducted. Seller has full power and authority and all necessary action has been taken, to authorize, execute and deliver this Agreement and the Schedules hereto, to consummate the transactions contemplated herein and to take all actions required to be taken by it

pursuant to the provisions hereof, and this Agreement constitutes a valid and binding obligation of Seller enforceable against Seller in accordance with its terms, except as such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights or to general principles of equity.

(b) Non-Contravention. Neither the execution and delivery of this Agreement or any documents executed in connection herewith, nor the consummation of the transactions contemplated herein or therein, does or will violate, conflict with or result in the breach of or require notice or consent under any applicable law, partnership agreement or related documents or any provision of any agreement or instrument to which Seller is a party or result in the creation of any lien upon the property or assets of Seller. No consent, approval, exemption, authorization or other action of, or notice to or filing with, any third party, court or administrative or other governmental or regulatory body (other than consent required for the assignment of the Lease (as defined herein)) is required by Seller to execute, deliver or perform this Agreement and to consummate the transactions contemplated herein and to take all actions required to be taken by it pursuant to the provisions hereof.

(c) Title. Seller owns the Residual Assets and, pursuant to the Plan and Confirmation Order and applicable sections of the Bankruptcy Code, at Closing will convey the same to Buyer free and clear of any liens, leases, security interests or other liens or encumbrances.

(d) Client Contracts. To Seller's knowledge, all of the written Client Contracts are in full force and effect, and except as previously disclosed there has been no material breach, violation or default or notice or claim of material breach, violation or default by any party thereto, and Seller has no knowledge of any event which has occurred that with notice or lapse of time or both would constitute a material breach, violation or default by any party thereto. Complete and correct copies of the Client Contracts listed in Schedule 1.1(a) have been made available to Buyer.

(e) Taxes. The Seller has timely paid all of its taxes as of the date of this Agreement.

(f) "AS-IS, WHERE-IS; Waiver of all Other Representations and Warranties. The Residual Assets are being conveyed "AS-IS, WHERE-IS" on the date hereof, with all faults and without any representation or warranty or guarantee of by kind being made or given by the Seller or its servants or agents, express or implied, arising by law or otherwise.

Section 2.2 *Representations and Warranties of Buyer.* Buyer represents, warrants and agrees to and with Seller as follows:

(a) Organization, Standing and Authority. Buyer is a **[corporation]** duly organized, validly existing and in good standing under the laws of the State of _____, and has full power and authority to own, operate and lease its assets in the

manner currently owned, operated and leased by it and to carry on its business as now conducted. Buyer has full power and authority and all necessary action has been taken, to authorize, execute and deliver this Agreement and the Schedules hereto, to consummate the transactions contemplated herein and to take all actions required to be taken by it pursuant to the provisions hereof, and this Agreement constitutes a valid and binding obligation of Buyer enforceable against Buyer in accordance with its terms, except as such enforcement may be subject to bankruptcy, insolvency, reorganization, moratorium or other similar laws now or hereafter in effect relating to creditors' rights or to general principles of equity.

(b) Non-Contravention. Neither the execution and delivery of this Agreement or any documents executed in connection herewith, nor the consummation of the transactions contemplated herein or therein, does or will violate, conflict with or result in the breach of or require notice or consent under any applicable law, the Buyer's articles of incorporation, bylaws or related documents or any provision of any agreement or instrument to which Buyer is a party or result in the creation of any lien upon the property or assets of Buyer. To the knowledge of Buyer, no consent, approval, exemption, authorization or other action of, or notice to or filing with, any third party, court or administrative or other governmental or regulatory body is required by Buyer to execute, deliver or perform this Agreement and to consummate the transactions contemplated herein and to take all actions required to be taken by it pursuant to the provisions hereof.

(c) Litigation. There is no action, suit, proceeding or investigation which is pending or, to the knowledge of Buyer, threatened, which questions the validity or propriety of this Agreement or any action taken or to be taken by Buyer in connection herewith or which seeks to alter or rescind this Agreement.

(d) Brokers and Finders. Neither Buyer, nor any of its agents, has employed any broker, finder or financial advisor or incurred any liability for any fees or commissions in connection with the transactions contemplated hereby.

(e) Ownership. Murphy holds 100% of the stock of Buyer.

(f) No Related Parties.

(i) Buyer, Murphy and Murphy's Family Members, in the aggregate, do not currently own and have not owned stock, or options or warrants to acquire stock, of XL SGS Holdings, Inc. ("XL") that represents one (1) percent or more of the stock of XL, either directly or indirectly through another entity (including, but not limited to, a partnership, corporation, trust or mutual fund). For the purposes of this Agreement, "Family Members" shall mean a person's spouse, siblings, parents, grandparents, children and grandchildren.

(ii) Neither Murphy nor any of Murphy's Family Members is currently a partner in, or holds any interest in, a partnership or other entity treated as a partnership for U.S. federal income tax purposes in which David Carroll ("Carroll"), Darren Comisso

(“Comisso”), any of Carroll’s or Comisso’s Family Members or XL is a partner or otherwise holds an interest.

(iii) Murphy is not a Family Member of (a) Carroll, (b) Comisso, or (c) any of Carroll’s or Comisso’s Family Members.

Section 2.3 *Investigation by Buyer.* Buyer acknowledges that it has conducted a full investigation and has been provided extensive access to review and examine the Residual Assets and has relied solely upon such review and the Bankruptcy Court findings contained in Section 2.1 of this Agreement. Subject to the obligations of Seller in Article III, Buyer is acquiring the Residual Assets “AS-IS, WHERE-IS” WITH ALL FAULTS, IN THEIR CONDITION AND STATE OF REPAIR AS OF THE DATE AND TIME OF CLOSING.

Section 2.4 *Survival of Representations and Warranties.* The representations and warranties of the Buyer contained in Section 2.2 of this Agreement shall survive the Closing.

ARTICLE III

COVENANTS

Section 3.1 *Operation of Business.* During the period from the date of this Agreement until the earlier of Closing or the termination of this Agreement, Seller shall operate the Business in a manner pursuant to the Plan and Budget attached thereto, including, without limitation, making payments when due, maintaining insurance covering loss or damage to the Residual Assets, and performing in all material respects its obligations under the Client Contracts to the extent set forth in the Budget.

Section 3.2 *Access.* During the period from the date of this Agreement until the earlier of Closing or the termination of this Agreement, Buyer shall have the right, after at least twenty-four hours’ written notice to Seller, to contact, communicate with, and attend meetings with the client under any Client Contract. Seller shall have the right to be present at any such meetings or during any such contact or communications. If the transactions contemplated herein do not close, Buyer agrees that for a period commencing on the date this Agreement terminates until the date which is one (1) year after such termination date, Buyer shall not in any way interfere with the relationship between Seller and any client or induce or attempt to induce any client to cease doing business with Seller. If Seller believes that Buyer has violated the provisions of the immediately preceding sentence, Seller shall have the right to seek relief from any court of competent jurisdiction against Buyer. Buyer acknowledges that money damages alone shall not adequately compensate Seller in the event of a breach of such covenants; therefore, Buyer agrees that in addition to all remedies available at law, in equity or under this Agreement, Seller shall be entitled to injunctive relief for the enforcement of this covenant.

Section 3.3 *Transfers.* Neither Buyer nor Murphy shall (i) sell, issue, convey, assign or otherwise transfer any stock of, or direct or indirect interest in, Buyer to a person that is related to Seller or anyone who held any stock of, or interest in, Seller prior to the Closing, or to a person that would cause Buyer to be related to Seller or anyone that held Equity Interests in Seller immediately prior to the Effective Date, or (ii) enter into a transaction or make any

investment or sell or purchase any asset that would cause Buyer to be related to the Seller or anyone that held Equity Interests in Seller immediately prior to the Effective Date under the Internal Revenue Code of 1986, as amended, or the Treasury Regulations promulgated thereunder, or that might otherwise result in any adverse tax consequences to Seller or anyone that held an interest in Seller immediately prior to the Closing. The above transfer restriction shall, as a condition of any transfer, be binding upon any transferee, assignee or successor of Murphy, Buyer and its shareholders and other equity holders.

ARTICLE IV

CONDITIONS TO CLOSING

Section 4.1 *Representations and Warranties*. It shall be a condition precedent to the Closing for Seller that each of the representations and warranties of Buyer which is contained in Section 2.2 is true and correct in all respects as of the date hereof and as of the Closing Date. It shall be a condition precedent to the Closing for Buyer that the Confirmation Order contains each of the findings contained in Section 2.1 as of the date hereof and as of the Closing Date.

Section 4.2 *The Effective Date of the Plan*. It shall be a condition precedent for the Closing that (a) the Bankruptcy Court shall have entered the Confirmation Order, (b) that such order shall have become a Final Order, and (c) the Effective Date shall have occurred.

ARTICLE V

CLOSING

Section 5.1 *Closing*. The Buyer and Seller shall take all reasonable efforts to make the execution and delivery of the documents referred to in this Article V, the payment of the Purchase Price and the delivery of the Residual Assets (the "Closing") take place on the Effective Date of the Plan, at the offices of Goodwin Procter LLP, 599 Lexington Avenue, New York, New York, or, if not on the Effective Date of the Plan, as soon as possible thereafter. The date of the Closing is referred to as the "Closing Date" and the Closing shall be effective as of the close of business on the Closing Date.

Section 5.2 *Actions and Deliveries by Seller at Closing*. At or prior to the Closing, Seller will deliver, or cause to be delivered, to Buyer the following:

- (a) bill of sale, executed by Seller, conveying the Residual Assets to Buyer (the "Bill of Sale") in the form of Exhibit B;
- (b) possession of the Residual Assets;
- (c) written wiring instructions regarding payment for the Residual Assets signed by Seller;

(d) an officer's certificate certifying that the representations and warranties contained in Section 2.1 are true and correct in all material respects as of the Closing Date; and

(e) the Confirmation Order and Plan.

Section 5.3 *Actions and Deliveries by Buyer at Closing.* At Closing, Buyer will deliver, or cause to be delivered to Seller the following:

(a) payment of the Purchase Price in the manner specified in Section 1.3; and

(b) an officer's certificate certifying that the representations and warranties contained in Section 2.2 are true and correct in all material respects as of the Closing Date.

Section 5.4 If the conditions set forth in Article V are not satisfied by May 1, 2008, Buyer may elect to either: (a) proceed with the transactions contemplated herein; or (b) postpone the Closing until such time as the requirements specified in Article VII are satisfied, provided, however, if such conditions are not satisfied by June 1, 2008, either Buyer or Seller may terminate this Agreement. In the event of such a termination, neither party shall have any further obligations or liabilities hereunder.

ARTICLE VI

PRORATIONS

Section 6.1 *Prorations of Expenses.* Expenses relating to the Residual Assets (with the exception of legal fees relating to the purchase of the Business, for which Buyer and Seller shall each bear their own costs), shall be prorated on a daily basis as of the Closing Date subject to the Budget, such that Seller will be charged and credited for the amounts of all of the expenses relating to the period up to the Closing Date only to the extent provided for in the Budget, and Buyer will be charged and credited for all of the expenses relating to the period from and after the Closing Date. The expenses shall be paid at Closing by Buyer to Seller (if the expenses result in a net credit to Seller) or by Seller to Buyer (if the expenses result in a net credit to Buyer) by increasing or reducing the Purchase Price due by Buyer at the Closing.

ARTICLE VII

GENERAL PROVISIONS

Section 7.1 *Confidentiality.* Except as may be required by law, neither Seller nor Buyer shall, directly or indirectly, disclose or provide to any other person any nonpublic information of a confidential nature concerning the business or operations of the other party.

Section 7.2 *Additional Assurances.* The provisions of this Agreement shall be self-operative and shall not require further agreement by the parties except as may be herein

specifically provided to the contrary; provided, however, at the request of a party, the other party shall execute such additional instruments and take such additional acts as the requesting party may deem necessary to effectuate this Agreement. In addition and from time to time after the Closing, Seller shall execute and deliver such other instruments of conveyance and transfer, and take such other actions as Buyer reasonably may request, to more effectively convey and transfer full right, title and interest to, vest in, and place Buyer in legal and actual possession of, any and all of the Residual Assets.

Section 7.3 Legal Fees and Costs. After the occurrence of the Closing Date, in the event either party elects to incur legal expenses to enforce or interpret any provision of this Agreement, the prevailing party will be entitled to recover such legal expenses, including, without limitation, attorney's fees, costs, and necessary disbursements, in addition to any other relief to which such party shall be entitled.

Section 7.4 Expenses. Buyer and Seller will pay their own respective expenses, including the fees and disbursements of their respective counsel in connection with the negotiation, preparation and execution of this Agreement and the consummation of the transactions contemplated herein.

Section 7.5 Entire Agreement. This Agreement, including all schedules hereto, and all documents delivered pursuant to the terms hereof, constitutes the entire agreement of the parties with respect to the subject matter hereof, and may not be modified, amended or terminated except by a written instrument specifically referring to this Agreement signed by all the parties hereto.

Section 7.6 Waivers and Consents. All waivers and consents given hereunder will be in writing. No waiver by any party hereto of any breach or anticipated breach of any provision hereof by any other party will be deemed a waiver of any other contemporaneous, preceding or succeeding breach or anticipated breach, whether or not similar.

Section 7.7 Notices. All notices and other communications hereunder will be in writing and will be deemed to have been received only if and when (1) personally delivered (including delivery by federal express, courier or other overnight service) or (2) on the third business day after mailing, by United States mail, first class, postage prepaid, by certified mail, return receipt requested, addressed in each case as follows (or to such other address as may be specified by like notice):

(a) If to Seller, to:

Ceres Capital Partners, LLC
590 Madison Avenue, 21st Floor
New York, New York 10022
Attn: David Carroll

With a copy to:

Goodwin Procter LLP
599 Lexington Avenue
New York, NY 10022
Attn: Emanuel C. Grillo
Facsimile: (212) 355-3333

(b) If to Buyer, to:

BuyerCo

Attention: _____

Facsimile: _____

Section 7.8 *Successors and Assigns; No Assignment by Buyer.* This Agreement will be binding upon and will inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns. No third party will have any rights hereunder. No assignment will release the assigning party. Notwithstanding the foregoing, neither party will assign any of its rights or delegate any of its duties under this Agreement without the express written consent of the other party.

Section 7.9 *Choice of Law; Section Headings.* This Agreement will be governed by the internal laws of the State of New York (without regard to the choice of law provisions thereof). The section headings contained in this Agreement are for reference purposes only and will not affect the meaning or interpretation of this Agreement.

Section 7.10 *Severability.* In the event any provision of this Agreement is held to be invalid, illegal, or unenforceable for any reason and in any respect, such invalidity, illegality, or unenforceability shall in no event affect, prejudice, or disturb the validity of the remainder of this Agreement, which shall be and remain in full force and effect, enforceable in accordance with its terms.

Section 7.11 *Counterparts.* This Agreement may be executed in separate counterparts, each of which will be deemed to be an original and all of which together will be deemed to be one and the same instrument.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first above written.

BUYER:

[BUYERCO]

By: _____
Name: _____
Title: _____

SELLER:

CERES CAPITAL PARTNERS, LLC

By: _____,
its _____

By: _____
Name: _____
Title: _____

Exhibit A

ALLOCATION OF SALE PROCEEDS

Exhibit B

BILL OF SALE

FOR GOOD AND VALUABLE CONSIDERATION, the receipt and sufficiency of which are hereby acknowledged, pursuant to the Asset Purchase Agreement, dated [_____, 2008] (the “Asset Purchase Agreement”), by and between Ceres Capital Partners, LLC, a Delaware limited liability company (“Assignor”), [BuyerCo], a [_____] **corporation** (“Assignee”) and Kevin Murphy (“Murphy”), Assignor does hereby grant, bargain, convey, transfer, assign and deliver to Assignee all of the Residual Assets². Such assets, properties and rights shall include, without limitation, the following:

- (a) All of Assignor’s Client Contracts listed on Schedule 1.1(a) of the Asset Purchase Agreement;
- (b) All equipment and inventory owned by Assignor and used in the Business and identified on Schedule 1.1(b) of the Asset Purchase Agreement;
- (c) All accounts, notes and other receivables of Assignor as of the Closing Date and relating to the Business, less certain Cash constituting a portion of the Retained Assets;
- (d) All transferable rights of Assignor under express or implied warranties, if any, from the suppliers of Assignor, manufacturers or others with respect to the Residual Assets;
- (e) All of Assignor’s books, operating and financial records, correspondence, files, vendor lists, customer lists, customer account information and other data used in or relating to the Business, which shall be stored and preserved by Assignee and not deleted or destroyed without the consent of the Senior Lender Agent; provided, however, that the Senior Lender, Senior Lender Agent, and XL Investor (or a designated representative of the foregoing) shall be given reasonable access to such books and records in accordance with the terms of and subject to the conditions set forth in Section 7.2(a) of the Plan;
- (f) All trade names, trademarks, copyrights and service marks owned or licensed by Assignor; and
- (g) All other tangible and intangible assets and properties owned by Assignor and used in or useful for the Business (other than the Retained Assets), as well as all of the goodwill and any other intangible assets of the Assignor (whether or not used in or connected to the Business).

² Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Asset Purchase Agreement.

TO HAVE AND TO HOLD the Assets unto Assignee and its successors and assigns forever and Assignor hereby covenants to Assignee and its successors and assigns that Assignor is the lawful owner of the Assets and has hereby transferred to Assignee good and indefeasible title to the Assets, free and clear of all liens, mortgages, pledges, security interests, restrictions, prior assignments, encumbrances and other similar claims and that Assignor will warrant and defend the title to the Assets unto Assignee and its successors and assigns against any person whomsoever lawfully claiming or to claim the same, or any part thereof.

The Assets are being conveyed "AS-IS, WHERE-IS" on the date hereof, with all faults and without any representation or warranty or guarantee of by kind being made or given by the Assignor or its servants or agents, express or implied, arising by law or otherwise.

IN WITNESS WHEREOF, Assignor has duly executed this Bill of Sale as of the ____ day of _____, 2008.

ASSIGNOR:

CERES CAPITAL PARTNERS, LLC

By: _____,
its Managing Member

By: _____
Name: _____
Title: _____

Schedule 1.1(a)

CLIENT CONTRACTS

[To come]

Schedule 1.1(b)

EQUIPMENT

[To come]