

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

In re: ) Chapter 11  
)  
LEE STEEL CORPORATION. *et al.*<sup>1</sup> ) Case No. 15-45784-mbm  
)  
Debtors. )  
) Judge Marci B. McIvor  
)  
\_\_\_\_\_ )

COMBINED JOINT PLAN OF LIQUIDATION  
AND DISCLOSURE STATEMENT  
September 30, 2015

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<sup>1</sup> The Debtors include Lee Steel Corporation, Case No. 15-45784-mbm; Taylor Industrial Properties, L.L.C., Case No. 15-45785-mbm, and 4L Ventures, LLC, Case No. 15-45788-mbm.

**I. COMBINED JOINT PLAN OF LIQUIDATION OF LEE STEEL CORPORATION, TAYLOR INDUSTRIAL PROPERTIES, L.L.C., AND 4L VENTURES, LLC UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

**ARTICLE 1**

**DEFINITIONS**

Unless the context otherwise requires, the following terms, when used in the Plan of Liquidation, shall have the meanings set forth below:

**1.0 Definitions**

**1.01 “Administrative Expense Claim” or “Administrative Claim”** means any right to payment constituting a cost or expense of administration of the Chapter 11 Cases under Sections 503(b) and 507(a)(2) of the Bankruptcy Code, including without limitation: (a) any actual and necessary costs and expenses incurred after the Petition Date of preserving the Estate and operating the Debtors’ businesses; (b) Claims that have been determined by a Final Order to constitute an administrative expense of the Estate; (c) compensation Claims by Professionals; (d) any fees or charges assessed against and payable by the Debtors under Section 1930 of title 28 of the United States Code and (e) any taxes due to governmental entities that the Debtors incurred after the Petition Date.

**1.02 “Allowed”** means with reference to any Claim: any Claim (a) proof of which was filed within the applicable period of limitation fixed by the Court in accordance with Bankruptcy Rule 3003(c)(3) and as to which the Debtors or the Liquidating Trustee have not filed an objection on or before the expiration of the time period set forth for the objection to such Claim in the Plan, the Bankruptcy Code, the Bankruptcy Rules, or an order of the Bankruptcy Court fixing an objection date, or as to which, and to the extent, any objection has been determined by a Final Order in favor of the relevant Claim holder and is not subject to disallowance pursuant to Section 502(d) of the Bankruptcy Code on account of the holder of such Claim not having paid or turned over property for which such party is potentially liable under the Bankruptcy Code; (b) listed on the Schedules, as amended, as other than disputed, contingent, or unliquidated; (c) that has been allowed by a Final Order of the Court (*provided, however*, that Claims allowed solely for the purpose of voting to accept or reject the Plan shall not be considered Allowed Claims hereunder); (d) the Huntington Secured Claim; (e) expressly allowed under or pursuant to the terms of the Plan; or (f) on behalf of such Claim no consideration has or will be received, in whole or in part, by the Claim holder from any other source on account of such Claim.

**1.03 “APAs”** means, collectively, the Union Partners APA and the Hilco APA.

**1.04 “Assets”** means all assets and property of the Debtors’ Estate, regardless of whether reflected in the financial records of the Debtors, including but not limited to: equipment, cash, deposits, refunds, rebates, abatements, fixtures, real property interests, contractual interests, intangibles, claims, Causes of Action, Estate Litigation, suits, setoffs, recoupments, equitable or legal rights, interests, and remedies.

**1.05 “Bankruptcy Code”** means title 11 of the United States Code, as amended and in effect on the Petition Date.

**1.06 “Bankruptcy Rules”** means (a) the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under Section 2075 of title 28 of the United States Code and (b) the local rules of the Court, in each case, as in effect on the Petition Date.

**1.07 “Bar Date”** means August 19, 2015, the date set forth in the Scheduling Order as the deadline by which all creditors shall file a proof of Claim in these Chapter 11 Cases; *provided, however*, the Bar Date for governmental units means October 12, 2015.

**1.08 “Beneficiaries”** means holders of Allowed Claims in Class 3 that are entitled to receive Distributions under the Plan and/or the Liquidating Trust Agreement.

**1.09 “Bid Procedures Order”** means the Order (A) Establishing Bidding Procedures for the Auction Sale of Substantially All of Debtors’ Assets Free and Clear of Liens, Claims and Encumbrances and Transferring Liens to Proceeds; (B) Scheduling an Auction and a Sale Hearing to Consider Approval of Sale; (C) Establishing Procedures for the Assumption and Assignment of Executory Contracts; (D) Approving the Form of Asset Purchase Agreement, Form and Manner of the Auction Notice, the Form of the Notice to Non-Debtor Co-Parties to Executory Contracts, and the Notice of the Sale Hearing entered June 9, 2015 [Docket No. 175], as amended, extended, or supplemented during the Chapter 11 Cases.

**1.10 “Business Day”** means any day other than: (a) a Saturday; (b) a Sunday and (c) a “legal holiday” as defined in Bankruptcy Rule 9006(a).

**1.11 “Cash”** means legal tender of the United States of America.

**1.12 “Causes of Action”** means any and all actions, causes of action, rights, suits, debts, sums of money, damages, judgments, claims, and demands whatsoever, whether known or unknown, existing or hereafter arising, in law, equity, or otherwise, including but not limited to, all rights and causes of action permitted under chapter 5 of the Bankruptcy Code, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date, that belong to the Debtors.

**1.13 “Chapter 11 Cases”** means the bankruptcy cases of the Debtors (Bankruptcy Case Nos. 15-45784, 15-45785, and 15-45788, jointly administered in the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division - Detroit).

**1.14 “Claim”** means any claim against the Debtors, regardless of whether asserted and regardless of whether known, as the term “claim” is defined in Section 101(5) of the Bankruptcy Code, and shall include, but is not limited to: Administrative Expense Claims; Disputed Claims; any claims arising from or related to any Equity Interests and Equity Claims; General Unsecured Claims; Priority Claims; and Secured Claims.

**1.15 “Class”** means each of the groups of holders of Claims or Equity Interests described in Article 5 of the Plan.

**1.16 “Closing Date”** means September 18, 2015 the date on which the last of the Sales closed.

**1.17 “Collateral”** means any property or interest in property of the Estate subject to a Lien to secure the payment or performance of a Claim up to the Allowed amount of such Claim,

which Lien is not subject to avoidance or otherwise invalid under the Bankruptcy Code or other applicable law, and excluding the Causes of Action.

**1.18 “Committee”** means the Official Committee of Unsecured Creditors in these Chapter 11 Cases, appointed by the United States Trustee on April 23, 2015 [Docket No. 69].

**1.19 “Confirmation Hearing”** means the hearing held by the Court to consider the confirmation of the Plan, as it may be adjourned or continued from time to time.

**1.20 “Confirmation Order”** means an order of the Court confirming the Plan under Section 1129 of the Bankruptcy Code that has become a Final Order.

**1.21 “Court”** means the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division - Detroit.

**1.22 “CRO”** means Laura A. Marcero of Huron Consulting Services, LLC.

**1.23 “Debtors”** means Lee Steel Corporation, Taylor Industrial Properties, L.L.C., and 4L Ventures, LLC.

**1.24 “DIP Financing Order”** means the First Amended Final Order (I) Authorizing Debtors to Obtain Post-Petition Financing and Grant Security Interests and Superpriority Administrative Expense Status Pursuant to 11 U.S.C. §§ 105 and 364(c); (B) Modifying the Automatic Stay Pursuant to 11 U.S.C. § 362; and (C) Authorizing Debtors to Enter Into Agreements with the Huntington National Bank [Docket No. 317] entered August 27, 2015, as amended, extended, or supplemented during the Chapter 11 Cases.

**1.25 “Disclosure Statement”** means the Disclosure Statement filed pursuant to Section 1125 of the Bankruptcy Code with respect to the Plan of the Debtors under Chapter 11 of the Bankruptcy Code, including all exhibits, appendices, and schedules thereto, if any, as same may be amended, modified, or supplemented from time to time.

**1.26 “Disputed Claim”** means a Claim or any portion thereof: (a) listed on the Schedules as unliquidated, disputed, or contingent; (b) as to which the Debtors or the Liquidating Trustee has filed a timely objection or a 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; (c) is subject to disallowance under Section 502(d) of the Bankruptcy Code on account of the holder of such Claim not having paid or turned over property for which such party is potentially liable under the Bankruptcy Code; (d) for which the amount or classification of the Claim specified in the relevant proof of claim exceeds the amount or classification of any corresponding Claim listed in the Schedules by the Debtors; (e) for which no corresponding Claim has been listed in the Schedules by the Debtors; (f) on behalf of which Claim the Claim holder has received consideration, in whole or in part, from another source on account of such Claim; (f) that is not an Allowed Claim; or (g) that is otherwise disputed by the Debtors or the Liquidating Trustee in accordance with applicable law, and in regards to which such dispute has not been withdrawn or determined by a Final Order. Under the Plan, the Debtors and/or the Liquidating Trustee shall have the authority to object to any Disputed Claim at any time prior to making a distribution to holders of Allowed Claims in Class 3.

**1.27 “Disputed Reserve”** means the amount of Cash that would have been distributed on the Distribution Date, or in subsequent Distributions, to the holders of Disputed Claims if such

Disputed Claims had in fact been Allowed on such date: (a) for liquidated Claims, in the amount asserted in a filed proof of Claim or Administrative Claim; and (b) for unliquidated Claims, the amount estimated by the Liquidating Trustee as the maximum reasonable amount that could ultimately be allowed by the Court.

**1.28 “Distribution”** means a distribution of Cash or other property of the Estate made in accordance with the Plan or the Liquidating Trust Agreement.

**1.29 “Distribution Date”** means the date on which the Liquidating Trustee shall make the Distribution, which shall be a date selected by the Liquidating Trustee in the Liquidating Trustee’s sole discretion.

**1.30 “Effective Date”** means a day, as determined by the Debtors, the Committee, and the Liquidating Trustee, that is the Business Day as soon as reasonably practicable after all conditions to the Effective Date in section 11.1 of the Plan have been met or waived; *provided, however*, the Debtors and the Committee reserve the right to request that the Bankruptcy Court establish a date certain for the Effective Date in the Confirmation Order.

**1.31 “Entity” or “Entities”** means an entity as defined in Section 101(15) of the Bankruptcy Code.

**1.32 “Equity Interests”** means: (a) any capital stock or other ownership interest in the Debtors; (b) any option, warrant, or right to purchase, sell, or subscribe for an ownership interest in, or other equity security of, the Debtors; (c) any and all redemption, conversion, exchange, voting, participation, or dividend rights or liquidation preferences relating to any of the foregoing; as they exist prior to the Effective Date.

**1.33 “Equity Claims”** means all Claims arising in connection with an Equity Interest, including, without limitation, Claims arising from the rescission of a purchase or sale of an equity security of the Debtors, for damages arising from the purchase or sale of such security, or for reimbursement or contribution under Section 502 of the Bankruptcy Code on account of such Claim and attorneys’ fees associated therewith.

**1.34 “Estate” or “Estates”** means the bankruptcy estates of the Debtors created by Section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

**1.35 “Estate Litigation”** means all rights to and proceedings arising from or relating to: (i) all Claims, (ii) objections to Claims, (iii) Causes of Action, including but not limited to, any litigation or claims that can be instituted or asserted by the Estate, the Liquidating Trust, or by any party on behalf of or for the benefit of the Estate or Liquidating Trust, including, but not limited to, preference claims, fraudulent conveyance or avoidance actions, or any other claim of or cause of action of any kind whatsoever arising under chapter 5 of the Bankruptcy Code.

**1.36 “Final Order”** means an order or judgment of the Court as to which the time to appeal, petition for certiorari, seek mandamus, or move for reargument, reconsideration, or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument, reconsideration, or rehearing is pending; or, if an appeal, writ of certiorari, or petition for mandamus, reargument, reconsideration, or rehearing has been filed or sought with respect to any order or judgments of the Court, that order or judgment has been affirmed by the highest court to which it was appealed, or certiorari has been denied or mandamus, reargument, reconsideration, or rehearing has been denied or resulted in no modification thereof, and the time to take any further

appeal, petition for certiorari, or move for mandamus, reargument, reconsideration, or rehearing shall have expired; *provided, however*, that the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure (or any analogous motion under the Bankruptcy Rules) may be filed with respect to an order or judgment shall not cause such order or judgment not to be a Final Order.

**1.37 “General Unsecured Claim”** means an Allowed unsecured Claim that is not a Priority Claim, including Allowed rejection damage Claims asserted under the provisions of section 8.2 of the Plan.

**1.38 “Hilco”** means, collectively, Hilco Industrial, LLC and Hilco Real Estate, LLC.

**1.39 “Hilco APA”** means the Asset Purchase Agreement executed by Debtors as Sellers and Hilco Industrial, LLC and Hilco Real Estate, LLC as Purchasers dated August 12, 2015, as amended.

**1.40 “Hilco Sale Order”** means the Order (I) Authorizing Debtors to Enter into Agreement for Sale of All of Debtors’ Fixed Assets Located at Debtor’s Romulus Facility to Hilco Industrial, LLC and Hilco Real Estate, LLC, the Successful Bidder at Auction (II) Authorizing the Sale of Substantially All of Debtors’ Romulus Assets in Connection Therewith Free and Clear of All Liens, Claims, Encumbrances and Interests and Transferring Liens to Proceeds; and (III) Granting Related Relief [Docket No. 292] entered August 12, 2015.

**1.41 “Huntington”** means The Huntington National Bank.

**1.42 “Huntington Secured Claim”** means all Claims for professional fees, costs, and default interest held by Huntington as provided in the DIP Financing Order, which are estimated at \$750,000.

**1.43 “Impaired”** shall have the meaning ascribed to it in Section 1124 of the Bankruptcy Code.

**1.44 “Liabilities”** means the all the liabilities of the Debtors’ Estate, whether or not reflected in the financial records of the Debtors.

**1.45 “Lien”** has the meaning ascribed to that term in Section 101(37) of the Bankruptcy Code, except that a lien that has been or may be avoided shall not constitute a Lien for the purposes of the Plan.

**1.46 “Liquidating Trust”** means that Liquidating Trust established pursuant to the Plan in which the Liquidating Trust Assets shall vest as set forth in the Plan on the Effective Date.

**1.47 “Liquidating Trust Agreement”** means that agreement that governs the operation and management of the Liquidating Trust, in a form substantially similar to Appendix A to the Plan.

**1.48 “Liquidating Trust Assets”** means all of the assets transferred or granted to the Liquidating Trust, consisting of: (i) the Causes of Action and Estate Litigation; (ii) the Unsecured Carve-Out; and (iii) all remaining Assets of the Debtors, if any, after the Debtors have paid all Statutory Fees due as of the Effective Date, Allowed Administrative Claims, Allowed Priority Claims, and Allowed Priority Tax Claims.

**1.49 “Liquidating Trustee”** means Gene R. Kohut, the person vested with the authority under the Liquidating Trust to administer the Liquidating Trust.

**1.50 “Liquidating Trust Proceeds”** means the proceeds from the collection, liquidation, sale, or other disposition of the Liquidating Trust Assets, including the proceeds received from any Causes of Action or Estate Litigation.

**1.51 “Loan Documents”** shall have the meaning set forth in the DIP Financing Order.

**1.52 “Mr. Taylor”** means W. Zachary Taylor.

**1.53 “Petition Date”** means April 13, 2015, the date on which each of the respective Debtors filed their respective chapter 11 petitions and commenced the Chapter 11 Cases.

**1.54 “Plan”** means this Combined Joint Plan of Liquidation under chapter 11 of the Bankruptcy Code as the same may be amended, modified, or supplemented from time to time in accordance with its terms.

**1.55 “Pre-Petition Loan Documents”** shall have the meaning set forth in the DIP Financing Order.

**1.56 “Priority Claim”** means any Allowed Claim of a kind specified in Sections 507(a) of the Bankruptcy Code other than Priority Tax Claims.

**1.57 “Priority Tax Claim”** means any Allowed Claim of a kind specified in Section 507(a)(8) of the Bankruptcy Code.

**1.58 “Priority Tax Claim Bar Date”** means October 12, 2015, the date that is 180 days from the Petition Date, as set forth in the Scheduling Order.

**1.59 “Professional”** means any person or Entity employed by the Debtors or the Committee pursuant to a Final Order in accordance with Sections 327, 328, or 1103 of the Bankruptcy Code, and to be compensated for services rendered prior to and after the Effective Date pursuant to Sections 327, 328, 329, 330, or 331 of the Bankruptcy Code.

**1.60 “Pro Rata Proportion”** means, with reference to any Distribution on account of any Allowed Claim in any Class, the ratio (expressed as a percentage) that the amount of the Allowed Claim bears to the aggregate amount of all Allowed Claims in that Class.

**1.61 “Purchasers”** means, collectively, Hilco and Union Partners.

**1.62 “Record Date”** means the record date for determining the entitlement to receive Distributions under the Plan on account of Allowed Claims, which shall be the Effective Date of the Plan.

**1.63 “Released Parties”** or **“Released Party”** has the meaning ascribed thereto in section 9.1 of the Plan.

**1.64 “Released Party Claim”** means any and all actions, causes of action, rights, suits, debts, sums of money, damages, judgments, claims, and demands whatsoever, whether known or unknown, existing or hereafter arising, in law, equity, or otherwise, including but not limited to, all rights and causes of action permitted under chapter 5 of the Bankruptcy Code, based in whole or in

part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

**1.65 “Sales”** means the sale and transfer of substantially all of the Debtors’ real and personal property to Purchasers pursuant to the Sale Orders and APAs and the assignment to the Purchasers of the executory contracts and leases assumed by Debtors pursuant to the Sale Orders and APAs.

**1.66 “Sale Orders”** means, collectively, the Hilco Sale Order and the Union Partners Sale Order.

**1.67 “Schedules”** means the schedules of assets and liabilities and the statements of financial affairs filed by the Debtors in the Chapter 11 Cases pursuant to Section 521 of the Bankruptcy Code, and as such schedules and statements have been or may be supplemented or amended from time to time.

**1.68 “Scheduling Order”** means the Court’s Order Establishing Deadlines and Procedures [Docket No. 123] entered on May 12, 2015.

**1.69 “Secured Claim”** means an Allowed Claim that is secured by a Lien (which is valid, perfected, and enforceable under applicable law or by reason of a Final Order) on the property in which the Estate has an interest or that is subject to a setoff under Section 553 of the Bankruptcy Code, to the extent of the value of the Collateral, as determined in accordance with Section 506(a) of the Bankruptcy Code, or to the extent of the amount subject to the setoff.

**1.70 “Taylor Released Parties”** means Mr. Taylor, his immediate family, Novi Ventures, LLC, his agents, attorneys, consultants, successors and assigns.

**1.71 “Taylor Settlement Agreement”** means the Settlement Agreement and Mutual Release by and between the Debtors and Mr. Taylor dated September 22, 2015, pursuant to which, among other things, Mr. Taylor agreed to (i) make the Taylor Settlement Payment to the Debtors, (ii) waive and release any and all claims held by the Taylor Released Parties against the Debtors and (iii) withdraw all of the Taylor Released Parties’ proofs of Claim filed in the Chapter 11 Cases, in exchange for a release by the Debtors of all Causes of Action and Estate Litigation against the Taylor Released Parties, which was approved pursuant to an Order entered in the Chapter 11 Cases on September 22, 2015 [Docket No. 360].

**1.72 “Taylor Settlement Payment”** means the payment of \$1,500,000 made by Mr. Taylor to the Debtors pursuant to the terms of the Taylor Settlement Agreement.

**1.73 “Unclaimed Property”** means any Distributions that are returned to the Liquidating Trustee or Liquidating Trust as: (i) undeliverable to a Beneficiary, or (ii) unclaimed by a Beneficiary, as further described in section 7.5.1.

**1.74 “Union Partners”** means Union Partners I, LLC.

**1.75 “Union Partners APA”** means the Asset Purchase Agreement executed by Debtors as Sellers and Union Partners I, LLC as Purchaser dated August 11, 2015, as amended.

**1.76 “Union Partners Sale Order”** means the Order (I) Authorizing Debtors to Enter into Agreement for Sale of Substantially All of Debtors’ Working Capital Assets and All Fixed



Assets Located at Debtors' Wyoming, Michigan Facility to Union Partners I, LLC the Successful Bidder at Auction (II) Authorizing the Sale of Substantially All of Debtors' Wyoming, Michigan Fixed Assets and All Working Capital Assets in Connection Therewith Free and Clear of All Liens, Claims, Encumbrances and Interests and Transferring Liens to Proceeds; and (III) Granting Related Relief [Docket No. 291] entered August 12, 2015.

**1.77 “United States Trustee”** means the United States Trustee appointed under Section 591 of title 28 of the United States Code to serve in the Eastern District of Michigan, Southern Division.

**1.78 “Unsecured Carve-Out”** means the sum of \$400,000 from the proceeds of the Sales otherwise payable to Huntington as proceeds of its collateral under the DIP Financing Order but held in trust by Debtors' counsel for the benefit of Class 3 creditors to be paid to the Committee's counsel upon Court approval of the Unsecured/Lender Settlement, which shall be included in the Liquidating Trust Assets as provided in the Unsecured/Lender Settlement.

**1.79 “Unsecured/Lender Settlement”** means the Settlement Agreement dated September 25, 2015 between the Committee, Huntington and Debtors, which is currently subject to approval by the Court pursuant to a pending Motion in the Chapter 11 Cases [Docket No. 366].

## ARTICLE 2

### INTERPRETATION, APPLICATION OF DEFINITIONS, RULES OF CONSTRUCTION, AND COMPUTATION OF TIME

Wherever from the context it appears appropriate, each term stated in either the singular or the plural shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and neuter. For purposes of the Plan: (a) any reference in the Plan to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the document shall be substantially in that form or substantially on those terms and conditions; (b) any reference in the Plan to an existing document or exhibit filed or to be filed means the document or exhibit as it may have been or may be amended, modified, or supplemented; and (c) unless otherwise specified, all references in the Plan to Articles, Schedules, and Exhibits are references to articles, schedules, and exhibits of or to the Plan. Unless otherwise specified, the words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar meaning refer to the Plan as a whole and not to any particular article, section, subsection, or clause contained in the Plan. A capitalized term used but not defined herein shall have the meaning given to that term in the Bankruptcy Code. The rules of construction contained in Section 102 of the Bankruptcy Code shall apply to the construction of the Plan.

The headings in the Plan are for convenience of reference only and shall not expand, limit, or otherwise affect the provisions of the Plan. Unless otherwise indicated herein, all references to dollars are to United States dollars.

Unless otherwise expressly provided herein, in computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply. If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

## ARTICLE 3

### ADMINISTRATIVE EXPENSE CLAIMS AND PRIORITY TAX CLAIMS

#### 3.1 Administrative Expense Claims

All Allowed Administrative Claims, including all tax claims that accrued post-petition, shall be paid by the Debtors in cash, in full, on the later of (i) on or before thirty (30) days after entry of a Final Order of the Bankruptcy Court Allowing such Administrative Claim, or (ii) if the Administrative Claim is not a Disputed Claim and is an Allowed Claim, thirty (30) days after the Effective Date.

#### 3.2 Statutory Fees

All fees payable pursuant to Section 1930 of title 28 of the United States Code shall be paid (i) by the Debtors, if due and owing on or prior to the Effective Date, and (ii) by the Liquidating Trustee from the Liquidating Trust Assets, as and when due if arising after the Effective Date.

#### 3.3 Professional Compensation

In the case of Administrative Claims of all Professionals, Professionals shall file final fee applications for services provided to or for the benefit of the Debtors on or before December 28, 2015, in accordance with the Scheduling Order. Subject to the provisions of this section 3.3, once approved, the Administrative Claims of Professionals shall be paid in accordance with the payment of Allowed Administrative Claims set forth above in section 3.1 of the Plan.

#### 3.4 Claims Arising Under Section 503(b)(9) of the Bankruptcy Code

All requests for the payment or allowance of Claims arising Section 503(b)(9) of the Bankruptcy Code shall be discharged and forever barred and shall not be enforceable unless (a) the holder of such Claim filed a proper request for such Claim under Section 503(b) before the Bar Date and such Claim is not a Disputed Claim; or (b) the Court has previously entered an order in these Chapter 11 Cases granting a creditor an Allowed Claim arising under Section 503(b)(9) of the Bankruptcy Code.

#### 3.5 Administrative Claims Bar Date

All requests for the payment or allowance of an Administrative Claim (other than the Administrative Claims of Professionals, which are dealt with in section 3.3 above, and Claims arising under Section 503(b)(9) of the Bankruptcy Code, which are dealt with in section 3.4 above) shall be discharged and forever barred and shall not be enforceable unless (a) such request for the payment of an Administrative Claim is filed and served upon Debtors on or before the Confirmation Hearing, or (b) the Court has previously entered an order in these Chapter 11 Cases granting a creditor an Administrative Claim.

#### 3.6 Priority Tax Claims

All requests for the payment or allowance of Priority Tax Claims shall be discharged and forever barred and shall not be enforceable unless (a) the holder of such Claim filed a proof of Claim on or before the Priority Tax Claim Bar Date, or (b) the Court has previously entered an order in these Chapter 11 Cases granting a creditor an Allowed Priority Tax Claim.

Unless the Debtors and the holder of an Allowed Priority Tax Claim agree to a different treatment, and subject to the provisions of Article 7 of the Plan, if applicable, each holder of an Allowed Priority Tax Claim shall be paid the Allowed amount of its Priority Tax Claim by the Debtors on the later of (i) thirty (30) days from the Effective Date or (ii) thirty (30) days after entry of a Final Order Allowing such Priority Tax Claim. Prior to the Effective Date, Debtors reserve the right to dispute any asserted Priority Tax Claim pursuant to Article 7 of the Plan.

#### **ARTICLE 4**

##### **CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS**

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including voting, confirmation, and distribution pursuant to the Plan and pursuant to Sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim shall be deemed to be classified in a particular Class only to the extent that such Claim qualifies within the description of that Class, and shall be deemed classified in a different Class to the extent that the remainder of such Claim qualifies within the description of such different Class. A Claim is in a particular Class only to the extent that such Claim is an Allowed Claim.

The classification of Claims and Equity Interests of the Debtors pursuant to the Plan are as follows:

<b>Class</b>	<b>Class Name</b>	<b>Status</b>
Class 1	Allowed Priority Claims	Not Impaired Deemed to accept the Plan and not entitled to vote
Class 2	Allowed Secured Claims	Impaired Entitled to vote
Class 3	Allowed General Unsecured Claims	Impaired Entitled to vote
Class 4	Equity Interests	Impaired Deemed to reject the Plan and not entitled to vote

#### **ARTICLE 5**

##### **TREATMENT OF ALLOWED CLAIMS AND EQUITY INTERESTS UNDER THE PLAN; ACCEPTANCE OR REJECTION OF THE PLAN**

The following treatment set forth in this Article 5 shall be accorded to Allowed Claims against, and Equity Interests in, the Debtors.

## **5.1 Treatment of Claims**

### **5.1.1 Class 1: Allowed Priority Claims**

Class 1 consists of all Allowed Priority Claims. Allowed Priority Claims will be paid in full under the Plan and are therefore not Impaired. Unless the Debtors and the holder of such Allowed Priority Claim agree to a different treatment, and subject to the provisions of Article 7 of the Plan, if applicable, each holder of an Allowed Priority Claim shall be paid in full on the later of (i) thirty (30) days from the Effective Date or (ii) thirty (30) days after entry of a Final Order Allowing such Claim, the Allowed amount of its Claim by the Debtors. The Debtors reserve the right to dispute any asserted Priority Claim pursuant to Article 7 of the Plan.

Class 1 is not Impaired and is deemed to accept the plan and therefore not entitled to vote to accept or reject the Plan. The Debtors do not believe that there are any Priority Claims to be included in Class 1.

### **5.1.2 Class 2: Allowed Secured Claims**

Class 2 consists of Allowed Secured Claims. The only Secured Claim is the Huntington Secured Claim. The sum of \$250,000.00 of the Huntington Secured Claim, is subject to a “carve-out” of the proceeds of the Sales constituting Collateral for Huntington held by the Debtors for payment of the fees of Huron Consulting Services, LLC as the CRO, subject to approval by the Court pursuant to the Unsecured/Lender Settlement. On the Effective Date, in consideration for the releases in Section 9.1 and 9.2 below, Huntington shall be deemed to waive the remaining amount due on the Allowed Huntington Secured Claim and Huntington shall be deemed to waive and release its other Claims, if any, against the Debtors.

Class 2 is Impaired and is entitled to vote to accept or reject the Plan.

### **5.1.3 Class 3: Allowed General Unsecured Claims**

Class 3 consists of all Allowed General Unsecured Claims, including (to the extent they are Allowed Claims) (i) all holders of Claims arising from rejected executory contracts or unexpired leases, and (ii) all trade creditors. Unless the Liquidating Trustee and the holder of such Claim agree to a different treatment, and subject to the provisions of this Plan and Liquidating Trust Agreement, following resolution of (A) all Disputed Claims; (B) Causes of Action and Estate Litigation; and (C) other Estate Claims, each holder of an Allowed General Unsecured Claim shall receive a Pro Rata Proportion of the Liquidating Trust Assets remaining after the administration of the Liquidating Trust.

Class 3 is Impaired and is entitled to vote to accept or reject the Plan.

### **5.1.4 Class 4: Equity Interests**

Class 4 consists of all Equity Interests and Equity Claims including warrants to purchase or acquire Equity Interests. The holders of the Equity Interests shall neither receive any distributions nor retain any property under the Plan or the Liquidating Trust Agreement. As of the Effective Date, all certificates, documents, and other instruments underlying Equity Interests, including warrants, shall be canceled.

Class 4 is Impaired, but because no distributions will be made to the holders of Class 4 Equity Interests, nor will such holders retain any property, such holders are deemed to have rejected the Plan pursuant to Section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject the Plan.

## ARTICLE 6

### THE LIQUIDATING TRUST

#### 6.1 Formation of the Liquidating Trust

On the Effective Date, the Liquidating Trust shall be established for the limited purpose of: (i) administering the Liquidating Trust Assets, (ii) pursuing Estate Litigation; (iii) resolving all Disputed Claims as of the Effective Date, and (iii) making all Distributions provided for under the Plan in respect of Class 3 Allowed Claims and all other Claims that may become Class 3 Allowed Claims subsequent to the Effective Date. The Liquidating Trust is intended to qualify as a liquidating trust pursuant to United States Treasury Regulation section 301.7701-4(d). The Liquidating Trust shall be governed under the laws of the State of Michigan.

#### 6.2 The Dissolution of Committee; Liquidating Trustee

On the Effective Date, the Committee will dissolve, Committee members will cease to have any role arising from or relating to the Chapter 11 Cases, and the Liquidating Trustee will be Gene R. Kohut who is “disinterested” (within the meaning of section 101(4) of the Bankruptcy Code and who accepts the appointment of Liquidating Trustee). No person shall be deemed not “disinterested” merely as a consequence of having served as a Professional in the Chapter 11 Cases. The Liquidating Trustee shall have and perform all of the duties, responsibilities, rights and obligations set forth in the Liquidating Trust Agreement. The Liquidating Trustee may be removed by the Court for cause shown or pursuant to the terms of the Liquidating Trust Agreement.

#### 6.3 Funding of the Liquidating Trust

On the Effective Date, the Debtors and the Committee shall transfer and convey all right, title, and interest in the Causes of Action, Estate Litigation, and the Unsecured Carve-Out to the Liquidating Trust, which Assets shall automatically and irrevocably vest in the Liquidating Trust without further action on the part of the Debtors, the Committee, the Liquidating Trustee, or the Court, and with no reversionary interest in the Debtors or Committee, except as otherwise provided in the Plan. After payment by the Debtors of all (i) Statutory Fees due as of the Effective Date, (ii) Allowed Administrative Claims, (iii) Allowed Priority Claims, and (iv) Allowed Priority Tax Claims, the Debtors shall transfer and convey all right, title, and interest in their remaining Assets, if any, to the Liquidating Trust, which Assets shall automatically and irrevocably vest in the Liquidating Trust without further action on the part of the Debtors, the Liquidating Trustee, or the Court, and with no reversionary interest in the Debtors, except as otherwise provided in the Plan.

The transfer of the Liquidating Trust Assets to the Liquidating Trust shall be made for the benefit and on behalf of all holders of Class 3 Allowed Claims entitled to receive distributions from the Liquidating Trust under the Plan. The Assets comprising the Liquidating Trust Assets will be treated for tax purposes as being transferred by the Debtors to the Beneficiaries entitled to receive distributions from the Liquidating Trust under the Plan in exchange for their Allowed Claims, and then by the Beneficiaries entitled to receive distributions from the Liquidating Trust under the Plan to the Liquidating Trust in exchange for a beneficial interest in the Liquidating Trust. Such

Beneficiaries shall be treated as the grantors and owners of the Liquidating Trust. Upon the transfer of the Liquidating Trust Assets, the Liquidating Trust shall succeed to all of the Debtors' rights, title, and interest in the Liquidating Trust Assets, and the Debtors will have no further interest in or with respect to the Liquidating Trust Assets.

Upon the transfer of the Liquidating Trust Assets to the Liquidating Trust, the Debtors and their Estates shall have no other or further rights or obligations with respect to the Liquidating Trust except as specifically set forth in the Plan; *provided, however*, that the Debtors will make reasonable efforts to cooperate with the Liquidating Trustee in achieving and effectuating the intent and purpose of the Liquidating Trust.

#### **6.4 Responsibilities of Liquidating Trustee**

The Liquidating Trustee will be in control of and authorized and empowered to carry out the terms and conditions of this Plan and the Liquidating Trust Agreement and will have those responsibilities created by this Plan and the Liquidating Trust Agreement upon the terms and conditions summarized therein, and will, for the benefit of the Beneficiaries, exercise the rights and powers vested in it by this Plan and the Liquidating Trust Agreement in the same manner, and use the same degree of care and skill in his exercise as a prudent person would exercise and use under the circumstances in the conduct of the Liquidating Trustee's own affairs, and further agrees to receive and disburse all of the Liquidating Trust Assets in accordance with the terms thereof and this Plan. More specifically, the Liquidating Trustee shall have the right, power, authority, standing, and approval, and shall be empowered to:

- (a) perform all of the obligations and agreements of the Plan and the Liquidating Trust Agreement provided for herein;
- (b) keep and maintain in a trust account for the benefit of the Liquidating Trust into which proceeds resulting from the initial receipt or from the sale or other disposition of, or from the income resulting from, all or any part of the liquidation of Debtors' Assets and/or the prosecution of Causes of Action or Estate Litigation;
- (c) keep and maintain trust accounts for the benefit of the Liquidating Trust into which accounts the Trustee may place the Disputed Reserves;
- (d) commence, continue, prosecute, litigate, and/or settle and compromise Causes of Action and Estate Litigation against the Debtors and third parties on behalf of the Liquidating Trust and for the benefit of the Beneficiaries thereof;
- (e) object to any Claims (disputed or otherwise) at any time prior to the Distribution Date and to settle, compromise, withdraw, or litigate to judgment, objections to any and all Claims, regardless of whether the Claim was scheduled by Debtors and classified as undisputed, liquidated, and non-contingent, or otherwise, and to seek subordination of any Claim under the Bankruptcy Code or any other authority;
- (f) make distributions in respect of Allowed Class 3 Claims subsequent to the Effective Date in accordance with the Plan;
- (g) take any actions necessary to the collection, receipt, or disposition of any Liquidating Trust Assets;

- (h) compromise or settle disputes with respect to warranty claims or disputes, or debt obligations owed to the Debtors, their Estates, or the Liquidating Trust (to the extent they constitute Liquidating Trust Assets);
- (i) execute and deliver all releases, satisfactions, and termination statements as may be required in connection with full payment of any debt obligation secured by any lien or security interest;
- (j) retain and/or terminate professional persons without Court approval, in the Liquidating Trustee's discretion, to assist in the duties and responsibilities ascribed to him or her under this Plan and the Liquidating Trust Agreement. The reasonable fees and expenses of all professionals retained by the Liquidating Trustee shall be paid from the Liquidating Trust Assets without Court approval;
- (k) satisfy all reporting requirements for the Liquidating Trust, and all assets held by or on behalf of the Liquidating Trust, to the relevant reporting authority;
- (l) file with the Bankruptcy Court reports regarding the liquidation or other administration of property comprising the Liquidating Trust Assets, the distributions made by the Liquidating Trust, and other matters required to be included in such report; and
- (m) except as otherwise ordered by the Court, and subject to the terms of the Plan, pay any fees and expenses incurred by the Liquidating Trust on or after the Effective Date in accordance with the Liquidating Trust Agreement and without Court approval.
- (n) dissolve the Debtors.

Subject to the other terms of the Plan and the Liquidating Trust Agreement, the Liquidating Trustee shall also have the right, power, authority, standing, and approval to commence, continue, prosecute, litigate and/or settle and compromise Causes of Action and any other Estate Litigation or Claim against third parties. The Liquidating Trustee shall also have the right, standing, and approval to object to the allowance of any Claim at any time prior to the making of a distribution to holders of Allowed Claims in Class 3.

## **6.5 Claims Against Liquidating Trust**

All persons having any claim against the Liquidating Trustee or the Liquidating Trustee's professionals in connection with its performance of the Liquidating Trustee's rights, powers, and duties as such shall only look to the Liquidating Trust and the Liquidating Trust Assets for payment or satisfaction thereof.

## **6.6 Commingling of Assets**

The Liquidating Trustee shall not commingle any of the Liquidating Trust Assets with its own property or the property of any other person.

## **6.7 Reliance on Others**

The Liquidating Trustee may rely upon and shall be protected in acting or refraining from acting upon any certificates, opinions, statements, instruments, or reports believed by the Liquidating Trustee to be genuine and to have been signed or presented by the proper person or

persons; *provided, however*, that the Liquidating Trustee shall be under a duty to have examined the same to determine whether or not such writings conform to the requirements of this Plan.

## **6.8 Liability for Errors and Omissions**

The Liquidating Trust, Liquidating Trustee, and all professionals, and agents of same, shall not be liable for any error of business judgment or with respect to any action taken or omitted to be taken by it, unless it shall be proved that they or their agents shall have been grossly negligent or shall have acted with willful misconduct in ascertaining the pertinent facts or in performing any of their rights, powers, or duties according to this Plan and the Liquidating Trust Agreement. In the event gross negligence and willful misconduct is proven, the Beneficiaries shall be entitled to reimbursement of their reasonable costs, including attorney's fees. The Liquidating Trustee makes no representations as to: (i) the value or condition of the Assets of the Debtors or any part thereof, (ii) the dollar amount, if any, which may be collected as a result of pursuing Causes of Action or Estate Litigation (iii) the amount at which Liabilities may be settled, (iv) the amount of any Distributions to be made in accordance with this Plan from the Liquidating Trust Assets and (v) the security afforded by this Plan, or as to the validity, execution (except its own execution), enforceability, legality, or sufficiency of this Plan, and the Liquidating Trustee and the Liquidating Trustee's professionals shall incur no liability or responsibility in respect of such matters.

## **6.9 Indemnification**

The Liquidating Trustee, as well as the Liquidating Trustee's professionals and agents, shall be indemnified by and receive reimbursement from the Liquidating Trust Assets (whether or not distributed to the Beneficiaries) against and from any and all loss, liability, cost, damage, or expense which they may incur or sustain in the exercise and performance of any of their powers and duties pursuant to this Plan and Liquidating Trust unless such loss, liability, cost, damage, or expense shall be incurred or sustained as a result of the gross negligence or willful misconduct of the Liquidating Trustee or the Liquidating Trustee's and agents. All claims of the Liquidating Trustee, the Liquidating Trustee's professionals, and the Liquidating Trustee's agents for indemnification or reimbursement under this Article 6 shall be first offset against the Liquidating Trust Assets or, at Liquidating Trustee's discretion, against any payment or distribution made or to be made in accordance with Articles 5 and 7 of this Plan.

## **6.10 Tax Treatment of the Liquidating Trust**

The Liquidating Trustee may pay taxes from the Liquidating Trust Assets as appropriate. In addition, the Liquidating Trust shall require consistent valuation of the property contributed to the Liquidating Trust by the Liquidating Trustee and the Beneficiaries for all federal income tax purposes. The Liquidating Trust is intended to be treated for federal income tax purposes as a liquidating trust for the benefit of creditors or claimants within the meaning of Treasury Regulations section 301.7701-4(d) and in accordance with IRS Revenue Procedure 94-45, and, as a grantor trust under Section 677 of the Internal Revenue Code of 1986, as amended. Accordingly, the Liquidating Trust Assets in respect of holders of Class 3 Claims shall be treated for all purposes of the Internal Revenue Code as (i) a transfer of such distribution to such Class 3 creditors who are the Beneficiaries of the Liquidating Trust; and (ii) a transfer to the Liquidating Trust by the Beneficiaries, who will be treated as the grantors and deemed owners of the Liquidating Trust Assets. The Liquidating Trustee shall be responsible for filing all federal, state, and local tax returns for the Liquidating Trust as a grantor trust pursuant to applicable Treasury Regulations, including Treasury Regulation Section 1.671-4(a), and any income of the Liquidating Trust will be



treated as subject to tax on a current basis. Subject to the receipt of any definitive guidance of the IRS or the Bankruptcy Court, any claims reserve is intended to qualify and be treated as a disputed ownership fund pursuant to Proposed Treasury Regulation Section 1.468B-9. As such, any disputed claims reserve shall report and pay any taxes on its income, the Liquidating Trustee shall act as the “administrator” of the disputed ownership fund, and the disputed claims reserve shall be subject to the continuing jurisdiction of the Bankruptcy Court. Currently, no money or other property shall be distributed to any Person holding a disputed claim except to the extent that such disputed claim becomes an Allowed Claim pursuant to the Plan.

#### **6.11 Reports to be Filed by the Liquidating Trust**

At least annually, the Liquidating Trustee shall file with the Court reports regarding the liquidation or other administration of property comprising the Liquidating Trust Assets, the distributions made by it, and other matters required to be included in such report in accordance with the Liquidating Trust Agreement.

#### **6.12 Investment Authority**

The Liquidating Trustee shall have investment powers which are limited to those powers reasonably necessary to maintain the value of the Liquidating Trust Assets and to further the liquidating purpose of the trust as further described in IRS Revenue Procedure 94-45. The Liquidating Trustee may only invest in demand and time deposits, such as short-term certificates of deposit, in banks or other savings institutions, or other temporary, liquid investments, such as Treasury Bills as specified in Revenue Procedure 94-45. Income earned on investments shall be deemed a part of the Liquidating Trust Assets.

#### **6.13 Exemption From Certain Transfer Taxes**

Pursuant to Section 1146(a) of the Bankruptcy Code, any transfers from the Debtors or the Liquidating Trust to any Entity pursuant to the Plan in the United States shall not be taxed under any law imposing a stamp tax or other similar tax. Such exemption specifically applies, without limitation, to all documents necessary to evidence and implement distributions under the Plan.

#### **6.14 Termination**

Termination of the Liquidating Trust shall automatically occur no later than three (3) year after the Effective Date, unless the Bankruptcy Court shall approve an extension based upon a finding that such an extension is necessary for the Liquidating Trust to complete its purpose.

#### **6.15 Privileges**

To the full extent permitted by law, upon the transfer of a Liquidating Trust Asset to the Liquidating Trust, the Debtors shall irrevocably transfer to the Liquidating Trust, as its legal successor, all rights of the Debtors and their Estates to exercise or waive any privilege, including the attorney-client privilege, accountant-client privilege, work-product privilege, or other privilege or immunity attaching to any document or communication (whether written or oral) as it relates to such Liquidating Trust Asset (collectively, the “Privileges”), and the Debtors and the Liquidating Trustee are authorized to take all necessary actions to effectuate the transfer of the Privileges. All such Privileges also shall vest in the Liquidating Trust and its representatives, to the full extent permitted under law. This transfer is self-executing as of the date a Liquidating Trust Asset is transferred to the Liquidating Trust; *provided, however*, that the Liquidating Trustee and the

Debtors are authorized and directed to take any and all necessary actions to effectuate the transfer of such Privileges. After the date a Liquidating Trust Asset is transferred to the Liquidating Trust, the Liquidating Trustee shall have the exclusive power and authority to assert or waive the Privileges.

## **6.16 Claims**

On the Effective Date, the Liquidating Trustee shall have the exclusive authority for administering, disputing, objecting to, compromising, or otherwise resolving all Claims. Except as expressly provided in the Plan or any order entered in the Chapter 11 Cases prior to the Effective Date (including the Confirmation Order), the Liquidating Trustee will have and shall retain after the Effective Date any and all rights and defenses that the Debtors had with respect to any Claim as of the Petition Date.

## **ARTICLE 7**

### **DISTRIBUTIONS UNDER THE PLAN**

#### **7.1 Cancellation of Equity Interests**

As of the Effective Date, all certificates, documents, and other instruments underlying Equity Interests, including warrants, shall be canceled. No Distributions will be made on account of any Equity Interests.

#### **7.2 Distribution Date**

Subject to the provision of Article 6, the Distribution Date shall be a date selected by the Liquidating Trustee as the time reasonably subsequent to completion and final liquidation of the Debtors' Assets and completion and final resolution of Disputed Claims, Causes of Action, and Estate Litigation. At such time, the Liquidating Trustee shall distribute, consistent with the terms of Article 5, the remaining Liquidating Trust Assets to those Creditors holding Allowed Claims in Class 3 as provided for in this Plan and the Liquidating Trust Agreement. Notwithstanding the foregoing, if economically feasible in the sole discretion of the Liquidating Trustee, the Liquidating Trustee is authorized to issue interim Distributions consistent with the terms of Article 5.

#### **7.3 Disputed Reserves**

##### **7.3.1 Establishment of Disputed Reserves**

Notwithstanding the provisions of section 8.2 of the Plan, if, in the exercise of the Liquidating Trustee's business judgment, the Liquidating Trustee believes that complete and final resolution of certain Disputed Claims, Causes of Action, or Estate Litigation will take an unreasonably long period of time, and if economically feasible, the Liquidating Trustee may elect to establish in separate accounts a Disputed Reserve for each of the unresolved Disputed Claims, each of which Disputed Reserve and related accounts shall be administered by the Liquidating Trustee. Following establishment and funding of the Disputed Reserves, the Liquidating Trustee may then declare the Distribution Date and make distributions consistent with the terms of this Plan and the Liquidating Trust. Upon complete and final resolution of the Disputed Claims, the Liquidating Trustee shall make a subsequent Distribution from the Disputed Reserves consistent with any resolution and the terms of this Plan and the Liquidating Trust.

### **7.3.2 Maintenance of Disputed Reserves**

Each Disputed Reserve shall be closed and extinguished when all Distributions and other dispositions of Cash or other property required to be made hereunder will have been made in accordance with the terms of this Plan and the Liquidating Trust Agreement.

### **7.4 Record Date for Distributions**

The Liquidating Trustee shall have no obligation to recognize any Claim occurring or arising after the Record Date. In making any Distribution with respect to any Claim, the Liquidating Trustee shall be entitled to recognize and deal with, for all purposes hereunder, only the Entity that is listed on the proof of Claim filed with respect thereto or on the Debtors' Schedules as the holder of the Claim as of the close of business on the Record Date and upon such other evidence or record of transfer or assignment that are known to Liquidating Trustee as of the Record Date.

### **7.5 Delivery of Distributions**

#### **7.5.1 General Provisions; Unclaimed Property**

Subject to Bankruptcy Rule 9010 and except as otherwise provided herein, Distributions to the Beneficiaries shall be made by the Liquidating Trustee at (i) the address of each Beneficiary as set forth in the Debtor's Schedules, unless superseded by the address set forth on Proofs of Claim filed by such Beneficiary or (ii) the last known address of such Beneficiary if no proof of Claim is filed or if the Liquidating Trustee has been notified in writing of a change of address. If any Beneficiary's Distribution is returned as Unclaimed Property, no further Distributions to such Beneficiary shall be made unless and until the Liquidating Trustee is notified of such Beneficiary's then current address, which notice must be provided to the Liquidating Trustee within sixty (60) days of the returned Distribution, at which time all missed Distributions shall be made to such Beneficiary without interest.

Amounts in respect of Unclaimed Property distributed by the Liquidating Trustee shall be returned to the Liquidating Trust until such Unclaimed Property is claimed. All claims for Unclaimed Property must be made on or before the earlier of (i) four (4) months from the date of Distribution, or (ii) one (1) year after the Effective Date, after which date the Unclaimed Property shall be deemed unclaimed property under Section 347(b) of the Bankruptcy Code and shall revert to the Liquidating Trust free of any restrictions thereon, and the Claims of any Beneficiary, or successor to such Beneficiary, shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary.

In the event of a timely claim for Unclaimed Property, the Liquidating Trustee shall deliver the Unclaimed Property to the Beneficiary pursuant to the Plan. Nothing contained in the Plan or the Liquidating Trust Agreement shall require the Debtors, the Liquidating Trust, the Liquidating Trustee, or their respective representatives, to attempt to locate any Beneficiary.

#### **7.5.2 Unfeasible/Uneconomical Distribution**

While all Distributions shall be made in accordance with the provisions of the Plan, in no event shall the Liquidating Trustee be obligated to make a Distribution if, in the sole

discretion of the Liquidating Trustee, there are insufficient Liquidating Trust Assets to make a cost-efficient Distribution, taking into account the size of the Distribution to be made and the number of Beneficiaries of such Distribution, in which event such funds shall, in the discretion of the Liquidating Trustee, to be donated to Access to Bankruptcy Court.

#### **7.6 No Distributions Pending Allowance**

Notwithstanding any other provision hereof, unless ordered otherwise by a Final Order, if any portion of a Claim is a Disputed Claim, no payment or Distribution provided hereunder shall be made on account of the Allowed portion of the Claim unless and until the disputed portion of the Claim is Allowed.

#### **7.7 Distributions to Holders of Disputed Claims**

Upon resolution of the disputes on the Claims, holders of Disputed Claims shall receive distribution from their respective Disputed Reserve Account, if established. In the event the resolution of the Disputed Claim results in an amount that exceeds the respective Disputed Reserve Account, the holder of a Disputed Claim shall have no recourse, causes of action, or Claims against the Estate, the Liquidating Trust, the Liquidating Trustee, any Estate Professional, or any professional retained by the Liquidating Trust or the Liquidating Trustee for collection or payment of any deficiency.

### **ARTICLE 8**

#### **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

##### **8.1 Approval of Rejection**

Entry of the Confirmation Order shall constitute the approval, pursuant to Section 365(a) of the Bankruptcy Code, of the rejection of all executory contracts and unexpired leases that have not already been assumed and assigned or rejected by the Debtors, or that are the subject of a pending motion to assume or reject as of the date the Confirmation Order is entered.

##### **8.2 Rejection Claims**

If the rejection of an executory contract or unexpired lease pursuant to the Plan and the Confirmation Order results in damages to the non-Debtor party to such contract or lease, any claim for such damages, if not heretofore evidenced by a timely filed proof of Claim, shall be forever barred and shall not be enforceable against the Debtors, the Estate, the Liquidating Trust, the Liquidating Trustee, or their properties, successors, and assigns, unless a proof of Claim is filed and served upon the Liquidating Trustee and his counsel, on or before thirty (30) days after the Effective Date.

### **ARTICLE 9**

#### **RELEASES, INJUNCTION, AND WAIVER OF CLAIMS**

##### **9.1 Release**

On the Effective Date, the Debtors and all persons, interested parties and Entities shall be conclusively presumed to have released the following parties (but solely to the extent set forth

below): Huntington, the Committee and its members, all Professionals, the CRO (including Huron Consulting Services LLC personnel supporting the CRO), the Liquidating Trustee, and the Taylor Released Parties, (each of the foregoing, a “Released Party” and together, the “Released Parties”), from any Released Party Claim, arising from, or in any way connected with, (A) the Chapter 11 Cases (including, without limitation, any actions taken and/or not taken with respect to the administration of the Estate or the operation of the business of the Debtors); (B) the Plan, the Liquidating Trust, or the Distributions received thereunder; (C) the Sales; (D) the negotiation, formulation, and preparation of the Plan, and (E) the right to seek repayment of any fees paid to a Professional pursuant to an Order of the Court, except to the extent any such Released Party Claim against any Released Party arises solely as a direct result of that Released Party’s fraud, gross negligence, or willful misconduct.

Notwithstanding anything to the contrary contained in the Plan, none of the releases provided herein shall prejudice or otherwise affect the right of any other party in interest to object to (i) any applications for compensation filed by Professionals; (ii) any request seeking compensation under Section 503 of the Bankruptcy Code or the rights of parties under the Sale Orders or the APAs; and (iii) Causes of Action against members of the Committee.

## **9.2 Release of Released Parties by Holders of Claims**

On and after the Effective Date, each holder of a Claim against the Debtors shall be deemed to have released unconditionally all the Released Parties from any and all Claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity, or otherwise, that such person or Entity 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, solely to the extent that it relates these Chapter 11 Cases, and except to the extent necessary to enforce the provisions of the Plan, the Liquidating Trust Agreement, the Sale Orders, or the APAs. Notwithstanding the foregoing, the releases contained in this section 9.2 shall not impact or impair in any way the obligations and rights of Huntington and the Taylor Released Parties arising from (i) the Settlement and Amendment Agreement dated September 4, 2015 by and between Huntington and W. Zachary Taylor and the William Zachary Taylor Living Trust, or (ii) any personal, family or consumer debt owed to Huntington.

# **ARTICLE 10**

## **RETENTION OF JURISDICTION**

### **10.1 Retention of Jurisdiction**

Notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, the Court shall retain exclusive jurisdiction of all matters arising out of or relating to the Chapter 11 Cases, the Plan, the Liquidating Trust Agreement, the Confirmation Order, and the Estate 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 resolve any matters relating to the assumption and assignment or rejection of executory contracts or unexpired leases, and to hear, determine and, if necessary, liquidate any Claims resulting therefrom;

- (b) To decide and resolve any and all motions, adversary proceedings, objections to Claims, including Causes of Action, Estate Litigation, applications, contested matters, and any other matters, whether pending as of the Effective Date or brought thereafter in accordance with the terms hereof;
- (c) To consider and rule on the compromise and settlement of any Claim, Disputed Claim, Cause of Action, or Estate Litigation on behalf of the Debtors or their Estate, or the Liquidating Trust;
- (d) To ensure that Distributions to holders of Allowed Claims are accomplished as provided herein, and resolve any disputes concerning any such Distributions;
- (e) To allow, disallow, determine, liquidate, classify, estimate, or establish the priority or secured or unsecured status of any Claim (including any Administrative Expense Claim), and to resolve any and all objections to the Disputed Claims;
- (f) To hear and determine any and all applications for the allowance of compensation of Professionals for professional services rendered and expenses incurred prior to the Effective Date;
- (g) To enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and the Liquidating Trust Agreement, and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan and the Liquidating Trust Agreement;
- (h) To consider any modifications to the Plan, to cure any defect or omission, or reconcile any inconsistency, in the Plan or in any order of the Court as may be necessary to carry out the purposes and intent of the Plan and to implement and effectuate the Plan;
- (i) To resolve any cases, controversies, suits, or disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Liquidating Trust Agreement, or any person's or Entity's obligations incurred in connection with the Plan or the Liquidating Trust Agreement;
- (j) To hear and determine matters concerning state, local, and federal taxes in accordance with Sections 346, 505, and 1146 of the Bankruptcy Code;
- (k) To enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, revoked, reversed, or vacated;
- (l) To enforce remedies upon any default under the Plan or the Liquidating Trust Agreement;
- (m) To enforce, interpret, and determine any disputes arising in connection with any orders, stipulations, judgments, and rulings entered in connection with the Chapter 11 Cases (whether or not the Chapter 11 Cases have been closed);
- (n) To resolve any cases, controversies, suits, or disputes that may arise in connection with the consummation, interpretation, or enforcement of the Plan or the Liquidating Trust Agreement, or any Estate obligations incurred in connection herewith;

- (o) To determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, the Liquidating Trust, Liquidating Trustee, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Liquidating Trust Agreement;
- (p) To issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any person or Entity with the consummation of the Plan or the Liquidating Trust Agreement, or the enforcement of any rights, remedies, or obligations created under the Plan or the Liquidating Trust Agreement;
- (q) To determine such other matters as may be provided for in the Confirmation Order or other orders of the Court or as may be authorized under the provisions of the Bankruptcy Code or any other applicable law;
- (r) To hear any other matters if the Court's exercise of jurisdiction thereover is not inconsistent with the Bankruptcy Code or Title 28 of the United States Code;
- (s) To hear and determine issues relating to discharge, releases, injunctions, covenants not to sue, and other waivers and protections provided under or relating to the Plan or the Liquidating Trust Agreement;
- (t) To recover all Assets of the Debtors' Estate (excepting those Assets transferred pursuant to the APAs and the Sale Orders) for the benefit of the Liquidating Trust, wherever located; and
- (u) To enter a final decree closing the Chapter 11 Cases.

## **10.2 Modification of the Plan**

Any modification to the Plan shall be consistent with the terms, conditions, and requirements of Section 1127 of the Bankruptcy Code.

## **ARTICLE 11**

### **MISCELLANEOUS PROVISIONS**

#### **11.1 Conditions Precedent to the Effective Date**

The Effective Date will not occur, and the Plan will not be consummated, unless and until each of the following conditions have been satisfied or duly waived: (a) the Bankruptcy Court shall have entered the Confirmation Order, and the Confirmation Order shall be a Final Order; (b) no stay of the Confirmation Order shall then be in effect; (c) the Liquidating Trust Agreement shall be executed, and the Liquidating Trust shall be created; (d) sufficient proceeds from the Causes of Action shall have been received by Debtors, the Committee and/or the Liquidating Trustee to pay in full the Allowed Administrative Claims; and (e) the Plan shall not have been materially amended, altered, or modified from the Plan as confirmed by the Confirmation Order, unless such material amendment, alteration, or modification has been made in accordance with section 10.2 of the Plan. The conditions to Confirmation and the conditions to the Effective Date may be waived in whole or in part at any time only jointly by the Debtors and the Committee without an order of the Bankruptcy Court.

## 11.2 Governing Law

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent a schedule or exhibit hereto or instrument, agreement, or other document executed in connection with the Plan provides otherwise, the rights, duties, and obligations arising under the Plan, and the instruments, agreements, and other documents executed in connection with the Plan, shall be governed by, and construed and enforced in accordance with, the internal laws of the State of Michigan, without giving effect to any choice of law provisions that would require the application of the law of any other jurisdiction.

## 11.3 Notices

To be effective, all notices, requests, and demands under the Plan must be in writing (including by facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

### **Liquidating Trustee**

Gene Kohut, Esq.  
Kohut Law Group PLLC  
17000 Kercheval Ave Ste 210  
Grosse Pointe, MI 48230-1570  
Phone: [\(313\) 886-9765](tel:3138869765)  
Fax: (313) 432-0229  
e-Mail: [gene@gktrustee.com](mailto:gene@gktrustee.com)

**and**

### **Counsel for the Liquidating Trustee**

Scott A. Wolfson, Esq.  
Wolfson Bolton PLLC  
3150 Livernois Rd Ste 275  
Troy, MI 48083-5034  
**Phone:** [\(248\) 247-7103](tel:2482477103)  
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**e-Mail:** [swolfson@wolfsonbolton.com](mailto:swolfson@wolfsonbolton.com)

### **To the Debtors**

Laura A. Marcero  
Huron Consulting Services LLC  
900 Wilshire Drive, Ste. 270  
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Email: [lmarcero@huronconsultinggroup.com](mailto:lmarcero@huronconsultinggroup.com)

**and**



### **Counsel for the Debtors**

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### **Counsel for the Committee**

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akochis@wolfsonbolton.com

#### **11.4 Further Documents and Actions**

The Debtors and the Liquidating Trustee shall execute, and are authorized to file with the Court and deliver, such agreements and other documents or information, and to take or cause to be taken such actions, as may be necessary or appropriate to effect and further evidence the terms and conditions of the Plan and the Liquidating Trust Agreement, and to consummate the transactions and transfers contemplated by the Plan and the Liquidating Trust Agreement. The Debtors and the Liquidating Trustee and all other necessary or appropriate parties shall execute any and all documents and instruments that must be executed under or in connection with the Plan or the Liquidating Trust Agreement in order to implement the terms of the Plan or to effectuate the Distributions under the Liquidating Trust Agreement, provided that such documents and instruments are reasonably acceptable to such party or parties.

#### **11.5 Relationship Between the Plan and Disclosure Statement**

To the extent that the Plan is inconsistent with the Disclosure Statement, the provisions of the Plan shall control.

#### **11.6 Reservation of Rights**

If the Plan is not confirmed by a Final Order, or if the Plan is confirmed and does not become effective, the rights of all parties in interest in the Chapter 11 Cases, including the Debtors, are and will be reserved in full, except as such rights have been modified by a prior settlement agreement approved by order of the Court. Any concessions or settlements reflected herein (if any), are made for purposes of the Plan only, and if the Plan does not become effective, no party in

interest shall be bound or deemed prejudiced by any such concession or settlement except as provided by a prior settlement agreement approved by order of the Court.

### **11.7 Post-Confirmation Fees and Expenses**

(a) **Debtors' Fees and Expenses.** After entry of Confirmation Order, the Debtors shall, in the ordinary course of business and without the necessity for any approval by the Court, pay the reasonable fees and expenses incurred by the CRO, Debtors' Professionals and Committee Professionals, in connection with services performed on the administration of the Estate, implementation, and consummation of the Plan, and any other matters as to which the CRO, Debtors' Professionals and Committee Professionals may be engaged. The fees and expenses of such persons or Entities shall be paid within thirty (30) days after submission of a detailed invoice submitted to the Debtors. If a party disputes the reasonableness of any such invoice and the parties cannot amicably resolve the dispute, Debtors shall timely pay (subject to the limitations described in this section 11.7) the undisputed portion of such invoice, and submit the dispute regarding the balance of such invoice to the Court for a determination of its reasonableness.

(b) **Liquidation Trust Fees and Expenses.** After the Effective Date, the Liquidating Trustee shall, in the ordinary course of business and without the necessity for any approval by the Court, pay from the Liquidating Trust Assets the reasonable fees and expenses incurred by the Liquidating Trust and any professionals retained by the Liquidating Trustee or the Debtors incurred in connection with services performed on the administration of the Estate, implementation, and consummation of the Plan and the Liquidating Trust Agreement, Causes of Action, Estate Litigation, the Claims objection/reconciliation process, and any other matters as to which the Liquidating Trust and any professional retained by the Liquidating Trustee may be engaged. The fees and expenses of such persons or Entities shall be paid within thirty (30) days after submission of a detailed invoice submitted to the Liquidating Trustee subject to the availability of Liquidating Trust Assets, less reserves established by the Liquidating Trustee, in the Liquidating Trustee's sole discretion for the on-going administration of the Liquidating Trust. If the Liquidating Trustee disputes the reasonableness of any such invoice and the parties cannot amicably resolve the dispute, Liquidating Trustee shall timely pay (subject to the limitations described in this section 11.7) the undisputed portion of such invoice, to and submit the dispute regarding the balance of such invoice to the Court for a determination of its reasonableness.

### **11.8 Binding Effect**

The rights, benefits, and obligations of any person or Entity named or referred to in the Plan or the Liquidating Trust Agreement, or whose actions may be required to effectuate the terms of the Plan or Liquidating Trust, shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such person or Entity, including but not limited to, any trustee appointed for the Debtor under chapter 7 or 11 of the Bankruptcy Code. The Confirmation Order shall provide that the terms and provisions of the Plan, the Liquidating Trust Agreement, and the Confirmation Order shall survive and remain effective after entry of any order which may be entered converting any of the Chapter 11 Cases to cases under chapter 7 of the Bankruptcy Code, and the terms and provisions of the Plan and the Liquidating Trust Agreement shall continue to be effective in this or any superseding case under the Bankruptcy Code.

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## **II. DISCLOSURE STATEMENT PLAN OF LIQUIDATION OF LEE STEEL CORPORATION, TAYLOR INDUSTRIAL PROPERTIES, L.L.C., AND 4L VENTURES, LLC UNDER CHAPTER 11 OF THE BANKRUPTCY CODE<sup>1</sup>**

### **A. Description of Debtors and Circumstances Resulting in the Filing of the Chapter 11 Cases**

Prior to the Petition Date, Lee Steel Corporation (“Lee Steel”) was in the business of providing a full range of flat rolled steel, including hot rolled steel, cold rolled steel, and exposed coated products for automotive and other manufacturing industries. Lee Steel operated from special purpose facilities located in Romulus, Michigan (the “Romulus Facility”) and Wyoming, Michigan (the “Wyoming Facility”), which facilities Lee Steel leased from Debtor 4L Ventures, LLC (“4L Ventures”) and Debtor Taylor Industrial Properties, L.L.C. (“Taylor Industrial”), respectively. Lee Steel’s corporate headquarters are located in Novi, Michigan.

Before the collapse in steel prices Lee Steel was profitable and had annual revenues of approximately \$100 million. The vast majority of Lee Steel’s customers were Tier 1 and Tier 2 suppliers to the automotive industry. According to their audited financial statements, the Debtors’ consolidated gross sales for the fiscal year ended September 30, 2014, were \$116,602,378. In the ordinary course of their business operations, the Debtors directly employed approximately 65 individuals, including approximately 23 union employees.

In the summer of 2012, the Debtors began construction of the Romulus Facility and the installation of an Eco-Pickled Surface Coil Line (the “EPS Equipment”) based upon a strategy that this new “green” technology pickling equipment would both enable Lee Steel to avoid the costs of outside steel pickling processing and provide an additional income stream as it could sell its eco-friendly state of the art pickling process service to others in the industry. In order to finance the construction of the Romulus Facility, Lee Steel obtained an equipment line of credit for \$12,900,000 and 4L Ventures borrowed \$11,122,000 from Huntington.

However, due to unforeseen construction issues, the Debtors’ construction of the Romulus Facility was delayed frequently and the Debtors incurred cost over-runs of approximately \$4,000,000 on the project, which took over two years and required significant cash from Lee Steel in addition to the funding provided by Huntington. In September 2014, Lee Steel finally was able to vacate its former Detroit, Michigan facility and had relocated all of its equipment to the Romulus Facility where it began operations with the EPS Equipment.

Potential customers of the EPS Equipment began running quality trials since September 2014, because their end customers, frequently automotive companies, require parts to receive “PPAP” and other approvals before they can change processes or suppliers. Although most customers reported to Lee Steel that parts made using steel pickled on the EPS Equipment had been or would be approved, the volumes of outside pickling services being sold were minimal prior to the Petition Date, possibly due to the environmentally friendly process being more expensive than traditional processes and a reluctance to try new processes.

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<sup>1</sup> All capitalized terms not defined herein shall have the meaning ascribed to them in the Plan.

Since commencing operations through the Petition Date, the EPS Equipment only averaged outside sales of approximately \$75,000 per month and, while Lee Steel was able to avoid the costs of having third parties pickle the steel it sells, the EPS Equipment pickling business from July 2014 through February 2015 generated losses of approximately \$1.3 million.

In addition to the significantly increased debt service and the losses generated by the EPS Equipment, market prices for steel dropped significantly in late 2014 – between \$90-120 per ton or 10%-20%. This trend continued in the first quarter of 2015 with pricing deteriorating another 20%.

While Lee Steel was able to maintain pricing through January 2015, because its customers' contracts are indexed or they purchase based upon current market pricing, Lee Steel's revenues dropped from \$9,158,969 in January 2015 to \$7,236,538 in February 2015 with similarly depressed pricing being projected for at least the next two quarters.

The losses caused by the decline in top line revenue, combined with the excessive debt service attributable to the Romulus Facility and the EPS Equipment, resulted in extreme cash flow issues and an inability to meet credit terms with suppliers, as well as obligations due under the Credit Agreement. Additionally, because of the decline in steel pricing, Lee Steel's ability to borrow on its line of credit, which was partially based upon an inventory formula, was further reduced

Although the Debtors attempted to negotiate an "out-of-court" restructuring based upon Huntington providing out of formula funding and its majority stockholder contributing funding to enable Lee Steel to make a payment to unsecured creditors, certain major unsecured creditors did not agree to terms that were feasible given the Debtors' constrained projected cash flow and projected performance based upon market conditions then existing in the steel industry.

As a result of the foregoing cash flow and debt service issues, the Debtors defaulted under the Credit Agreement and on March 25, 2015, Huntington issued a Notice of Default and Demand for Payment, which resulted in the Debtors filing the Chapter 11 Cases to maximize the value of their Assets by operating in chapter 11 while seeking a going concern sale.

## **B. Principals and Management**

The Debtors are owned by Mr. Taylor and his family. The William Zachary Taylor Living Trust owns 88% of Lee Steel, 100% of Taylor Industrial, and 80% of 4L Ventures. Thomas E. Taylor and Scott Taylor each own 6% of Lee Steel and 10% of 4L Ventures.

Prior to March 31, 2015, the Debtors were operated by the Debtors. On March 31, 2015, the Debtors appointed Laura A. Marcero of Huron Consulting Services LLC as their Chief Restructuring Officer. As of that date, Ms. Marcero took full control of all actions and operations of the Debtor.

## **C. Pre-Petition Financing; Guarantors**

Prior to the commencement of the Chapter 11 Cases, the Debtors, as borrowers, and Huntington, as lender, entered into a loan and security agreement (as amended, the "Credit Agreement"), pursuant to which Huntington financed the Debtors' business operations. In

connection with the Loan Agreements, the Debtors granted to Huntington a first priority security interest in substantially all of the Debtors' real and personal property, and Huntington properly perfected those security interests. Without limiting the foregoing, as of the Petition Date, Huntington had properly perfected interests in, among other things, substantially all of the Debtors' real property, equipment, accounts receivable, inventory, goodwill, licenses, and contracts and proceeds thereof.<sup>2</sup>

As of the Petition Date, the Debtors' obligations to Huntington pursuant to the Credit Agreement were no less than \$50,493,488.93, plus accrued but unpaid interest and costs. The Debtors' obligations to Huntington were cross-collateralized and guaranteed by Mr. Taylor.

#### **D. Post-Petition Financing**

The DIP Financing Order authorized Lee Steel to use cash for the operation of its business in the ordinary course pursuant to a budget (the "Budget") prepared by the Debtors, subject to modifications approved by Huntington and subject to a ten percent (10%) cumulative variance. As adequate protection for the Debtors' use of Huntington's cash collateral, under the DIP Financing Order, Huntington received replacement Liens in the Debtors' post-petition Assets, subject to statutory fees payable to the United States Trustee under 28 U.S.C. § 1930(a)(6), fees payable to the clerk of the Court, and certain fees of Professionals in accordance with the Budget. The DIP Financing Order further authorized the Debtors to provide adequate protection to Huntington in the form of: (a) payment of interest due on the Debtors' pre-petition obligations to Huntington and (b) payment of Huntington's fees, costs, and expenses, including, without limitation, reasonable legal and other professionals' fees and expenses, incurred during the Chapter 11 Cases.

Pursuant to the DIP Financing Order, it was an Event of Default if the Debtors failed to meet the following milestones:

1. Entry of an order approving sale and bid procedures on or before July 13, 2015;
2. Conclusion of an auction of all or substantially all of the Debtors' Assets on or before August 11, 2015;
3. Entry of an order approving the sale in form and substance acceptable to Huntington on or before August 14, 2015; and
4. Consummation of the sale on or before August 28, 2015, which was extended to September 28, 2015.

#### **E. Sale of Substantially all of Debtor's Assets**

Since the outset of this Chapter 11 Cases, the Debtors' primary goal had been to effectuate a sale of substantially all of their Assets under section 363 of the Bankruptcy Code. The Debtors engaged in an exhaustive and extensive four month effort to market the Debtors' business operations as a going concern enterprise. To that end, the Debtors had discussions with dozens of interested parties, many of whom made unsolicited expressions of interest in purchasing

substantially all of the Debtors' Assets on a going concern basis, as well as equipment dealers and liquidators interested in acquiring all of the Debtors' Assets.

Consequently, on May 1, 2015, the Debtors filed their Motion for Entry of an Order Pursuant to 11 U.S.C. §§ 363 and 365, Bankruptcy Rules 2002 and 6004, and Local Rules 6004-1 and 9014-1 (A) Establishing Bidding Procedures for the Auction Sale of Substantially All of the Debtors' Assets Free and Clear of Liens, Claims and Encumbrances and Transferring Liens to Proceeds; (B) Scheduling an Auction and a Sale Hearing to Consider Approval of Sale; (C) Establishing Procedures for the Assumption and Assignment of Executory Contracts; (D) Approving the Form of Asset Purchase Agreement, Form and Manner of the Auction Notice, the Form of the Notice to Non-Debtor Co-Parties to Executory Contracts, and the Notice of the Sale Hearing [Docket No. 85] (the "Bid Procedures Motion"). On June 9, 2015, after a hearing, the Court granted the Bid Procedures Motion and entered the Bid Procedures Order, which established procedures for the sale by the Debtors of their Assets.

On August 12, 2015, the Court entered the Sale Orders authorizing the Sales to the Purchasers pursuant to the APAs at an aggregate base price of \$39,100,000, subject to certain adjustments provided for in the APAs, and the Closing Date has occurred. The proceeds of the Sales, excluding the Unsecured Carve-Out and the Huron Carve-Out, (as defined below) were paid to Huntington, which, when combined with cash payments from the Debtors and a \$500,00.00 payment from Mr. Taylor, paid all of Debtors' obligations to Huntington except for the Huntington Secured Claim. As part of the Sales, the Purchasers assumed certain Executory Contracts and Unexpired Leases of the Debtors, which further reduced the Claims against the estate.

#### **F. Anticipated Future of the Company and Source of this Information and Opinion.**

The Plan is a liquidating Plan and after all Assets are collected and distributions are made under the Plan and the Liquidating Trust Agreement, the Debtors will be dissolved. Since the Closing Date, the Debtors terminated all employees (some of whom have been retained and/or hired by Union Partners), and ceased all business operations.

#### **G. Estate Claims; Other Events of Significance**

Pursuant to the Plan and Disclosure Statement, the Debtors for the benefit of the Committee and the Liquidating Trust and its Beneficiaries, will preserve all rights, interest, and standing to investigate and pursue, whether through negotiation or litigation, any and all Causes of Action and Estate Litigation.

As part of their post-petition investigations into potential Causes of Action, the Debtors uncovered potential Causes of Action against the Taylor Released Parties. After good faith negotiations between the parties, the parties agreed to enter into the Taylor Settlement Agreement, pursuant to which Mr. Taylor agreed to make the Taylor Settlement Payment to the Debtors and release all of their claims against the Debtors in exchange for a release of all claims by the Debtors.

During the Chapter 11 Cases, the Debtors, the Committee and Huntington engaged in good faith arm's-length negotiations in an effort to resolve the Committee's Objection Rights under paragraph 25 of the DIP Financing Order regarding the Huntington Secured Claim, and the disposition of the Huntington Secured Claim and its Claims against the Debtors, if any. Those

negotiations resulted in the Unsecured/Lender Settlement between the Committee, Huntington and the Debtors providing that Huntington would carve-out \$400,000 of the proceeds of the Sales; that the Debtors would agree to hold these sums in trust for unsecured creditors; that the Committee would waive its Objection Rights; agreement by Huntington that Huntington would vote in favor of the Plan and on the Effective Date release all of its Claims against the Debtors including the Allowed Huntington Secured Claim; Agreement by the parties that \$250,000 of the Collateral consisting of the proceeds of the Sales securing Huntington's secured claim would be "carved-out" for payment of professional fees to Huron Consulting, LLC (the "Huron Carve-Out"). Pursuant to the APAs and Sale Orders, on the Closing Date, the Debtors transferred the proceeds from the Sales to Huntington in partial satisfaction of the Allowed Huntington Secured Claim and shortly thereafter paid to Huntington the remaining balance of the principal outstanding on the Huntington Secured Claim from cash held by the Debtors constituting cash collateral under the DIP Financing Order. The Plan contemplates that, on the Effective Date, the Huntington will release all further amounts due Huntington from Debtors, which are estimated to exceed \$750,000, less any proceeds paid to Huron Consulting, LLC on account of the Huron Carve-Out.

But for entry of the DIP Financing Order, entry into the Taylor Settlement Agreement, the settlement agreement between the Committee and Huntington, the sale of substantially all of their property pursuant to the APAs and the Sale Orders, and the settlement of all of Huntington's Claims against the Debtors, the Debtors assert that no other events of significance have occurred since the Petition Date that have had a substantial or material effect on the Debtors' Assets or the administration of this Chapter 11 Cases.

## **H. Summary of Debtors Liabilities to Creditors**

### Administrative Expense Claims

To date, the Debtors have paid substantially all Allowed Administrative Claims as they have come due, but for claims of Professionals. The Debtors estimate accrued Administrative Expense Claims, as of September 24, 2015 to be \$1,417,333 (which includes estimated but undocumented "trailing claims" of \$61,000), plus accrued and projected professional fees of \$1,208,174. The Debtors project that all Allowed Administrative Expenses Claims will be paid prior to the Effective Date from cash held by Debtors or from the first proceeds of the Causes of Action.

### Priority Tax Claims

To date, the Debtors have paid all Priority Tax Claims as they have come due. The Debtors project that all Priority Tax Claims will be paid prior to the Effective Date.

### Priority Claims

Based upon Proofs of Claim filed as of September 28, 2015, there are two Priority Claims asserting that they are entitled to priority treatment totaling \$6,554.00. The Debtors project that Allowed Priority Claims will ultimately total \$6,182.00. The Debtors reserve the right to object to any and all Priority Claims.

## Secured Claims

The only Secured Claim is the Huntington Secured Claim, which is estimated at \$750,000. Pursuant to the DIP Financing Order and the Sale Orders, Huntington's Liens on the Debtors' Assets sold to the Purchasers transferred to the proceeds of the Sales. Pursuant to the APAs and Sale Orders, on and after the Closing Date, the Debtors transferred the proceeds from the Sales, and cash proceeds of Huntington's Collateral less the Unsecured Carve-Out and the Huron Carve-Out, to Huntington, which paid in full Debtors' obligations to Huntington, except for the Allowed Huntington Secured Claim. In exchange for the releases contained in Sections 9.1 and 9.2 of the Plan, Huntington has agreed to release all of its remaining Claims against the Debtors, including the Huntington Secured Claim.

## General Unsecured Claims

As of September 3, 2015, based upon filed Proofs of Claim, the Debtors have total pre-petition unsecured Claims of \$11,305,178, exclusive of any claims of insiders or affiliated entities of the Debtors. The Debtors reserve the right to review, investigate, and dispute any and all General Unsecured Claims.

### **I. Analysis of a Chapter 7 Liquidation.**

Pursuant to the Sales, as well as sales of "non-essential property" pursuant to other orders entered in the Chapter 11 Cases, all of Debtors' Assets, but for Causes of Action and Estate Litigation (all of which will be transferred to the Liquidating Trust upon the Effective Date), were sold, leaving the Debtors as shell companies with no further Assets except proceeds of these Assets. The proceeds from the Sales were used to partially satisfy the Debtors' obligations to Huntington pursuant to the DIP Financing Order Claim, and to fund the Unsecured Carve-Out and Huron Carve-Out. The balance of the Debtors' obligations to Huntington under the DIP Financing Order, excluding the Huntington Secured Claim, were satisfied by cash, constituting cash Collateral of Huntington, generated by the Debtors' operations prior to the Closing Date. The Debtors currently hold the remaining proceeds from the Sales and the Causes of Action, which will be used to pay all Statutory Fees due as of the Effective Date, Allowed Administrative Claims, Allowed Priority Claims, and Allowed Priority Tax Claims. After payment of such fees and Claims, the Debtors will transfer their remaining Assets to the Liquidating Trust.

Taking into account the foregoing, the only available assets for distribution will be those Assets transferred to the Liquidating Trust, consisting of the following:

Cash (as of 9/25/15)	\$ 978,600 <sup>3</sup>
Less: Huntington Secured Claim <sup>4</sup>	<u>(750,000)</u>
Remaining Balance:	\$ 228,600

<sup>3</sup> Excludes Unsecured Carve-Out of \$400,000.

<sup>4</sup> Huntington contends that the Huntington Secured Claim is also entitled to super-priority status under Section 507(b) of the Bankruptcy Code pursuant to paragraph 19 of the DIP Financing Order.



Zack Taylor Payment	1,500,000
Less: Professional Fees through August	<u>(794,024)</u>
Remaining Balance	\$ 934,576

Less: **Chapter 7 Expenses:**

Trustee Fees	(150,000)
Trustee Professionals	<u>(600,000)</u>
Remaining Balance:	\$ 184,576

Less: **Chapter 11 Administrative Expenses**

Administrative Claims	(1,417,333)
Chapter 11 Professional Fees	<u>(1,208,174)</u>
Balance (Deficit)	(\$2,440,931)
Plus: Projected Avoidance	
Action Recoveries <sup>5</sup>	
Low Range:	2,100,000
High Range:	5,000,000
Recovery to Pre-Petition Creditors	0 to \$2,959,069
Recovery Percentage	0% to 18% <sup>6</sup>

Accordingly, Debtors and the Committee believe that unsecured creditors will receive much more under the Plan than they would in a chapter 7 liquidation in which even chapter 11 administrative claims may not be paid in full. Because the Plan provides for the waiver of the \$750,000, Huntington Secured Claim, which is not available in a chapter 7, and eliminates chapter 7 fees, expenses and delays, debtors project a recovery to unsecured creditors under the Plan of 17% (low) to 32% (high), which includes the Unsecured Carve-Out.

**1. Feasibility of the Plan**

The Bankruptcy Code requires that the Bankruptcy Court determine that confirmation of a Plan is not likely to be followed by liquidation or the need for further financial reorganization of the debtor. The Plan already contemplates a liquidation so the goals of the Plan are completely feasible and the risk of further financial reorganization is not relevant.

**2. Acceptance of the Plan**

As a condition to confirmation, the Bankruptcy Code requires that each Class of Impaired Claims vote to accept the Plan, except under certain circumstances. Section 1126(c) of the Bankruptcy Code defines acceptance of a plan by a class of impaired claims as acceptance by holders of at least two thirds (2/3) in dollar amount and more than one half (1/2) in number of claims in that class, but for that purpose counts only those who actually vote to accept or to reject the Plan. Thus, for example, Class 3 votes to accept the Plan only if two thirds (2/3) in amount and

<sup>5</sup> Based on Debtors' analysis of transfers, potential ordinary course defenses, and potential new value defenses.

<sup>6</sup> Includes add back of \$400,000 Unsecured Carve-Out.

a majority in number actually voting in such Class cast their Ballots in favor of acceptance. Holders of Claims who fail to vote are not counted as either accepting or rejecting a plan.

### **3. Best Interests Test**

Even if a plan is accepted by the holders of each class of claims and interests, the Bankruptcy Code requires a Bankruptcy Court to determine that the plan is in the best interests of all holders of claims or interests that are impaired by the plan and that have not accepted the plan. The “best interests” test, as set forth in Section 1129(a)(7) of the Bankruptcy Code, requires a Bankruptcy Court to find either that all members of an impaired class of claims or interests have accepted the plan or that the plan will provide a member who has not accepted the plan with a recovery of property of a value, as of the effective date of the plan, that is not less than the amount that such holder would recover if the Debtor were liquidated under chapter 7 of the Bankruptcy Code.

### **4. Application of the Best Interests Test to the Liquidation Analysis**

In the Chapter 11 Cases, the Debtors have sold substantially all of their property, with the remaining proceeds from the Sales to be distributed pursuant to the Plan. A liquidation under chapter 7 would accomplish the same result but with the additional cost of chapter 7 trustee fees and the cost of administering and proceeding with a chapter 7 case, as well as the procedural delays of making distributions in chapter 7. Also, in chapter 7 the Huntington Secured Claim of \$750,000 would not be forgiven thereby reducing funds available for creditors by this amount. Therefore, the recovery available in a chapter 7 liquidation to creditors in each Impaired Class in these Chapter 11 Cases would be substantially less because of the increased payment to Huntington and the additional administrative costs associated with a chapter 7 trustee and professionals not familiar with the Debtor’s case and the Causes of Action and Estate Litigation. Accordingly, the “best interests” test of Section 1129 of the Bankruptcy Code is satisfied because the members of each Impaired Class will receive greater or equal value under the Plan than they would in a chapter 7 liquidation.

Specifically, the Plan projects a recovery to holders of Allowed Class 3 General Unsecured Claims in a range of 13% to 32%, while the Debtors project that in a chapter 7 liquidation, holders of Allowed Class 3 General Unsecured Claims would receive a recovery of 0% to 12%. Therefore, recovery under the Plan is better than it would be in a chapter 7 liquidation.

Accordingly, the Debtors believe that the “best interests” test of Section 1129 of the Bankruptcy Code is satisfied because the members of each Impaired Class will receive greater or equal value under the Plan than they would in a liquidation. Although the Debtors believe that the Plan meets the “best interests test” of Section 1129(a)(7) of the Bankruptcy Code, there can be no assurance that the Bankruptcy Court will determine that the Plan meets this test.

### **5. Confirmation Without Acceptance of All Impaired Classes: The ‘Cramdown’ Alternative**

In view of the deemed rejection by holders of Class 4 Equity Interests, the Debtors will seek confirmation of the Plan pursuant to the “cramdown” provisions of Section 1129 of the Bankruptcy Code. Specifically, Section 1129(b) of the Bankruptcy Code provides that a plan can be confirmed

even if the plan is not accepted by all impaired classes, as long as at least one impaired class of claims has accepted it. The Bankruptcy Court may confirm the Plan at the request of the Debtors if the Plan “does not discriminate unfairly” and is “fair and equitable” as to each Impaired Class that has not accepted the Plan. A plan does not discriminate unfairly within the meaning of the Bankruptcy Code if a dissenting class is treated equally with respect to other classes of equal rank.

The Debtors believe the Plan does not discriminate unfairly with respect to holders of Class 4 Equity Interests. Holders of Interests in Class 4 are not receiving any distribution under the Plan, and are not entitled to payment under the absolute priority rule until all senior creditors have been paid in full.

A plan is fair and equitable as to a class of equity interests that rejects a plan if the plan provides: (i) that each holder of an interest included in the rejecting class receive or retain on account of that interest property that has a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, any fixed redemption price to which such holder is entitled, or the value of such interest; or (ii) that the holder of any interest that is junior to the interests of such class will not receive or retain under the plan on account of such junior interest any property at all.

The Debtors believe that the Plan will meet the “fair and equitable” requirements of Section 1129(b) of the Bankruptcy Code with respect to holders of Class 4 Equity Interests. No Claim or Interest holder junior to holders of Class 4 Equity Interests is receiving any recovery pursuant to their Claim or Interest, thereby satisfying Section 1129(b) with respect to Class 4.

The Debtors reserve the right to seek confirmation of the Plan through cramdown with respect to any other Class that is determined to be impaired or any creditor that has not accepted or is deemed not to have accepted the Plan pursuant to Section 1126 of the Bankruptcy Code.

## **J. Implementation of Plan**

Because the Debtors ceased continuing in their business subsequent to the Closing Date, no historical financial information is being provided as part of this Disclosure Statement, nor are any financial projections being provided for any period. Similarly, in light of the fact that the Debtors have ceased all operations, no information is being provided with respect to who will be in charge of such business and the compensation to be received by them, including fringe benefits; *provided, however*, that it is contemplated that the Liquidating Trustee, will retain legal counsel and other professionals to represent, consult, and assist in the administration of the Liquidating Trust and the liquidation of the Liquidating Trust Assets.

The Debtors will not be continuing in their current business subsequent to the Effective Date, therefore there will be no tax ramifications for the Debtors as a continuing Entity. As a result of implementation of the Plan, certain of the Debtors’ outstanding indebtedness will not be paid in full; however, the remaining indebtedness will not be cancelled or discharged. In general, the Internal Revenue Code, with certain exceptions, provides that a taxpayer who realizes a “discharge of indebtedness” must include the amount of discharged indebtedness in gross income to the extent that the indebtedness discharged exceeds any consideration given for such discharge. Because the Plan

does not grant the Debtors a discharge pursuant to Section 1141(d)(3) of the Bankruptcy Code, this does not apply to Debtors.

### **III. LEGAL REQUIREMENTS**

#### **A. Voting Procedures**

Under the Bankruptcy Code, the only classes that are entitled to vote to accept or reject a plan are classes of claims or equity interests that are impaired under the plan. Accordingly, classes of claims or interests that are not impaired are not entitled to vote on the Plan.

Creditors that hold Claims in more than one Impaired Class are entitled to vote separately in each Class. Such a creditor will receive a separate ballot for all of its Claims in each Class (in accordance with the records of the Clerk of the Court) and should complete and sign each ballot separately. A creditor who asserts a Claim in more than one Class and who has not been provided with sufficient ballots may photocopy the ballot received and file multiple ballots.

Votes on the Plan will be counted only with respect to claims: (a) that are listed on the Debtors' Schedules other than as disputed, contingent, or unliquidated; or (b) for which a proof of Claim was filed on or before the Bar Date set by the Court for the filing of proofs of claim (except for certain claims expressly excluded from the applicable bar date or which are allowed by Court order). However, any vote by a holder of a Claim will not be counted if such Claim has been disallowed or is the subject of an unresolved objection, absent an order of the Court allowing such claim for voting purposes pursuant to Section 502 of the Bankruptcy Code and Bankruptcy Rule 3018.

Voting on the Plan by each holder of a claim or interest in an Impaired Class is important. After carefully reviewing the Plan and Disclosure Statement, each holder of such a claim or interest should vote on the enclosed ballot either to accept or reject the Plan, and then return the ballot by mail to the Debtors' counsel by the deadline established by the Court.

Any ballot that does not appropriately indicate acceptance or rejection of the Plan will not be counted.

A ballot that is not received by the deadline will not be counted.

If a ballot is damaged, lost, or missing, a replacement ballot may be obtained by sending a written request to the Debtors' counsel.

#### **B. Acceptance**

The Bankruptcy Code defines acceptance of a plan by an impaired class of claims as acceptance by the holders of at least two-thirds in dollar amount, and more than one-half in number, of the claims of that class which actually cast ballots. The Bankruptcy Code defines acceptance of a plan by an impaired class of equity interests as acceptance by holders of at least two-thirds in number of equity interests of that class that actually cast ballots. If no creditor or interest holder in an impaired class votes, then that class has accepted the plan.

### **C. Confirmation**

Section 1129(a) of the Bankruptcy Code establishes conditions for the confirmation of a plan. These conditions are too numerous and detailed to be fully explained here. Parties are encouraged to seek independent legal counsel to answer any questions concerning the chapter 11 process.

Among several conditions for confirmation of a plan under Section 1129(a) of the Bankruptcy Code are these:

1. Each class of impaired creditors and interests must accept the plan, as described in paragraph III.B, above.
2. Either each holder of a claim or interest in a class must accept the plan, or the plan must provide at least as much value as would be received upon liquidation under chapter 7 of the Bankruptcy Code.

### **D. Modification**

The Debtors reserve the right to modify or withdraw the Plan at any time before confirmation.

### **E. Effect of Confirmation**

If the Plan is confirmed by the Court:

1. Its terms are binding on the Debtors, all creditors, shareholders, and other parties in interest, regardless of whether they have accepted the Plan.
2. Except as provided in the Plan, because the Debtors are corporate entities that are liquidating and not continuing in their business, (a) Claims and Equity Interests will not be discharged; and (b) Creditors and shareholders will not be prohibited from asserting their Claims against or Equity Interests in the Debtors or their Assets.

### **F. Alternatives to Confirmation and Consummation of the Plan**

The Debtors believe that the Plan affords holders of Claims the potential for the greatest recovery and, therefore, is in the best interests of such holders. If, however, the requisite acceptances are not received, or the Plan is not confirmed and consummated, the theoretical alternatives include: (i) formulation of an alternative plan of liquidation; or (ii) liquidation of the Debtors under chapter 7 of the Bankruptcy Code.

If no plan is confirmed, the Debtors may be forced to liquidate under chapter 7 of the Bankruptcy Code, pursuant to which a chapter 7 trustee would be elected or appointed to liquidate the Debtors' assets for distribution to creditors in accordance with the priorities established by the Bankruptcy Code. It is impossible to predict precisely how the proceeds of the liquidation would be distributed to the respective holders of Claims against or Equity Interests in the Debtors. As noted above, however, the Debtors believe that in a liquidation under chapter 7, before creditors receive any distribution, would cause a substantial diminution in the value of the Debtors' Estate, which would result in fewer Assets available for distribution to creditors.

The Debtors could also be liquidated pursuant to the provisions of a different chapter 11 plan of liquidation. However, any distribution to the holders of Claims under a chapter 11 liquidation plan probably would be delayed substantially and there would be no guaranty that Huntington would agree to the treatment of its Claim as contemplated by the Plan.

Accordingly, the Debtors believe that any alternative liquidation under chapter 7 or 11 is a much less attractive alternative to creditors than the Plan because of the greater return the Debtors believe is provided to creditors under the Plan.

**G. Conclusion and Recommendation**

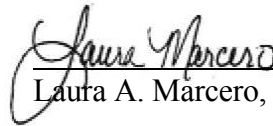
The Debtors believe that confirmation and implementation of the Plan is preferable to any other alternative and recommends that creditors entitled to vote in favor of the Plan.

*[Remainder of Page Intentionally Left Blank]*

WHEREFORE, the Debtors, respectfully submit this Combined Plan and Disclosure Statement.

Respectfully submitted,

Lee Steel Corporation  
Taylor Industrial Properties, L.L.C.  
4L Ventures, LLC



\_\_\_\_\_  
Laura A. Marcero, Chief Restructuring Officer

and

/s/ Stephen M. Gross

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COUNSEL FOR THE DEBTORS  
AND DEBTORS IN POSSESSION

and

By: \_\_\_\_\_  
Aaron Evans, solely in his capacity as Chairperson  
Its: Chairperson

OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF LEE STEEL CORPORATION

WHEREFORE, the Debtors, respectfully submit this Combined Plan and Disclosure Statement.

Respectfully submitted,

Lee Steel Corporation  
Taylor Industrial Properties, L.L.C.  
4L Ventures, LLC

---

Laura A. Marcero, Chief Restructuring Officer

and

/s/ Stephen M. Gross

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AND DEBTORS IN POSSESSION

By: 

Aaron Evans, solely in his capacity as Chairperson

Its: Chairperson

OFFICIAL COMMITTEE OF UNSECURED  
CREDITORS OF LEE STEEL CORPORATION



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COUNSEL TO THE OFFICIAL COMMITTEE OF  
UNSECURED CREDITORS

**Appendix A to Combined Plan of Liquidation**  
Liquidation Trust Agreement

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**LSC LIQUIDATION, INC. LIQUIDATING TRUST AGREEMENT**

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**Dated as of \_\_\_\_\_, 2015**

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<b>Exhibit A</b>	<b>Plan of Liquidation</b>
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## LSC LIQUIDATION, INC. LIQUIDATING TRUST AGREEMENT

This Liquidating Trust Agreement (this “Agreement”) is executed as of \_\_\_\_\_, 2015, by and among Gene R. Kohut, a member of the Kohut Law Group, PLLC, as initial liquidating trustee under this Agreement (the initial liquidating trustee or any successor, the “Liquidating Trustee”); LSC Liquidation, Inc. (f/k/a Lee Steel Corporation) (“Lee Steel”); Taylor Industrial Properties, L.L.C. (“Taylor”); 4L Ventures, LLC (“4L,” and together with LSC and Taylor, the “Debtors”); and the Official Committee of Unsecured Creditors duly appointed for the Chapter 11 Cases (as defined below) (the “Committee”). Except as otherwise defined in this Agreement, and except as the context requires otherwise, the capitalized terms in this Agreement shall have the meanings ascribed to them in the Combined Joint Plan of Liquidation, dated as of September \_\_, 2015 (as amended, modified or supplemented, the “Plan”). This trust may also be referred to as the “LSC Liquidating Trust” or by employing words of similar meaning.

### RECITALS

**WHEREAS**, on April 13, 2015 (the “Petition Date”), the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”) in United States Bankruptcy Court for the Eastern District of Michigan (the “Bankruptcy Court”), thereby commencing Case Nos. 15-45784, 15-45785, and 15-45788 (the “Chapter 11 Cases”);

**WHEREAS**, on April 23, 2015, the Committee was appointed and authorized to act as a representative of the unsecured creditors. The Debtors and the Committee are the joint proponents of the Plan;

**WHEREAS**, this Agreement is entered into in accordance with, and to facilitate the implementation and execution of, the Plan;

**WHEREAS**, on \_\_\_\_\_, 2015, the Bankruptcy Court entered an order confirming the Plan (the “Confirmation Order”). A copy of the Plan and the Confirmation Order are attached hereto as **Exhibits A** and **B**, respectively;

**WHEREAS**, on the Effective Date, the Plan provides that all rights, title, and interests of the Debtors and the Debtors’ Estates in and to the Liquidating Trust Assets shall vest in a liquidating trust. The Plan further provides that the Liquidating Trust Assets shall be administered through a liquidating trust established pursuant to the Plan. The Plan authorizes and appoints the Liquidating Trustee to receive, hold, administer, and distribute the Liquidating Trust Assets for the benefit of the Beneficiaries (as defined below) and their successors and assigns as permitted for under the Plan and this Agreement;

**WHEREAS**, the Liquidating Trust Assets include all of the Debtors’ Assets as of the Effective Date of the Plan; and

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Debtors, the Committee, and the Liquidating Trustee agree as follows:

**ARTICLE I:  
CREATION AND PURPOSE**

1.1 **Creation.** The Debtors and the Committee, pursuant to the terms of the Plan, hereby establish a liquidating trust (the “Liquidating Trust”) to hold, administer, liquidate, and distribute Liquidating Trust Assets and all proceeds and profits therefrom, which are hereby granted to and deposited with the Liquidating Trustee. The Liquidating Trustee accepts the Liquidating Trust Assets and shall hold the same in trust and shall administer such assets as provided under the Plan and this Agreement.

1.2 **Purpose.** The Liquidating Trust shall be established solely for the purpose of holding, administering, and liquidating the Liquidating Trust Assets in accordance with Treasury Regulation Section 301.7701-4(d), all pursuant to the provisions of the Plan, with no objective to continue to or engage in the conduct of a trade or business. The purpose of this Agreement is to set forth the rights, powers, and duties of the Liquidating Trustee in receiving, holding, liquidating, and administering the Liquidating Trust Assets as provided in this Agreement and in the Plan.

1.3 **Beneficiaries.** All holders of Allowed General Unsecured Claims and, until such Claims are satisfied, the holders of other Allowed Claims to be paid by the Liquidating Trust under the Plan, are the beneficiaries of the Liquidating Trust (each is referred to as a “Beneficiary” and together the “Beneficiaries”). The interest and priority of each Beneficiary shall be as provided in the Plan.

**ARTICLE II:  
LIQUIDATING TRUSTEE**

2.1 **Appointment.** On the Effective Date of the Plan, pursuant to the Confirmation Order, the Liquidating Trustee shall be appointed and authorized to act as the Liquidating Trustee under this Agreement, and by signing this Agreement, the Liquidating Trustee accepts such appointment all in accordance with the terms of this Agreement and the Plan.

2.2 **Duties and Powers of the Liquidating Trustee.** The Liquidating Trustee shall have the following duties and powers with respect to the Liquidating Trust:

- (a) employ and pay professionals to assist in administration of the Liquidating Trust;
- (b) receive, hold, deposit, and invest funds of the Liquidating Trust;
- (c) open any accounts necessary to maintain and distribute funds in the Liquidating Trust;
- (d) pay any fees, costs, and expenses of administering the Liquidating Trust;
- (e) establish and maintain the Disputed Reserve;

(f) liquidate and administer assets of the Liquidating Trust, including, but not limited to, enforcing Causes of Action of the Liquidating Trust and collecting amounts due with respect to such Causes of Action;

(g) compromise, settle, or abandon any Causes of Action of the Liquidating Trust as authorized under the Plan and this Agreement;

(h) object to any Administrative Claims;

(i) object to any filed or scheduled Claims (unliquidated, disputed, contingent, or otherwise);

(j) liquidate, administer, settle, and pay any claims against the Liquidating Trust;

(k) calculate and implement distributions from the Liquidating Trust in accordance with the Plan and this Agreement;

(l) maintain a list of holders of Allowed General Unsecured Claims;

(m) report to the Beneficiaries of the Liquidating Trust by filing the reports required in Section 6.11 of the Plan;

(n) utilize Liquidating Trust Assets to pay premiums for any insurance policies that the Liquidating Trustee deems necessary, in his/her sole discretion, to insure the assets of the Liquidating Trust against loss and/or to insure the Liquidating Trustee against liability with respect to third persons;

(o) file any necessary tax returns and utilize Liquidating Trust Assets to pay any necessary taxes;

(p) take such actions that are necessary to dissolve the Liquidating Trust in accordance with Article IX of this Agreement; and

(q) such other powers that are necessary and appropriate to administer the Liquidating Trust as contemplated under the Plan and this Agreement.

(r) dissolve the Debtors.

**2.3 Compensation; Retention of Trustee Professionals.** The Liquidating Trustee shall be compensated at a rate of \$300.00 per hour, without further order of the Bankruptcy Court, for services rendered to or on behalf of the Liquidating Trust. The Liquidating Trustee also shall be reimbursed, without further order of the Bankruptcy Court, for all reasonable out-of-pocket fees, costs, and expenses in acting under the Plan and this Agreement, including, but not limited to, reimbursement of the Liquidating Trustee's reasonable attorneys' and other professionals' fees subject to the provisions below.

The Liquidating Trustee is empowered to use available funds (as set forth in Article VII hereof): (a) to elect, appoint, engage, retain, and employ any persons as professionals and



advisors (“Trustee Professionals”) in one or more capacities as is reasonably necessary to enable the Liquidating Trustee to implement this Agreement and the Plan or to assist the Liquidating Trustee in performing the Liquidating Trustee’s duties hereunder; (b) to pay all costs and expenses necessary and appropriate in connection with the Liquidating Trustee’s duties and powers, including payment of fees to and to reimburse the expenses of those employees, agents, or independent contractors elected, appointed, engaged, retained, or employed by the Liquidating Trustee; (c) to indemnify the Liquidating Trustee’s agents, professionals, and employees from any loss (including reasonable attorneys’ fees) incurred in connection with the execution and implementation of the Plan or their duties to the Liquidating Trust and/or the Liquidating Trustee other than a loss due to the indemnified party’s willful misconduct, gross negligence, or fraud; and (d) to prescribe the titles, powers and duties, terms of service, and other terms and conditions of the election, appointment, engagement, retention, or employment of such persons as are reasonable and appropriate. The Liquidating Trustee shall not be responsible for the misconduct of those appointed, engaged, retained, or employed by the Liquidating Trustee with due care.

Such persons so retained need not be “disinterested” as that term is defined in the Bankruptcy Code and may include, without limitation, Kohut Law Group, PLLC, counsel, interim management, and financial advisors of the Debtors and of the Committee as well as employees, independent contractors or agents of the Debtors, the Committee, or Kohut Law Group, PLLC.

The Liquidating Trustee is hereby expressly directed to utilize Kohut Law Group, PLLC, its affiliates and personnel as Trustee Professionals (rather than utilizing other similarly situated or available personnel or professional services firms) notwithstanding that (a) the Liquidating Trustee may benefit (directly or indirectly) from the compensation paid to Kohut Law Group, PLLC and (b) other persons or entities may be available to provide the same or similar work at similar or more competitive prices. In no event shall the Liquidating Trustee or Kohut Law Group, PLLC or its affiliates be subject to a claim of a conflict of interest or breach of fiduciary duty or any other claim arising as a result of the appointment of any such person in accordance with this provision.

At least annually, the Liquidating Trustee shall file with the Court reports regarding the liquidation or other administration of property comprising the Liquidating Trust Assets, the distributions made by it, and any other information that the Liquidating Trustee believes is relevant to the liquidation or administration of the Liquidating Trust Assets.

**2.4 Liquidating Trustee’s Lien.** The Liquidating Trustee shall have a first priority lien on all assets of the Liquidating Trust to secure payment of his/her compensation and reimbursement of the Liquidating Trustee’s fees, costs, and expenses. The lien also shall secure the indemnification obligation of the Liquidating Trust to the Liquidating Trustee as set forth in Section 3.3 of this Agreement.

**2.5 Co-Liquidating Trustees or Separate Liquidating Trustees.** To meet any legal requirements of any jurisdiction in which any of the Liquidating Trust Assets may from time to time be located, the Liquidating Trustee shall have the power to appoint and remove one or more persons either to act as co-trustee(s) jointly with the Liquidating Trustee of all or any part of the Liquidating Trust Assets or to act as separate trustee(s) of all or any part of the Liquidating Trust Assets and to vest in such person or persons, in such capacity, such title to the Liquidating Trust

Assets or any part thereof, and such rights, powers, duties, trusts, or obligations as the Liquidating Trustee determines may be necessary for the Liquidating Trustee to perform the Liquidating Trustee's duties under this Agreement.

### **ARTICLE III: CONDUCT OF THE LIQUIDATING TRUSTEE**

3.1 **Exercise of Duties and Responsibilities.** The Liquidating Trustee shall exercise the rights and powers vested in the Liquidating Trustee under the Plan and this Agreement, and use the same degree of care and skill in the Liquidating Trustee's exercise of such rights and powers as a prudent person would exercise or use under such circumstances in the administration of such person's own affairs, provided, however, that the duties and obligations of the Liquidating Trustee shall be determined solely by the express provisions of the Plan and this Agreement, and the Liquidating Trustee shall not be liable except for the performance of such duties and obligations as are specifically set forth in the Plan and this Agreement, and no implied covenants or obligations shall be read into the Plan or this Agreement against the Liquidating Trustee.

The provisions of this Section shall apply to any right, conduct, power, duty, or responsibility of the Liquidating Trustee under the Plan or this Agreement. None of the provisions in the Plan or this Agreement shall be construed to require the Liquidating Trustee to expend or risk the Liquidating Trustee's own funds or otherwise incur personal financial liability in the performance of the Liquidating Trustee's duties or in the exercise of the Liquidating Trustee's rights and powers.

3.2 **Reliance on Documents, Statements, etc.** The Liquidating Trustee:

- (a) may rely upon, and shall be protected in acting upon, any resolution, certificate, statement, instrument, opinion, report, notice, request, consent, order, or other document believed by the Liquidating Trustee to be genuine and to have been signed or presented by the proper party or parties;
- (b) may consult with the Liquidating Trustee's legal counsel, and any advice or opinion of the Liquidating Trustee's legal counsel, accountants, or other professional advisors shall be full and complete authorization and protection in respect of any action taken or not taken by the Liquidating Trustee in good faith and in accordance with such advice or opinion of counsel. Notwithstanding such authority, the Liquidating Trustee shall not be under any obligation to consult with the Liquidating Trustee's attorneys, accountants, financial advisors, and agents, and the Liquidating Trustee's determination not to do so shall not result in the imposition of liability on the Liquidating Trustee, except to the extent such determination is based on willful misconduct, gross negligence, or fraud;
- (c) shall not be liable for any action taken or not taken if in good faith and believed by the Liquidating Trustee to be authorized or within the Liquidating Trustee's discretion or rights or powers under the Plan and this Agreement; and
- (d) may exercise any of the rights and powers, or perform any of the duties under the Plan and this Agreement either directly or through agents or attorneys, and the

Liquidating Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care.

**3.3 Indemnification of the Liquidating Trustee; Exculpation; Limitations on Liability.** The Liquidating Trustee, Kohut Law Group, PLLC, and their respective affiliates, officers, employees, and agents (the “Indemnified Parties”) shall not be personally liable to the Liquidating Trust, to any Beneficiary, or any other person (or any predecessor or successor thereto) for any reason whatsoever, except for such liability arising primarily and directly from their own acts as shall constitute such Indemnified Party’s own willful misconduct, fraud, or gross negligence. Except as aforesaid, the Indemnified Parties shall be defended, held harmless, and indemnified from time to time, but solely from the Liquidating Trust Assets, against any and all losses, claims, costs, expenses, and liabilities to which the Indemnified Parties may be subject by reason of or arising out of the Indemnified Parties’ acts or omissions or consequences of such acts or omissions, with respect to the implementation or administration of the Liquidating Trust or the Plan or the discharge of the duties hereunder or under any agreement between such Indemnified Parties, the Liquidating Trust, and/or the Liquidating Trustee. Without limiting the generality of the foregoing, the Liquidating Trustee shall have no liability to any Beneficiary on account of the Liquidating Trustee’s investment or non-investment of any Liquidating Trust Assets or any losses with respect to any such investments of Liquidating Trust Assets, provided that such investments are made, or the Liquidating Trustee’s decision not to invest any Liquidating Trust Assets in any case is made, in accordance with Section 5.4 or otherwise in accordance with the terms of this Agreement. The Indemnified Parties shall not be obligated to give any bond or surety or other security for the performance of any of their duties, unless otherwise ordered by the Bankruptcy Court and, if so ordered, all costs and expenses of procuring any such bond shall be deemed Liquidating Trust Expenses.

**ARTICLE IV:  
NON-TRANSFERABILITY OF BENEFICIAL INTERESTS; INTERESTS BENEFICIAL  
ONLY; NO VOTING RIGHTS; SUCCESSORS**

All interests of the Beneficiaries of this Liquidating Trust shall be uncertificated and non-transferable, except by will, intestate succession, or operation of law. The rights to a beneficial interest hereunder shall not entitle any Beneficiary to (a) any title in or to the Liquidating Trust Assets as such (which title is vested in the Liquidating Trustee) or to any right to call for a partition or division of Liquidating Trust Assets or to require an accounting, or (b) any voting rights with respect to the administration of the Liquidating Trust and the actions of the Liquidating Trustee in connection therewith. This Agreement shall bind and inure to the benefit of the parties hereto and their respective successors and permitted assigns hereunder.

**ARTICLE V:  
ADMINISTRATION OF THE LIQUIDATING TRUST**

**5.1 Right to Bring Causes of Action.** The Liquidating Trustee shall be deemed a party in interest for all purposes under the Plan and Bankruptcy Code, including, but not limited to, filing objections to Claims. The Liquidating Trustee shall have the right to bring or assert any Cause of Action of the Liquidating Trust. The Liquidating Trustee also shall have the right to continue to defend or prosecute or commence any case commenced or that could have been commenced prior to the Effective Date. In any Cause of Action brought by the Liquidating

Trustee, the Liquidating Trustee shall be deemed to represent all of the Beneficiaries of the Liquidating Trust, and it shall not be necessary to make any Beneficiary a party to such action.

Except as expressly provided in the Plan, no Beneficiary shall have any right to take any action, in law or equity, on account of the property of the Liquidating Trust.

**5.2 Settlement of Causes of Action and Disputed Claims.** As of the Effective Date, the Liquidating Trustee shall have authority, without further action or order of the Bankruptcy Court, to settle, compromise, abandon, or dismiss any Cause of Action or Disputed Claim. Nothing in the Plan or this Agreement shall prohibit the Liquidating Trustee from: (a) seeking an order of the Bankruptcy Court regarding the compromise, settlement, abandonment, or dismissal of any Cause of Action or Disputed Claim, or (b) dismissing or abandoning any Cause of Action that the Liquidating Trustee, in the Liquidating Trustee's sole and absolute discretion, determines may result in personal liability for the Liquidating Trustee.

In considering whether to compromise, dismiss, abandon, or settle a Cause of Action or Disputed Claim, the Liquidating Trustee shall consider the following factors:

- (a) the probability of success in the litigation;
- (b) the complexity of litigation;
- (c) the expense, inconvenience, and delay necessarily attending the litigation;
- (d) the time value of money; and
- (e) the difficulties, if any, to be encountered in collecting any judgment.

**5.3 Right to File Claims.** The Liquidating Trustee may file such proofs of claim and other papers or take such other actions as may be necessary or appropriate to have the Causes of Action or other rights of the Liquidating Trust allowed in any judicial proceeding.

**5.4 Investment of Moneys.** Except as otherwise provided in this Agreement, the Liquidating Trustee shall hold all moneys of the Liquidating Trust in segregated accounts established on the books of the Liquidating Trustee (the "Trust Accounts"), and shall invest moneys in the Trust Accounts in: (a) demand and time deposits (such as certificates of deposit), (b) other temporary liquid investments (such as U.S. treasury bills), and (c) shares of any investment company registered under the Federal Investment Company Act of 1940 whose shares are registered under the Securities Act of 1933 and whose only investments comprise: (i) obligations issued or guaranteed as to principal and interest by the U.S. government, and thus constitute direct obligations of the U.S. government, or (ii) obligations issued by state or municipal governmental bodies, the interest of which is exempt from federal income taxation and which are rated in the two highest rating categories published by Standard & Poor's Corporation.

**5.5 Fees and Expenses.** Subject to the priority of payment established under Section 7.3 of this Agreement and Article 5 of the Plan, the Liquidating Trustee shall pay all fees, costs, and expenses of administering the Liquidating Trust (including, without limitation,

the Trustee Professionals' fees and expenses and any statutory fees) from the Liquidating Trust Assets, as and when such fees, costs, and expenses become due and owing.

**5.6 Reports to Beneficiaries.** At least annually, the Liquidating Trustee, on behalf of the Liquidating Trust, shall File with the Bankruptcy Court (and provide to any other party entitled to receive any such report pursuant to this Agreement) an annual report regarding the administration of property subject to its ownership and control pursuant to the Plan and this Agreement, distributions made by it, and other matters relating to the implementation of the Plan; *provided, however*, that the filing of any such report is solely to provide centralized access to information and there is no implication or suggestion that the Bankruptcy Court is supervising the Liquidating Trustee.

**5.7 Books and Records.** The Liquidating Trustee shall maintain complete and accurate records concerning all receipts and distributions to and from the Liquidating Trust, including, but not limited to, the date and amount of each distribution to the Beneficiaries.

**5.8 Compliance with Securities Laws.** Under Bankruptcy Code section 1145, the issuance of interests in a liquidating trust pursuant to a chapter 11 plan is exempt from registration under the Securities Act of 1933, as amended, and applicable state and local laws requiring registration or qualification of securities. If the Liquidating Trustee determines, with the advice of counsel, that the Liquidating Trust is required to comply with the reporting requirements of the Securities Exchange Act of 1934, as amended, or the Investment Company Act of 1940, as amended, then the Liquidating Trustee shall take any and all actions to comply with such reporting requirements and file periodic, current, and other reports in compliance therewith with the Securities and Exchange Commission.

## **ARTICLE VI: TAX MATTERS**

**6.1 Purpose and Intent of Liquidating Trust.** The primary purpose of the Liquidating Trust is to liquidate the Liquidating Trust Assets in an expeditious and commercially prudent manner, and all activities of the Liquidating Trustee will be limited to those activities reasonably necessary to, and consistent with, the accomplishment of that purpose. The Liquidating Trustee shall make continuing efforts to dispose of the Liquidating Trust Assets and shall value the Liquidating Trust Assets using consistent standards. There is no intention on the part of any party in interest to carry on a profit-making business or to unreasonably prolong the liquidation process.

**6.2 Tax Characterization.** The Liquidating Trustee shall take or cause to be taken all reasonable and necessary actions, including without limitation, timely preparation and filing of required Tax Returns for the Liquidating Trust as a grantor trust pursuant to Treasury Regulation Section 1.671-4(a), to carry into effect the intent that the Liquidating Trust created by the Plan and this Agreement qualify as a liquidating trust within the meaning of section 301.7701-4(d) of the Treasury Regulations, and to treat the Beneficiaries of the Liquidating Trust as the grantor-owners of the Liquidating Trust within the meaning of sections 671 through 678 of the Internal Revenue Code. In the event the Liquidating Trust shall fail or cease to qualify as a liquidating trust in accordance with Treasury Regulations Section 301.7701-4(d), the parties to this Agreement intend that the Liquidating Trustee take such action as the

Liquidating Trustee shall deem appropriate to have the Liquidating Trust classified as a partnership for federal tax purposes under Treasury Regulations Section 301.7701-3 (but not a publicly traded partnership under Internal Revenue Code Section 7704), including, if necessary, creating or converting it into an Michigan limited liability partnership or limited liability company. All of the Liquidating Trust's income shall be subject to tax on a current basis.

For all U.S. federal income tax purposes, all parties (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) shall treat the transfer of the Liquidating Trust Assets to the Liquidating Trust as (a) a deemed transfer by the Debtors of the Liquidating Trust Assets directly to the Beneficiaries in full satisfaction of the Beneficiaries' claims against and interests in the Debtors and, to the extent Liquidating Trust Assets are allocable to Disputed Claims, to the Disputed Reserve, followed by (b) the deemed transfer by such Beneficiaries to the Liquidating Trust of the Liquidating Trust Assets (other than the Liquidating Trust Assets allocable to the Disputed Claims Reserve) in exchange for interests in the Liquidating Trust. Accordingly, the Beneficiaries shall be treated for United States federal income tax purposes as the grantors and owners of their respective share of the Liquidating Trust Assets (other than Liquidating Trust Assets allocable to the Disputed Reserve). The foregoing treatment shall also apply, to the extent permitted by applicable law, for all state, provincial, territorial, and local income tax purposes.

**6.3 Tax Reporting.** The Liquidating Trustee shall prepare and provide to, or file with, the appropriate taxing authorities and other parties such notices, tax returns, and other filings, including all federal, state, and local tax returns for the Liquidating Trust, as may be required under the Internal Revenue Code, the Plan, or as may be required by applicable law of other jurisdictions including, if required under applicable law, notices required to report interest or dividend income ("Tax Reports"). The Liquidating Trustee shall treat the Liquidating Trust as a grantor trust for U.S. federal income tax purposes pursuant to Treasury Regulation section 1.671-4(a) and in accordance with the Plan. The Liquidating Trustee also will annually send to each Beneficiary a separate statement regarding the receipts and expenditures of the Liquidating Trust as relevant for all U.S. federal income tax purposes and will instruct all such Beneficiaries to use such information in preparing their U.S. federal income tax returns or to forward the appropriate information to such Beneficiary's underlying beneficial holders with instructions to utilize such information in preparing their U.S. federal income tax returns. If additional tax information is provided at the specific request of a Beneficiary (and not as required by applicable law), then such Beneficiary shall pay a reasonable fee to the Liquidating Trustee, in an amount to be then determined by the Liquidating Trustee, together with all costs and expenses incurred by the Liquidating Trustee in providing such tax information to such Beneficiary. The Liquidating Trustee shall also file (or cause to be filed) any other statement, return, or disclosure relating to the Liquidating Trust that is required by any governmental units in the U.S. and elsewhere.

In connection with the Liquidating Trustee's performance of the Liquidating Trustee's duties pursuant to this Section, the Liquidating Trustee may require any Beneficiary to furnish to the Liquidating Trustee its employer or taxpayer identification number as assigned by the IRS, together with such other information, returns, or forms as the Liquidating Trustee may determine are required, and the Liquidating Trustee may condition any distribution of Liquidating Trust Assets to any Beneficiary upon such receipt of such identification number, any other information

and returns and forms as are required for the Liquidating Trustee to comply with IRS requirements.

The Liquidating Trustee will, in good faith, value all Liquidating Trust Assets, and shall make all such values available from time to time, to the extent relevant, and such values shall be used consistently by all parties to the Liquidating Trust (including, without limitation, the Debtors, the Liquidating Trustee, and the Beneficiaries) for all U.S. federal income tax purposes.

Allocations of Liquidating Trust taxable income among the Beneficiaries (other than taxable income allocable to the Disputed Reserve) shall be determined by reference to the manner in which an amount of cash representing such taxable income would be distributed (were such cash permitted to be distributed at such time) if, immediately prior to such deemed distribution, the Liquidating Trust had distributed all of the Liquidating Trust Assets (valued at their tax book value, and other than assets allocable to the Disputed Reserve) to the holders of the interests in the Liquidating Trust, adjusted for prior taxable income and loss and taking into account all prior and concurrent distributions from the Liquidating Trust. Similarly, taxable loss of the Liquidating Trust shall be allocated by reference to the manner in which an economic loss would be borne immediately after a hypothetical liquidating distribution of the remaining Liquidating Trust Assets. The tax book value of the Liquidating Trust Assets for purpose of this paragraph shall equal their fair market value on the Effective Date, adjusted in accordance with tax accounting principles prescribed by the Internal Revenue Code, the applicable Treasury Regulations, and other applicable administrative and judicial authorities and pronouncements.

Subject to definitive guidance from the IRS or a court of competent jurisdiction to the contrary (including the receipt by the Liquidating Trustee of a private letter ruling if the Liquidating Trustee so requests one, or the receipt of an adverse determination by the IRS upon audit if not contested by the Liquidating Trustee), the Liquidating Trustee shall (a) timely elect to treat any Disputed Reserve as a “disputed ownership fund” governed by Treasury Regulation section 1.468B-9, and (b) to the extent permitted by applicable law, report consistently with the foregoing for state and local income tax purposes. All parties (including the Liquidating Trustee, the Debtors, and the Beneficiaries) shall report for U.S. federal, state, and local income tax purposes consistently with the foregoing.

The Liquidating Trustee shall be responsible for payment, out of the Liquidating Trust Assets, of any U.S., local, or foreign taxes imposed on the Liquidating Trust or the Liquidating Trust Assets, including the Disputed Reserve. In the event, and to the extent, any Cash retained on account of Disputed Claims in the Disputed Reserve is insufficient to pay the portion of any such U.S., local, or foreign taxes attributable to the taxable income arising from the assets allocable to, or retained on account of, Disputed Claims, such U.S., local, or foreign taxes shall be (a) reimbursed from any subsequent Cash amounts retained on account of Disputed Claims, or (b) to the extent such Disputed Claims have subsequently been resolved, deducted from any amounts otherwise distributable by the Liquidating Trustee as a result of the resolution of such Disputed Claims.

The Liquidating Trustee may request an expedited determination of taxes of the Liquidating Trust, including the Disputed Reserve, or the Debtors under Bankruptcy Code section 505(b) for all tax returns filed for, or on behalf of, the Liquidating Trust or the Debtors for all taxable periods through the dissolution of the Liquidating Trust.

6.4 **Compliance with Tax Withholding Requirements.** In connection with making distributions under the Plan and this Agreement, the Liquidating Trustee shall comply with all tax withholding and reporting requirements imposed on the Liquidating Trustee by any governmental unit, and all distributions pursuant to the Plan and this Agreement shall be subject to such withholding and reporting requirements. Any property so withheld will then be paid by the Liquidating Trust to the appropriate authority. The Liquidating Trustee may withhold the entire distribution due any Beneficiary until such time as such Beneficiary provides the necessary information to comply with any withholding requirements of any governmental unit, including an IRS Form W-9 containing its, his, or her employer or taxpayer identification number as assigned by the IRS, or, in the case of Beneficiaries that are not U.S. persons for federal income tax purposes, certification of foreign status on IRS Form W-8BEN, W-81MY, or W-8ECI. If the Liquidating Trustee requests information necessary to comply with any tax withholding or reporting requirements of any governmental unit of any Beneficiary by certified mail and (i) does not receive a response to such request within sixty (60) days, sends a second request by certified mail and again receives no response within sixty (60) days or (ii) the request is returned to the Liquidating Trustee as undeliverable and the Liquidating Trustee is unable to determine a correct address after reasonable efforts, then no further distributions shall be made to such Beneficiary unless the Liquidating Trustee is notified in writing within six (6) months after the date that the initial request was sent of such Beneficiary's necessary information (subject to the Liquidating Trustee's right to require supporting documents evidencing that the necessary information is that of the rightful Beneficiary), in which case all currently due missed distributions shall be made to such Beneficiary on the next Distribution Date subject to such withholding and reporting requirements, and shall not be supplemented with any interest, dividends or other accruals of any kind. If the Liquidating Trustee does not receive notice of a Beneficiary's necessary information within six (6) months after the date of the initial request, then all distributions to the Beneficiary that has not provided the information necessary to comply with any tax withholding and reporting requirements of any governmental unit may be treated as an unclaimed distribution in accordance with Section 7.8 below or the amount required to be withheld may be so withheld and turned over to the applicable authority.

**ARTICLE VII:  
APPLICATION AND PRIORITY OF DISTRIBUTION OF LIQUIDATING TRUST  
FUNDS**

7.1 **Money Held in Trust.** All moneys and other assets that the Liquidating Trust receives under this Agreement, until used or applied as provided in this Agreement, shall be held in trust for the purposes for which they were received. The Liquidating Trust shall not be obligated to pay interest on any moneys that it receives under this Agreement. However, except as otherwise provided in this Agreement, the Liquidating Trustee shall promptly invest moneys of the Liquidating Trust as provided in Section 5.4 of this Agreement.

7.2 **Right to Receive Distributions from the Liquidating Trust.** The amount of each Beneficiary's Allowed Claim shall represent such person's right to receive distributions from the Liquidating Trust in accordance with the priorities set forth in the Plan and this Agreement.

Prior to distribution of any portion of the Liquidating Trust Assets to any Beneficiary, the Liquidating Trustee shall first



- (a) reserve for or pay to any taxing authorities, as necessary, any taxes of the Liquidating Trust;
- (b) reserve for or pay to the Office of the U.S. Trustee any statutory fees incurred for the Debtors' Estates after the Effective Date, as may be required;
- (c) reserve for or pay the Trustee Professionals for services rendered and expenses incurred;
- (d) reserve for or pay the Liquidating Trustee's compensation and reasonable and necessary expenses incurred in fulfilling the Liquidating Trustee's obligations set forth in the Plan and in this Agreement;
- (e) reserve for or pay any additional expenses incurred in fulfilling the obligations of the Liquidating Trustee set forth in the Plan and in this Agreement and not specifically identified in this Section 7.2; and
- (f) establish a Disputed Reserve.

7.3 **Priority of Payment from the Liquidating Trust.** After providing for the reserves set forth in Section 7.2 hereof, all proceeds from assets of the Liquidating Trust shall be distributed according to the priorities set forth in the Plan.

7.4 **Distribution Dates.** Distributions will be made by the Liquidating Trustee or a third party disbursing agent pursuant to the terms of the Plan.

7.5 **Interim Distributions.** On each applicable Distribution Date, the Liquidating Trustee will distribute the net available Cash in accordance with the Plan and this Agreement.

7.6 **Final Distribution.** Upon liquidating the Liquidating Trust, and after payment of all fees, costs, and expenses of administration of the Liquidating Trust, the Liquidating Trustee shall make a final distribution of funds to the Beneficiaries (the "Final Distribution") in accordance with the Plan and this Agreement. The Liquidating Trustee shall have no obligation to invest funds of the Liquidating Trust from and after the date of Final Distribution.

7.7 **Disputed Claims.** If, in the exercise of the Liquidating Trustee's business judgment, the Liquidating Trustee believes that complete and final resolution of certain Disputed Claims, Causes of Action, or Estate Litigation will take an unreasonably long period of time, and if economically feasible, the Liquidating Trustee may elect to establish a reserve for the benefit of holders of Disputed Claims (the "Disputed Reserve") in separate accounts for each of the unresolved Disputed Claims, each of which Disputed Reserves and related accounts shall be administered by the Liquidating Trustee. The Liquidating Trustee shall distribute to and maintain in the Disputed Reserve cash that would otherwise be distributable to holders of Disputed Claims, assuming such Disputed Claims would be allowed in the face amount of such Claims. In determining the face amount of Disputed Claims, the Liquidating Trustee may rely on the Debtors' estimates as to Disputed Claims and will have no liability therefore in the absence of bad faith or gross negligence. As Disputed Claims are resolved, the Liquidating Trustee shall make adjustments to the Disputed Reserve. Except as otherwise agreed by the relevant parties, the Liquidating Trustee shall not be required to (a) make any partial payments

or partial distributions on account of a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order or (b) make any distributions on account of an Allowed Claim of any Beneficiary that holds both an Allowed Claim and a Disputed Claim, unless and until all objections to the Disputed Claim have been resolved by settlement or Final Order. Following establishment and funding of the Disputed Reserves, the Liquidating Trustee may then declare the Distribution Date and make distributions consistent with the terms of the Plan and the Liquidating Trust. Upon complete and final resolution of the Disputed Claims, the Liquidating Trustee shall make a subsequent Distribution from the Disputed Reserves consistent with any resolution and the terms of the Plan and the Liquidating Trust.

The distributions held or received by the Liquidating Trustee on account of the Disputed Reserve shall (a) be deposited in a segregated bank account in the name of the Liquidating Trustee for the benefit of holders of Allowed Claims and Disputed Claims that become Allowed Claims, (b) be accounted for separately, and (c) not constitute property of the Debtors. The Liquidating Trustee shall invest Cash held in the Disputed Reserve in a manner consistent with this Agreement.

On the first Distribution Date that is at least thirty (30) days after a Disputed Claim becomes an Allowed Claim, the Liquidating Trustee shall (a) distribute to the holder of such Allowed Claim any property in the Disputed Reserve that would have been distributed to such holder on the Distribution Dates on which distributions previously were made to holders if the Allowed Claim in issue had been an Allowed Claim on such earlier Distribution Dates; and (b) distribute any remaining property held in the Disputed Claim Reserve on account of any resolved Disputed Claim in accordance with the Plan and this Agreement.

After Final Orders have been entered as to all Disputed Claims, or other final resolution has been reached with respect to all Disputed Claims, any remaining property held in the Disputed Reserve will return to the Liquidating Trust and be distributed in accordance with the Plan and this Agreement.

**7.8 Unclaimed and Undeliverable Distributions.** The Liquidating Trustee shall treat unclaimed and undeliverable distributions in accordance with Section 7.5.1 of the Plan.

**7.9 Delivery of Distributions.**

**(a) Distribution Record Date.** The Liquidating Trustee shall not have any obligation to recognize any transfer of any Claim until the record holder of such claim has provided notice to the Liquidating Trustee of such transfer.

**(b) De Minimis Distributions.** All Distributions shall be made in accordance with the provisions of the Plan, but in no event shall the Liquidating Trustee be obligated to make a Distribution if, in the sole discretion of the Liquidating Trustee, there are insufficient Liquidating Trust Assets to make a cost-efficient Distribution, taking into account the size of the Distribution to be made and the number of Beneficiaries of such Distribution, in which event such funds shall, in the discretion of the Liquidating Trustee, be donated to Access to Bankruptcy Court.

**(c) Provision of Tax Identification Number.** If the Liquidating Trustee requests a tax identification number or other necessary tax information from any Beneficiary and does not

receive such information, then the Liquidating Trustee may withhold payment of distributions to such Beneficiary unless and until the Liquidating Trustee is provided such information in writing, in which case all currently due missed distributions shall be made to such Beneficiary on the next Distribution Date (but shall not be supplemented with any interest, dividends, or other accruals of any kind). If the Liquidating Trustee does not receive notice of a Beneficiary's tax identification number prior to the Final Distribution Date, then all distributions that would have been made to the Beneficiary shall be treated as undeliverable or unclaimed property in accordance with Section 7.8.

7.10 **Third Party Disbursing Agent.** The Liquidating Trustee may employ, in his/her sole discretion, a Third party disbursing agent to make all distributions, and to otherwise perform all necessary action related to such distributions, required under the Plan and this Agreement.

#### **ARTICLE VIII: RESIGNATION AND REMOVAL OF THE LIQUIDATING TRUSTEE**

8.1 **Resignation.** The Liquidating Trustee may resign by giving not less than thirty (30) days' prior written notice thereof to the Bankruptcy Court. The resignation shall be effective upon the earlier of (a) the successor Liquidating Trustee accepting his/her appointment as Liquidating Trustee under this Agreement or (b) thirty (30) days from the date of the notice described above.

8.2 **Successor Liquidating Trustee.** In the event of resignation or removal of the Liquidating Trustee, the former Committee members shall elect, by majority vote, any successor Liquidating Trustee. Any successor Liquidating Trustee shall execute and deliver to the resigning Liquidating Trustee a written instrument accepting such appointment, and thereafter, such successor Liquidating Trustee, without further act, shall become vested with all the estates, properties, rights, powers, and duties of the resigning Liquidating Trustee.

#### **ARTICLE IX: TERMINATION AND DISCHARGE**

9.1 **Termination.** The Liquidating Trust shall terminate on the earliest of the following dates:

- (a) the date that the Liquidating Trust Assets have been liquidated and the proceeds distributed to the Beneficiaries as provided in the Plan and this Agreement;
- (b) the date that the Bankruptcy Court or another court of competent jurisdiction enters a Final Order authorizing the termination of such Liquidating Trust; and
- (c) three (3) years after the Effective Date.

Notwithstanding the foregoing, in the event the Liquidating Trustee shall have been unable, after reasonable efforts, to liquidate or otherwise dispose of the assets of the Liquidating Trust within the initial three (3) year term of this Agreement, then the Liquidating Trustee shall have the right to extend the term of such Liquidating Trust, subject to the Bankruptcy Court entering an order

approving such extension based upon a finding that such extension is necessary for the Liquidating Trust to complete its purpose.

9.2 **Discharge.** The Liquidating Trustee shall be discharged of his/her duties under this Agreement on the earlier of: (a) the date of termination as provided in Section 9.1, or (b) the date that a successor Liquidating Trustee accepts his/her appointment.

## **ARTICLE X: MISCELLANEOUS**

10.1 **No Third-Party Beneficiaries.** Notwithstanding anything to the contrary in the Plan or this Agreement, neither the Liquidating Trustee, nor any of the Liquidating Trustee's employees, agents, counsel, or affiliates shall have any duties or responsibilities to, or fiduciary or third-party relationships with, any other person or entity, except as expressly provided in this Agreement or the Plan. Without limiting the generality of the foregoing, the Liquidating Trustee shall have no obligation to:

- (a) provide information to any person, except as provided in this Agreement or the Plan;
- (b) preserve any right or interest of any other person; or
- (c) collect or realize upon any asset or property distributed under the Plan on account of any claim. The Liquidating Trustee shall attempt to collect or realize upon such assets in any manner that the Liquidating Trustee, in the Liquidating Trustee's sole and absolute discretion, shall deem appropriate, and shall not incur any liability to the Debtors or any claimant of the Debtors in so doing.

10.2 **Notices.** All communications and notices provided to the Trustee under this Agreement shall be in writing and addressed to counsel for the Liquidating Trustee or, if no such counsel is then retained, the Liquidating Trustee at Kohut Law Group, PLLC, 17000 Kercheval Avenue, Suite 210, Grosse Pointe, Michigan 48230. Any notice, if properly addressed, shall be deemed given upon the first business day after placement in the U.S. mail, first class postage prepaid.

10.3 **Execution of Documents.** The Liquidating Trustee may execute any and all documents necessary and appropriate to effectuate the purpose of this Agreement.

10.4 **Modification.** This Agreement shall not be modified without further order of the Bankruptcy Court after notice to the Beneficiaries and a hearing. Upon a motion of the Liquidating Trustee, the Bankruptcy Court or other court of competent jurisdiction may approve, without notice to the Beneficiaries, technical modifications to this Agreement which do not adversely affect the rights or interests of the Beneficiaries or which conform the terms of this Agreement to the terms of the Plan.

10.5 **Severability.** Any provision of this Agreement which is prohibited or unenforceable in any jurisdiction shall, as to such jurisdiction, be ineffective only to the extent such provision is unenforceable without invalidating the remaining provisions of this Agreement or affecting the validity or enforceability of such provision in any other jurisdiction.

10.6 **Headings.** The various headings of this Agreement are inserted for convenience only and shall not affect the meaning or interpretation of this Agreement.

10.7 **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan.

10.8 **Conflict with the Plan.** In the event that there is any conflict between the terms of this Agreement and the Plan, the terms of the Plan shall govern.

10.9 **Counterparts.** This Agreement may be executed in any number of counterparts. Each counterpart of this Agreement shall, for all purposes, constitute an original, and all of such counterparts, taken together, shall constitute one and the same agreement.

10.10 **Enforcement and Administration.** The Bankruptcy Court shall retain jurisdiction to enforce and administer the provisions of this Agreement, as set forth in the Plan and herein.

[Remainder of Page Intentionally Left Blank; Signature Page Follows]

**IN WITNESS WHEREOF**, the parties have executed this Agreement as of the date first written above.

By: \_\_\_\_\_  
Stephen M. Gross (P35410)  
Jayson B. Ruff (P69893)  
Joshua A. Gadharf (P76860)  
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**COUNSEL TO THE OFFICIAL  
COMMITTEE OF UNSECURED  
CREDITORS**

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

GENE R. KOHUT

**LIQUIDATING TRUSTEE**

**EXHIBIT A**

[PLAN OF LIQUIDATION]

**EXHIBIT B**  
[CONFIRMATION ORDER]