

UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY	
Caption in Compliance with D.N.J. LBR 9004-2(c) WASSERMAN, JURISTA & STOLZ, P.C. 110 Allen Road Ste. 304 Basking Ridge, New Jersey 07920 Phone: (973) 467-2700 Fax: (973) 467-8126 <i>Counsel to Debtors</i> DANIEL M. STOLZ DONALD W. CLARKE	
In Re:	Case No.: 12-19958(NLW)
LIBERTY HARBOR HOLDING, LLC,	Hon. Novalyn L. Winfield
Debtors.	Chapter: 11

**FOURTH AMENDED JOINT PLAN OF REORGANIZATION OF
LIBERTY HARBOR HOLDING, LLC,
LIBERTY HARBOR NORTH II URBAN RENEWAL COMPANY, LLC AND
LIBERTY HARBOR NORTH, INC.**

The Debtors, as Joint Plan Proponents, respectfully submit this Joint Plan of Reorganization, pursuant to Chapter 11, Title 11 of the United States Bankruptcy Code, in the form annexed hereto and made a part hereof.

Dated: May 12, 2015

Plan Proponents

/s/ Peter Mocco

LIBERTY HARBOR HOLDING, LLC

/s/ Peter Mocco

LIBERTY HARBOR NORTH II URBAN
RENEWAL COMPANY, LLC

/s/ Peter Mocco

LIBERTY HARBOR NORTH, INC.

TABLE ON CONTENTS

I. INTRODUCTION 1

II. DEFINITIONS 2

 A. Scope of Definitions 2

III. CLASSIFICATION OF CLAIMS 11

 3.1. Unclassified Claims 11

 3.2. Administrative Expenses and Fees 11

 3.3. Priority Tax Claims 12

 3.4. Priority Non-Tax Claims 12

 3.5. Class 1. Kerrigan Family 12

 3.6. Class 2. The JCRA 12

 3.7. Class 3. The City of Jersey City 13

 3.8. Class 4. Other Unsecured Creditors 13

 3.9. Class 5. Equity Holders 13

IV. TREATMENT OF CLAIMS CLASSIFIED UNDER THE PLAN 13

 4.1 Class 1. The Kerrigan Family 13

 4.2 Class 2. The JCRA 13

 4.3 Class 3. The City of JCRA 14

 4.4 Class 4. The Unsecured Creditors 14

 4.5 Class 5. Equity Holders 14

V. ACCEPTANCE OR REJECTION OF PLAN 14

 5.1 Each Impaired Class Entitled to Vote Separately 14

 5.2 Presumed Acceptance of the Plan 15

 5.3 Non-Consensual Confirmation 15

VI. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES 15

 6.1 Executory Contracts and Unexpired Leases 15

VII. MEANS FOR IMPLEMENTING THE PLAN 16

 7.1 Funding of the Plan 16

 7.2 Conveyance of the Kerrigan Parcel 16

 7.3 Disbursing Agent 16

 7.4 Manner and Timing of Payments Under the Plan 16

 7.5 De Minimus Distribution 17

 7.6 Unclaimed Cash 17

 7.7 Rounding 17

 7.8 Interest 17

 7.9 Interest on Funds Held by Disbursing Agent 17

 7.10 Setoff and Recoupment Rights Preserved 17

VIII. ALLOWANCE OF CLAIMS 18

8.1	Penalty-Based Claims Disallowed	18
8.2	Bar Date for Objections to Prepetition Claims.....	18
8.3	Administrative Expense Claims Bar Date.....	18
8.4	Objections to Claims	19
8.5	Reserves for Disputed Claims	19
8.6	Estimation of Claims	20
8.7	Designation of Claims	20
IX.	EFFECT OF CONFIRMATION.....	20
9.1	Revesting of Property	21
9.2	Binding Effect	21
9.3	Discharge.....	21
9.4	Exculpation and Limitation of Liability.....	22
9.5	Discharge Injunction	22
9.6	Releases	23
9.7	Redevelopment Agreement and Kerrigan Settlement.....	24
X.	CONDITIONS PRECEDENT TO CONFIRMATION AND THE EFFECTIVE DATE	24
10.1	Conditions to Confirmation.....	24
10.2	Conditions to the Occurrence of the Effective Date.....	24
XI.	RETENTION OF JURISDICTION	24
XII.	MISCELLANEOUS PROVISIONS	26
12.1	Modification of Plan.....	26
12.2	Revocation or Withdrawal of Plan.....	26
12.3	Non-Severability of Plan of Reorganization	26
12.4	Post-Confirmation Matters	27
12.5	Headings	27
12.6	Successors and Assigns	27
12.7	Governing Law	27
12.8	Notices.....	27
12.9	Admissibility	27
12.10	Time.....	28
12.11	Use of Terms	28
12.12	Confirmation Order	28
12.13	Section 1146 Exemption	28

I.

INTRODUCTION

Liberty Harbor Holding, LLC (“LHH”), Liberty Harbor North II Urban Renewal Company, LLC (“LHUR”), and Liberty Harbor North, Inc. (“LHN”), Debtors in Possession in the above-captioned administratively consolidated Chapter 11 case (“each a “Debtor” and collectively, the “Debtors” or the “Plan Proponents”) propose the following Plan of Reorganization, (together with exhibits and as amended from time to time, the “Plan”), pursuant to Section 1121 of the United States Bankruptcy Code (the “Bankruptcy Code”). The Debtors are the proponents of this Plan, within the meaning of Section 1129 of the Bankruptcy Code. All capitalized terms not defined in this Introduction have the meanings ascribed to them in Section II of this Plan, in other sections of the Plan, or in the Bankruptcy Code.

Transmitted with this Plan is a copy of the Disclosure Statement, required by Section 1125 of the Bankruptcy Code (together with exhibits and as amended from time to time, the “Disclosure Statement”), which is provided to help you understand this Plan. Reference is made to the Disclosure Statement for a discussion of the Debtors’ structure, history, business assets, and a summary and analysis of the Plan and related matters.

This Plan constitutes a reorganizing Plan. On the Effective Date of the Plan, the assets of the Debtors in Possession will revert in the Debtors, except as provided in this Plan. The means for funding the distribution to creditors are set forth in the Plan. Although the Debtors’ cases have been administratively consolidated and the Debtors are filing the within Joint Plan of Reorganization, the within Plan does not provide for the substantively consolidation of the Debtors’ Estates, or the merger of any of the Debtors.

THE PLAN PROPONENTS URGE ALL CREDITORS AND OTHER PARTIES IN INTEREST TO READ THIS PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN. NO SOLICITATION MATERIALS, OTHER THAN

THE DISCLOSURE STATEMENT AND ANY DOCUMENTS, SCHEDULES, EXHIBITS OR LETTERS ATTACHED THERETO OR REFERENCED THEREIN, HAVE BEEN AUTHORIZED BY THE BANKRUPTCY COURT FOR USE IN SOLICITING ACCEPTANCES OR REJECTIONS OF THIS PLAN.

II.

DEFINITIONS

A. **Scope of Definitions**

For purposes of this Plan, except as expressly otherwise provided or unless the context otherwise requires, all capitalized terms not otherwise defined shall have the meanings assigned to them in this Section of the Plan. In all references herein to any parties, persons, entities, or corporations, the use of any particular gender or the plural or singular number is intended to include the appropriate gender or number as the text may require.

2.1 **Administrative Claim** shall mean a claim for any cost or expense of administration of the Chapter 11 case entitled to priority under Section 507(a) of the Bankruptcy Code, including, without limitation, any actual and necessary expenses of preserving the estates of the Debtors, including Professional Claims, to the extent compensable under applicable law, and any actual and necessary expense of operating the businesses of the Debtors, incurred after the Petition Date.

2.2 **Allowed** shall mean with respect to a Claim (other than an Administrative Claim) (a) any Claim against a Debtor, proof of which was timely filed pursuant to the Bankruptcy Code, the Bankruptcy Rules or an Order of the Court or (b) any Claim that has been or hereinafter is, listed in the Schedules as liquidated in amount and not disputed or contingent and in each such case of (a) and (b) above, as to which either (i) no objection to the allowance thereof has been filed within the applicable period of

limitation fixed by the Plan, the Confirmation Order, or other Order of the Court or (ii) an objection has been filed and the Claim has been allowed by a Final Order, but only to the extent so allowed.

2.3 **Allowed Administrative Claims** shall mean all or that portion of an Administrative Claim which either has been allowed by Final Order, or was incurred by a Debtor in the ordinary course of business after the Petition Date and is due and owing without defense, offset or counterclaim of any kind.

2.4 **Bankruptcy Code** shall mean the Bankruptcy Reform Act of 1978, as amended, and as codified in Title 11 of the United States Code, as now in effect or hereafter amended.

2.5 **Bankruptcy Court** shall mean the United States Bankruptcy Court for the District of New Jersey having jurisdiction over the Chapter 11 Case and, to the extent of any reference made pursuant to 28 U.S.C. Section 158, the unit of such District Court constituted pursuant to 28 U.S.C. Section 151.

2.6 **Bankruptcy Rules** shall mean the rules and forms of practice and procedure in bankruptcy, promulgated under 28 U.S.C. Section 2075 and also referred to as the Federal Rules of Bankruptcy Procedure, and the local rules of the Bankruptcy Court.

2.7 **Business Day** means and refers to any day except Saturday, Sunday, a legal holiday (as such term is defined in Bankruptcy Rule 9006), or any day on which commercial banks in New Jersey are authorized by law to close.

2.8 **Cash** shall mean (a) with respect to payments under the Plan, lawful currency of the United States of America (U.S. dollars), regular check, certified check, bank check or wire transfer from a domestic bank; and (b) for all other purposes, lawful currency of the United States of America U.S. dollars).

2.9 **Chapter 11 Case** shall mean the above-captioned administratively consolidated Chapter 11 cases of LHH, LHUR and LHN, bearing jointly administered case number 12-19958 (NLW).

2.10 **Claim** shall mean any right to seek payment from the Debtor whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured, or unsecured; or any right to an equitable remedy for breach of performance if such breach gives rise to a right of payment from the Debtor whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured, or unsecured. All claims as such term is defined in section 101(5) of the Bankruptcy Code.

2.11 **Condemnation Action** means the lawsuit commenced by the JCRA on August 26, 2004 by the filing of a Verified Complaint in Condemnation and Declaration of Taking against Ronald Kerrigan, Kathy Kerrigan, Lynn Kerrigan, Kerrigan Investment Company, Inc. and others for the acquisition of an approximately 3.415 acre parcel of land designated as Block 60, Lot W26B on the tax map of the City of Jersey City, with respect to which a final judgment was entered in favor of the Kerrigan Family on February 6, 2009 in the amount of \$18.6 million plus interest.

2.12 **Confirmation Date** means the date on which the Confirmation Order is entered on the docket of the Bankruptcy Court.

2.13 **Confirmation Hearing** means the hearing held before the Bankruptcy Court at which the Debtor requests the entry of the Confirmation Order, in accordance with Section 1129 of the Bankruptcy Code.

2.14 **Confirmation Order** means the Order of the Bankruptcy Court confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.

2.15 **Consolidated Actions** means: (i) the lawsuit commenced on November 23, 2011 by the Kerrigan Family by the filing of a complaint against the JCRA and others in the Superior Court of New Jersey, Law Division, Hudson County, captioned Ronald Kerrigan et al. v. Jersey City Redevelopment Agency et al.s, Docket No.: HUD-L-5906-11; and (ii) the lawsuit commenced on December 13, 2011 by

the JCRA by the filing of a First Amended Complaint against the Moccas and others in the Superior Court of New Jersey, Law Division, Hudson County, captioned Jersey City Redevelopment Agency v. Liberty Harbor North II Urban Renewal Company LLC, et als., Docket No.: HUD-L-6165-11, both of which actions subsequently were consolidated.

2.16 **Connecticut Trustees** shall mean Richard M. Coan, Trustee for Bankruptcy Estate of James J. Licata and Ronald I. Chorches, Trustee for the Bankruptcy Estate of First Connecticut Group, Inc.

2.17 **Connecticut Trustee Settlement** shall mean the settlement agreement by and between the Mocco Parties, the Debtors and the Connecticut Trustees, approved by Memorandum and Order dated October 9, 2014 by the Honorable Alan H.W. Shiff, United States Bankruptcy Judge for the District of Connecticut, Bridgeport Division.

2.18 **Creditor** means an Entity that holds a Claim against a Debtor or holds a Claim that arises out of or relates to the actions or operations of a Debtor or a Claim of any kind specified in sections 502(g), (h) or (i) of the Bankruptcy Code, whether or not such Entity has asserted a Claim against a Debtor.

2.19 **Debtors** shall mean Liberty Harbor Holding, LLC, Liberty Harbor North II Renewal Company, LLC and Liberty Harbor North, Inc.

2.20 **Debtors' Counsel** shall mean the law firm of Wasserman, Jurista & Stolz, P.C.

2.21 **Debtors' Estates** shall mean the property of Debtors, as defined in 11 U.S.C. §541.

2.22 **Disallowed Claim** means any Claim or portion thereof which has been disallowed by a Final Order or which has been determined pursuant to this Plan, not to be compensable, and, therefore should not become an Allowed Claim, but which, nonetheless, is discharged, released and enjoined pursuant to the Plan.

2.23 **Disbursing Account** means the account to be created by the Disbursing Agent for distribution to creditors.

2.24 **Disbursing Agent** means the Debtors.

2.25 **Disclosure Statement** means the Debtors' Disclosure Statement approved by the Bankruptcy Court, as containing adequate information in accordance with section 1125 of the Bankruptcy Code, along with all exhibits and attachments thereto, for use in connection with the solicitation of acceptances of the Plan.

2.26 **Disputed Claim** means a Claim that has not become an Allowed Claim.

2.27 **Effective Date** means the next Business Day following the day on which the conditions set forth in Section 10.2 of the Plan have been satisfied or waived (if waivable) pursuant to Section 10.3.

2.28 **Entity** means an individual, personal representative, corporation, partnership, limited liability company, association, joint stock company, joint venture, estate, trust, unincorporated organization, or government or any political subdivision thereof, or other Person or Entity, as those terms are defined at sections 101(15) and (41) of the Bankruptcy Code.

2.29 **Face Amount** means with respect to a particular Claim: (a) if the Claim is listed in the Schedules and the holder of such Claim has not filed a Proof of Claim with the Bankruptcy Court within the applicable period of limitations fixed by the Bankruptcy Court pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, the amount of such claims as is listed in the Schedules as not disputed, contingent or unliquidated; or (b) if the holder of such Claim has filed a Proof of Claim with the Bankruptcy Court within the applicable period of limitation fixed by the Bankruptcy Court, pursuant to the Bankruptcy Code, the Bankruptcy Rules or other applicable law, the liquidated amount stated in such Proof of Claim, or such amount as is determined by Final Order; or (c) in the case of an Administrative Expense Claim, the liquidated amount set forth in any application properly filed with the Bankruptcy

Court or the amount contained in the Debtors' books and records, or such amount as is determined by Final Order of the Court.

2.30 **Fee Request** means a request for compensation or reimbursement of expenses pursuant to Section 328, 330, 331 or 503 of the Bankruptcy Code in connection with an application made to the Bankruptcy Court in the Chapter 11 Case.

2.31 **Final Order** means an Order or judgment of the Bankruptcy Court, as applicable, as entered on the docket that (a) is not stayed, (b) has not been reversed, modified or amended, and (c) as to which the time to appeal, petition for certiorari, or seek reargument, review, reconsideration, rehearing or leave to appeal (excluding the time to move for relief from a final order or judgment under Rule 60(b) of the Federal Rules of Civil Procedure and the time to request revocation of an order of confirmation under section 1144 of the Bankruptcy Code) has expired and as to which no appeal, petition for certiorari or other proceeding for reargument, review, reconsideration, rehearing or leave to appeal (including a motion for relief from a final order or judgment under said Rule 60(b) or a request for revocation of an order of confirmation under said section 1144) is pending, or as to which any right to appeal, petition for certiorari or seek reargument, review, reconsideration, rehearing or leave to appeal has been waived in writing, or, if any appeal, petition for certiorari, or other proceeding for reargument, review, reconsideration, rehearing or leave to appeal has been sought, the order or judgment in question has been affirmed by the highest court to which the order or judgment was appealed or from which the argument or rehearing was sought, or certiorari has been denied, and the time to take any further appeal, petition for certiorari or seek further reargument, review, reconsideration, rehearing or leave to appeal (excluding the time to move for relief from a final order or judgment under said rule 60(b) and the time to request revocation of an order of confirmation under said section 1144) has expired.

2.32 **General Unsecured Claim** means any Pre-Petition Claim against a Debtor which is not (a) a Claim entitled to Priority Status, (b) a Claim of an Insider or an affiliate of a Debtor, (c) a secured claim, (d) entitled to priority under Section 503 of the Bankruptcy Code, or (e) a subordinated Claim.

2.33 **Impaired**, when used as an adjective preceding the words “Class of Claims”, shall mean that the Plan alters the legal, equitable or contractual rights of the member of Class, and as otherwise ascribed to such term in section 1124 of the Bankruptcy Code.

2.34 **JCRA** shall mean the Jersey City Redevelopment Agency.

2.35 **Jersey City** shall mean The City of Jersey City, Hudson County, New Jersey.

2.36 **Kerrigans** shall mean Ronald Kerrigan, Kathryn Kerrigan, Lynn Kerrigan and Kerrigan Investment Company, Inc.

2.37 **Kerrigan Parcel** shall mean the property designated as Block 60, Lot W26B on the tax map of the City of Jersey City.

2.38 **Kerrigan Settlement** shall mean the Settlement Agreement by and among Ronald Kerrigan, Kathryn Kerrigan, Lynn Kerrigan, the Jersey City Redevelopment Agency, the City of Jersey City, the Debtors, and Peter and Lorraine Mocco.

2.39 **Kerrigan Settlement Order** shall mean the Order entered by the Bankruptcy Court, on July 20, 2012 (docket no. 83), approving the Kerrigan Settlement

2.40 **L. Mocco** shall mean Lorraine Mocco.

2.41 **LHH** shall mean Liberty Harbor Holding, LLC, a New Jersey Limited Liability Company.

2.42 **LHN** shall mean Liberty Harbor North, Inc., a New Jersey Corporation.

2.43 **LHUR** shall mean Liberty Harbor North II Urban Renewal Co., LLC, a New Jersey Limited Liability Company.

2.44 **Moccas** shall mean P. Mocco and L. Mocco.

2.45 **Mocco Entities** shall mean entities controlled by the Moccas.

2.46 **Mocco Parties** shall mean the Moccas, affiliates and entities, as defined in the Connecticut Settlement.

2.47 **Order** means an order of the United States Bankruptcy Court for the District of New Jersey.

2.48 **Ownership Litigation** shall mean that certain litigation styled *Mocco et al. v. Licata et al.* now pending in the Superior Court of New Jersey, Law Division, Essex County; bearing former Docket No. ESX-L-4058-99).

2.49 **P. Mocco** shall mean Peter Mocco.

2.50 **Petition Date** shall mean April 17, 2012, the date on which the Debtors filed their Chapter 11 Petitions.

2.51 **Plan** shall mean the within Plan of Reorganization, together with the exhibits hereto, filed in these Chapter 11 Cases, together with any additional modifications and amendments to the Plan.

2.52 **Plan Funding** shall constitute the amounts necessary to satisfy all Administrative, Priority and Unsecured Claims, as set forth more particularly in this Plan.

2.53 **Plan Proponents** shall mean the Debtors.

2.54 **Post-Petition** means arising, accruing or relating to the period beginning on the Petition Date.

2.55 **Pre-Petition** means arising, accruing or relating to the period before the Petition Date.

2.56 **Priority Status** means the priority in distribution afforded to certain claims pursuant to Section 507(a) of the Bankruptcy Code.

2.57 **Priority Tax Claim** means any Pre-Petition Claim, against a Debtor, to the extent entitled to priority in payment under Section 507(a)(8) of the Bankruptcy Code.

2.58 **Proceedings** shall mean the Chapter 11 Case and any filed adversary proceedings, and all proceedings therein each.

2.59 **Professional Persons** means and refers to all attorneys, accountants, appraisers, consultants and other professionals retained or to be compensated pursuant to an Order of the Court entered under Sections 327, 328, 330, 503(b) or 1103 of the Bankruptcy Code.

2.60 **Professional Claim** means and refers to a Claim by any and all professionals as provided for in Sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code.

2.61 **Proskauer Defendants** shall mean Proskauer Rose, LLP and Dale Schreiber.

2.62 **Redeveloper** means “Redeveloper” as that term is defined in the Redevelopment Agreement.

2.63 **Redevelopment Agreement** means the Contract for Sale of Land for Private Redevelopment originally entered into between the JCRA and P. Mocco on February 14, 1985, as amended by that First Amendment to the Contract for Sale for Private Redevelopment between the JCRA and P. Mocco dated February 27, 1987, as further amended by that Amended Final Judgment entered by the United States District Court for the District of New Jersey on September 28, 1998 in the matter captioned Liberty Harbor North v. City of Jersey City, as further amended by that Third Amendment to Contract for Sale of Land for Private Development, dated October 28, 2004, as further amended by that Restated Third Amendment to Contract for Sale of Land for Private Development, dated March 10, 2006, as further amended by that Fourth Amendment (sic) to Contract for Sale of Land for Private Development, dated June 3, 2008, and as amended by all subsequent amendments including, but not limited to the Kerrigan Settlement Agreement.

2.64 **Reorganized Debtor** – All Debtor entities as of the Effective Date and as treated consistent with this Plan and the Confirmation Order.

2.65 **Schedules** means the various schedules, lists and statements filed by the Debtors in this Case pursuant to Bankruptcy Rule 1007 as the same may be or have been amended, supplemented or otherwise modified from time to time.

2.66 **Secured Claim** means and refers to a Claim which is secured by a valid lien, security interest or other interest in property, in which either or both of the Debtors has an interest which has been perfected properly as required by applicable law, but only to the extent of the value of such Debtor's interest in such property, determined in accordance with Section 506(a) of the Bankruptcy Code.

2.67 **Other Definitions**, a term used and not defined herein, but that is defined in the Bankruptcy Code, shall have the meaning set forth therein. The words "herein", "hereof", "hereto", "hereunder", and others of similar import refer to the Plan as a whole and not to any particular section, sub-section, or clause contained in the Plan. Moreover, some capitalized terms used herein that are not defined in this Section shall have the meanings ascribed to such terms in the section in which they are used.

III.

CLASSIFICATION OF CLAIMS

The following is a designation of Plan Classes of Claims. A Claim is classified in a particular Plan Class only to the extent that the Claim qualifies within the description of the Plan Class and is classified in a different Plan Class to the extent the Claim qualifies within the description of that different Plan Class.

3.1 **Unclassified Claims**. Certain types of claims are not placed into voting classes; instead they are unclassified. The treatment of these claims is provided below.

3.2 **Administrative Claims**. All Allowed Administrative Claims will be paid on the Effective Date of the Plan, unless a particular claimant agrees to a different treatment.

Court Approval of Professional Claims Required: The Court must approve all Professional Claims. Each Professional Person requesting compensation in the case pursuant to Sections 327, 328, 330, 331, 503(b) or 1103 of the Bankruptcy Code shall file an application for allowance of final compensation and reimbursement of expenses not later than ninety (90) days after the Confirmation Date. Nothing herein shall prohibit each Professional Person from requesting interim compensation during the course of this case pending Confirmation of this Plan.

3.3 **Priority Tax Claims.** The Debtors do not believe that any party holds a Priority Tax Claim. To the extent that Priority Tax Claim are Allowed, such claims will be in full on the Effective date of the Plan.

3.4 **Priority Non-Tax Claims.** Priority Non-Tax Claims are entitled to priority treatment. The Debtors does not believe that there are any holders of priority non-tax claims. To the extent that any Priority Non-Tax Claim is Allowed, such claim shall be paid in full on the Effective Date of the Plan.

3.5 **Class 1. -- Kerrigan Family Claims.** The claims of the Kerrigan Family have been fixed and allowed pursuant to the Kerrigan Settlement. The Kerrigan Family shall be the sole member of Class 1.

3.6 **Class 2. – The JCRA.** The claims of the JCRA, as set forth in the Condemnation Action and the Consolidated Actions (the “JCRA Claims”), have been fixed and allowed pursuant to the Kerrigan Settlement Order. The JCRA shall be the sole member of Class 2.

3.7 **Class 3. – The City of Jersey City.** The Debtors do not believe that any funds are owed to the City of Jersey City, other than certain real estate taxes, which the Debtors believe will have been paid in full prior to the Confirmation Date. The City of Jersey City is the sole member of Class 3.

3.8 **Class 4. -- Other Unsecured Creditors.** Class 4 shall consist of all Allowed Claims of Unsecured Creditors, other than the members of Classes 1, 2, and 3. The Allowed Claims of Class 4 shall be paid in cash, in full on the Effective Date of the Plan.

3.9 **Class 5. -- Equity Holders.** Class 5 shall consist of the Equity Holders of the Debtors as of the Effective Date of the Plan.

IV.

TREATMENT OF CLAIMS CLASSIFIED UNDER THE PLAN

The Allowed Claims classified in Article III of the Plan shall be satisfied in the manner set forth in this Article IV unless the holder of such Allowed Claim agrees to accept less favorable treatment.

4.1 **Class 1. -- Kerrigan Family.** The claims of the Kerrigan Family have been fixed and allowed pursuant to the Kerrigan Settlement Order. The Kerrigan Settlement Order provides for the payment of the Kerrigan Family Claims over a period of time pursuant to the payment schedule set forth in Article I of and Exhibit A to the Kerrigan Settlement. The Kerrigan Settlement Order is incorporated herein in its entirety as if set forth herein and shall govern the rights, remedies and obligations of the parties thereto under this Plan. In the event of any inconsistency between the Kerrigan Settlement Order/Kerrigan Settlement and the Plan, the Kerrigan Settlement Order/Kerrigan Settlement shall prevail and govern.

4.2 **Class 2. -- The JCRA.** The JCRA Claims have been fixed and allowed pursuant to the Kerrigan Settlement Order. The Kerrigan Settlement Order is incorporated herein in its entirety as if set forth herein and shall govern the rights, remedies and obligations of the parties thereto under this Plan. In the event of any inconsistency between the Kerrigan Settlement Order/Kerrigan Settlement and the Plan, the Kerrigan Settlement Order/Kerrigan Settlement shall prevail and govern.

4.3 **Class 3. -- The City of Jersey City.** The Debtors are unaware of any claims held by the City of Jersey City, other than certain claims for the payment of real estate taxes, which the Debtors believe will have been paid prior to the confirmation date. To the extent that the City of Jersey City holds an Allowed Claim as of the Effective Date, said Allowed Claim shall be paid in full, in cash on the Effective Date of the Plan.

4.4 **Class 4. -- The Unsecured Creditors.** The Allowed of Claims of Unsecured Creditors, who comprise Class 4 under the Plan shall be paid in full, without interest, by monthly distribution to be received over the eight-year period beginning the latter of the Effective Date of the Plan, or the day the claim is allowed by Final Order of the Bankruptcy Court.

4.5 **Class 5. -- Equity Holders.** Class 5 shall consist of the Equity Holders of the Debtors as of the Effective Date of the Plan.

<u>Class</u>	<u>Status</u>	<u>Voting Rights</u>
Class 1 - Kerrigan Claims	Unimpaired	Presumed to Accept
Class 2 – JCRA	Unimpaired	Presumed to Accept
Class 3 - City of Jersey City	Unimpaired	Presumed to Accept
Class 4 - Unsecured Creditors	Impaired	Entitled to Vote
Class 5 - Equity	Unimpaired	Presumed to Accept

V.

ACCEPTANCE OR REJECTION OF PLAN

5.1 **Each Impaired Class Entitled to Vote Separately.** The holders of Allowed Claims in each Impaired Class, or their designees, shall be entitled to vote separately to accept or reject the Plan. In the event of a controversy as to whether any holder of an Allowed Claim or Class is Impaired under the Plan, the Bankruptcy Court, shall, after notice and a hearing, determine such controversy. A Class of Creditors shall have accepted the Plan if the Plan is accepted by at least two-thirds in the aggregate dollar

amount and more than one-half in number of the holders of Allowed Claims of such Class that have voted to accept or reject the Plan. In the event that any Impaired class of Creditors shall fail to accept the Plan, in accordance with Section 1129(a) of the Bankruptcy Code, the Debtors reserve the right to request that the Bankruptcy Court confirm the Plan in accordance with Section 1129(b) of the Bankruptcy Code.

5.2 **Presumed Acceptance of the Plan.** Debtors assert that all Classes 1, 2, 3 and 5 are Unimpaired under the Plan and shall be presumed to have voted to accept the Plan.

5.3 **Non-Consensual Confirmation.** If any Impaired Class entitled to vote shall not accept the Plan by the requisite statutory majorities provided in Section 1126(c) of the Bankruptcy Code, the Debtor reserves the right to request that the Bankruptcy Court confirmation the Plan under Section 1129(b) of the Bankruptcy Code.

VI.

TREATMENT OF EXECUTORY CONTACTS AND UNEXPIRED LEASES

6.1 **Executory Contracts and Unexpired Leases.** Prior to the Confirmation Hearing, the Debtors shall file with the Court a list of those executory contracts and unexpired leases to be rejected. All executory contracts and leases that are not rejected will be deemed assumed as of the Effective Date. The Plan shall constitute a motion for approval of the assumption of the Redevelopment Agreement. Specifically, in conjunction with confirmation of the within Plan, the Debtors shall be deemed to have assumed the Redevelopment Agreement, as amended by all subsequent amendments including, but not limited to the Kerrigan Settlement Agreement, and shall satisfy the requirements of Section 365 of the Bankruptcy Code with respect thereto including, but not limited to, any cure and adequate assurance. In connection with Confirmation of the within Plan, the Court shall determine the amounts necessary to cure any defaults under the Redevelopment Agreement between the Debtors and the JCRA.

VII.

MEANS FOR IMPLEMENTING THE PLAN

7.1 **Funding of the Plan.** The Plan shall be funded by the Debtors. To the extent required, the Moccas and/or Mocco Entities will provide the Debtors with the funding necessary to consummate the Plan, including, but not limited to, all payments due to be made under the Kerrigan Settlement from and after the Effective Date. As of the date of this Plan, the Moccas have already provided the following funding to the Debtors:

- (a) \$2,500,000 upon execution of the Kerrigan Settlement;
- (b) \$500,000 within 30 days of execution of the Kerrigan Settlement;
- (c) \$3,000,000 on or about December 31, 2012; and
- (d) Upon consummation of a sale of land to New Jersey Transit, an additional \$4,000,000 was received by the Debtors.
- (e) \$1,500,000 paid to Connecticut Trustees;
- (f) Two year-end payments, on December 31, 2013, and December 31, 2014, each totaling \$750,000.00;
- (g) Counsel fees to date; and
- (h) Mocco entities' payments to creditors whose claims are being expunged.

7.2 **Disbursing Agent.** The Debtors shall be the Disbursing Agent for all payments to all Classes of creditors under the Plan.

7.3 **Manner and Timing of Payments Under the Plan.** Any cash required to be paid by the Debtors, pursuant to this Plan, may be paid by check drawn on an account of the Disbursing Agent, or by wire transfer, or as otherwise required or provided by applicable agreements or law. With respect to any distributions to be made on the Effective Date, such distribution shall be deemed timely made if made on the Effective Date or as soon thereafter as is practicable.

7.4 **De Minimus Distribution.** Any distribution or payments of five (\$5.00) dollars or less to be made by the Disbursing Agent are considered de minimus and shall not be made.

7.5 **Unclaimed Cash.** Except as otherwise expressly provided herein, if any Entity entitled to receive a payment under the Plan (a) cannot be located or (b) has not provided the Debtors with any document required as a condition precedent to receiving a distribution under the Plan, or if checks issued by the Disbursing Agent remain unclaimed or uncashed, within ninety (90) days after the Effective Date, such distributions will be forfeited with finality and the funds which would have been payable to such entity shall be returned to the Debtors. Nothing contained herein will require the Debtors to attempt to locate any such Entity.

7.6 **Rounding.** Whenever any payment of a fraction of a cent would otherwise be called for, the actual payment shall reflect a rounding of such fraction to the nearest whole cent, with one-half cent being rounded up to the nearest whole cent. To the extent Cash remains undistributed as a result of the rounding of such fractions to the nearest whole cent, such Cash shall be treated as Unclaimed Cash under Section 7.8 above.

7.7 **Interest.** Unless otherwise specifically provided for in the Plan or the Confirmation Order, post-petition interest shall not accrue or be paid on Claims, and no holder of a Claim will be entitled to interest accruing on or after the Petition Date on any Claim.

7.8 **Interest on Funds Held by Disbursing Agent.** Any interest earned on funds held by the Disbursing Agent shall inure to the benefit and be delivered to the Debtors, unless otherwise ordered by the Court.

7.9 **Setoff and Recoupment Rights Preserved.** The Debtors and/or the Disbursing Agent may exercise the right of setoff or recoupment against any Allowed Claim and the distributions to be made pursuant to the Plan on account of such Claim (before distribution is made or account of such

Claim), the claims, rights and causes of action of any nature that the Debtor may hold against the holder of such Allowed Claim. There shall be no Setoff or Recoupment rights with respect to the Kerrigan Settlement or the Redevelopment Agreement.

In the context of the Plan, recoupment is the right of the Debtors and/or the Disbursing Agent to have an Allowed Claim reduced by reason of some claim the Debtors and/or the Disbursing Agent has against the holder of the Allowed Claim arising out of the very transaction giving rise to the Claim.

Although the Debtors and/or the Disbursing Agent have discretion to exercise the right of setoff or recoupment, neither the failure to effect a setoff or recoupment nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtors and/or the Disbursing Agent of any such claims, rights and causes of action that the Debtors and/or the Disbursing Agent may possess against such holder.

VIII.

ALLOWANCE OF CLAIMS

8.1 **Penalty-Based Claims Disallowed.** Any of the following Claims shall not be compensable and shall constitute Disallowed Claims: any Claim for any fine, penalty or forfeiture, or from multiple, exemplary or punitive damages, to the extent that such fine, penalty, forfeiture or damages are not compensation for actual pecuniary loss suffered by the Holder of such Claim.

8.2 **Bar Date for Objections to Prepetition Claims.** Unless additional time is granted by entry of an order of the Bankruptcy Court, all objections to Claims not already Allowed through and including the Effective Date must be filed within sixty (60) days following the entry of the Confirmation Order. The objecting party shall be the Debtors or the Reorganized Debtors.

8.3 **Administrative Expense Claims Bar Date.**

A. **Ordinary Course Administrative Expense Claims.**

Unless otherwise ordered by the Bankruptcy Court, the bar date for Ordinary Course

Administrative Expense Claims shall be the first Business Day that is at least thirty (30) days after the Effective Date (the “Ordinary Course Administrative Claims Bar Date”). Claimants holding Ordinary Course Administrative Expense Claims not paid as of the Effective Date may file an Administrative Expense Claim on or before the Administrative Claims Bar Date. The Notice of the Effective Date to be delivered pursuant to Bankruptcy Rules 2002 and 3020(c) will set forth such date and constitute notice of the Ordinary Course Administrative Expense Claim Bar Date. The Debtors or the Reorganized Debtors shall have thirty (30) days after the Ordinary Course Administrative Expense Claims Bar Date, or such longer period as the Bankruptcy Court may allow, to review and object to such Claims.

B. Administrative Claim of Professional Persons.

Except as provided herein, or as otherwise ordered by the Bankruptcy Court, all Professional Persons must file and serve on the Debtors and the Debtors’ counsel, no later than sixty (60) days after the Effective Date a final fee application. The Court shall schedule a hearing on such final fee application and dates for objection thereto.

8.4 Objections to Claims.

Only Claims that are Allowed shall be entitled to distribution under the Plan. Except for Claims expressly Allowed in this Plan, the Debtors reserve the right to contest and object to any Claims filed or asserted in this case, including without limitation, those Claims that are not listed in the Schedules or are listed therein as disputed, contingent and/or unliquidated in amount, or listed therein at a lesser amount than asserted by the holder of such Claim.

8.5 Reserves for Disputed Claims.

On or before the Effective Date, the Debtors shall establish a reserve for Disputed Claims, equal to the amount that would have been distributed on account of such claims had they been deemed Allowed Claims on the Effective Date or in such other amount as may be approved or directed by the

Bankruptcy Court. With respect to such Disputed Claims, if, when, and to the extent any such Disputed Claims become Allowed Claims, by Final Order, the relevant portion of the Cash held in reserve therefor shall be distributed by the Disbursing Agent to the Claimant in a manner consistent with distributions to similarly situated Allowed Claims. The balance of such Cash, if any, shall be returned to the Debtors.

8.6 **Estimation of Claims.**

The Debtors may, at any time, request that the Bankruptcy Court, on proper notice, estimate any disputed claim, pursuant to Section 502(c) of the Bankruptcy Code. The Bankruptcy Court will retain jurisdiction to estimate any claim at any time during litigation concerning any objection to any claim, including during the pendency of any appeal relating to any such objection. If the Bankruptcy Court estimates any disputed claim, that estimated amount will constitute either the Allowed amount of such claim or the maximum limitation of such claim, as determined by the Bankruptcy Court. All of the objection, estimation, settlement and resolution procedures set forth in the Plan are cumulative and are not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court. The Debtors may also request that the Court estimate claims for purposes of voting on the Plan.

8.7 **Designation of Claims.**

The Debtors reserve the right to request the Court designate the vote of any entity whose acceptance or rejection of the Plan was not in good faith or was not solicited or procured in good faith, or in accordance with the provisions of the Bankruptcy Code.

IX.

EFFECT OF CONFIRMATION

9.1 **Revesting of Property.** On the Effective Date, title to the property in the Debtors' Estates, including the Debtors' interests (if any) in the property subject to the Ownership Litigation, shall

revest in the applicable Reorganized Debtor but, with respect to property subject to the Ownership Litigation, only to the extent that the applicable Debtor or Reorganized Debtor is determined to have an interest in said property in the Ownership Litigation. Any property that reverts pursuant to this paragraph shall revest in the applicable Reorganized Debtor in accordance with Section 1141 of the Bankruptcy Code free and clear of all liens, Claims, encumbrances, charges and interests existing on or before the Confirmation Date, except (a) such property shall be subject to the Redevelopment Agreement and the Kerrigan Settlement/Kerrigan Settlement Order and (b) with respect to the property subject to the Ownership Litigation, which shall revest subject only to those liens, Claims, encumbrances, charges and interests determined to exist in the Ownership Litigation. From and after the Effective Date, the Reorganized Debtors may continue to operate their businesses without the supervision of the Bankruptcy Court and free of any restriction imposed by the Bankruptcy Code or the Bankruptcy Rules, but subject to the Redevelopment Agreement and the Kerrigan Settlement/Kerrigan Settlement Order. Any rights or causes of action owned by or accruing in favor of the Debtors, whether or not previously asserted, shall also revest with the Debtors.

9.2 **Binding Effect.** On and after the Effective Date, the provisions of the Plan shall bind any holder of a Claim against the Debtors and its respective successors and assigns, whether or not the Claim is impaired under the Plan and whether or not such holder has accepted the Plan.

9.3 **Discharge.** Except as otherwise provided herein or in the Confirmation Order, the occurrence of the Effective Date shall operate as a discharge, pursuant to and to the full extent of section 1141(d)(1) of the Bankruptcy Code, effective as of the Effective Date, of any and all debts of and Claims (other than Administrative Expenses) against the Debtors that arose at any time prior to the Confirmation Date. On and after the Effective Date, as to every discharged debt and Claim, the Entity that held such debt or Claim shall be precluded from asserting any such debt or Claim against the Debtors or

Reorganized Debtors or their property. Notwithstanding the foregoing, the Debtors' obligations under the Redevelopment Agreement and the Kerrigan Settlement/Kerrigan Settlement Order shall not be, nor shall be deemed or construed to have been, altered, impaired, released, or discharged under the Plan.

9.4 **Exculpation and Limitation of Liability.** Except as to the Kerrigan Settlement/Kerrigan Settlement Order and the Redevelopment Agreement, from and after the Effective Date, none of the Debtors, nor any of their respective employees, agents, or Professional Persons employed by any of them, shall have or incur any liability or obligation to any Entity and shall be deemed released by each of the foregoing against the other, and by all holders of Claims, for and from any claims, obligations, rights, causes of action and liabilities, for any act or omission from the Petition Date through the Effective Date, in connection with or related to the Plan, the Chapter 11 case or the operation of the Debtors' business during the Chapter 11 case, including, but not limited to and without limiting the generality of this Section, the formulation, preparation, dissemination, implementation, confirmation, consummation or administration of the Plan, the Disclosure Statement, or any contract, instrument, release or any other agreement or document created or entered into in connection therewith including any distributions made pursuant to the Plan, except for acts that are deemed to constitute gross negligence, willful misconduct, fraud or bad faith

9.5 **Discharge Injunction.** Except as otherwise provided herein or in the Confirmation Order, the Confirmation Order shall provide that all Entities, which have held, hold or may hold Claims against the Debtors that are discharged pursuant to Section 9.3 of the Plan, are, with respect to those Claims, permanently stayed, restrained and enjoined on and after the Effective Date from taking any of the following actions on account of such discharged Claims, other than actions brought to enforce any rights or obligations under the Plan: (i) commencing, conducting or continuing in any manner any action or proceeding of any kind, including any judicial, arbitral, regulatory, administrative or other form of

proceeding against the Reorganized Debtors or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, the Debtors or Reorganized Debtors or any property of any such transferee or successor, (ii) enforcing, levying, attaching (including pre-judgment attachment) collecting or otherwise recovering, by any manner or means, any judgment, award, decree, or order against either of the Reorganized Debtors, or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, the Debtors or the Reorganized Debtors, or any property of any such transferee or successor, (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any lien against the Reorganized Debtors, any of their property, or any direct or indirect transferee of any property of, or successor in interest to, the Debtors or Reorganized Debtors, (iv) asserting any setoff, right of subrogation, contribution or recoupment of any kind, directly or indirectly, against the Reorganized Debtors, or any direct or indirect transferee of any property of or successor in interest to, the Debtors or the Reorganized Debtors, or (v) acting or proceeding in any manner that does not conform to or comply with the provisions of the Plan and the Confirmation Order.

9.6 **Releases.** Effective as of the Effective Date, and except as otherwise provided herein or in the Confirmation Order, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, in their individual capacities and as debtors in possession, will be deemed to have been forever released, waived and discharged from any and all Claims, obligations, suits, judgments, damages, demand, debts, rights, causes of action and liabilities (other than the rights of the Debtors to enforce the Plan and the agreements delivered thereunder), whether in tort, contract, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for

money borrowed by the Debtors, taking place on or prior to the Effective Date in any way relating to the Debtors, the Chapter 11 Case or the Plan.

9.7 **Redevelopment Agreement and Kerrigan Settlement.** For the avoidance of doubt, nothing contained herein or in the Confirmation Order shall be deemed or construed to (i) adversely affect or impair any rights, claims or defenses of the JCRA or the Debtor's, Moccas and Mocco Entities under the Redevelopment Agreement or the Kerrigan Settlement/Kerrigan Settlement Order, as the case may be; or (ii) discharge or release P. Mocco or any other party from his, her or its obligations under the Redevelopment Agreement.

X.

**CONDITIONS PRECEDENT TO
CONFIRMATION AND THE EFFECTIVE DATE**

10.1 **Conditions to Confirmation.** Confirmation of the Plan is conditioned upon full satisfaction of the following conditions precedent:

- A. The Debtors shall demonstrate to the Bankruptcy Court evidence of their and the Plan's compliance with all of the applicable requirements of the Bankruptcy Code; and
- B. The proposed Confirmation Order shall be in a form satisfactory to the Court.

10.2 **Conditions to the Occurrence of the Effective Date.** The Plan shall not become effective unless and until each of the following conditions precedent has been fully satisfied:

- A. All conditions to the Confirmation of the Plan set forth in Section 10.1 have been satisfied; and
- B. The Confirmation Order shall have become a Final Order.

XI.

RETENTION OF JURISDICTION

Except as is otherwise provided in this Plan, notwithstanding the confirmation of the Plan, or the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of or relating to the Chapter 11 Case and the Plan, including, but not limited to the following:

- A. To determine the Allowed Amount of Disputed Claims;
- B. To determine requests for payment of Claims and entitlement to Priority Status other than a Fee Request;
- C. To hear and determine Fee Requests and any other request or motions for allowance of fees and costs payable by the Debtors or the Debtors' Estates;
- D. To resolve controversies and disputes regarding interpretation and implementation of the Plan, the Confirmation Order and all other orders entered in this Chapter 11 Case;
- E. To enter Orders enforcing or in aid of the Plan, the Confirmation Order and all other orders entered in this Chapter 11 Case, which may include contempt or other sanctions to enforce the Releases and Plan Injunctions included in the Plan and to otherwise protect the entities released;
- F. To modify the Plan or the Confirmation Order or remedy any apparent defect or omission or reconcile any inconsistency in the Plan or the Confirmation Order;
- G. To determine any and all applications, objections to Claims, adversary proceedings and contested or litigated matters, pending on the Effective Date, or as filed pursuant to the Bankruptcy Code or Order of the Bankruptcy Court, including proceedings in matters filed subsequent to the Effective Date that could have been filed prior to the Effective Date;
- H. To allow, disallow, estimate, liquidate or determine any Claim and to enter or enforce any Order regarding such Claims;

- I. To determine any and all pending applications for the assumption or rejection of an executory contract or unexpired lease, and to hear and determine, and, if necessary, to liquidate Claims arising therefrom;
- J. To hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters, arising out of, under or related to, the Chapter 11 case;
- K. To hear and determine all disputes, involving the existence, nature or scope of the Debtors' discharge, the injunctions and releases set forth in the Plan and/or the Confirmation Order;
- L. To enter a Final Decree closing the Chapter 11 Case.

XII.

MISCELLANEOUS PROVISIONS

12.1 **Modification of Plan.** The Plan may be amended, modified or supplemented by the Debtors, in the manner provided for by Sections 1127 of the Bankruptcy Code, or otherwise permitted by law without additional disclosure pursuant to Section 1125 of the Bankruptcy Code, except as the Bankruptcy Court may otherwise direct.

12.2 **Revocation or Withdrawal of Plan.** The Debtors reserve the right to revoke or withdraw the Plan, at any time prior to the Confirmation Date. If the Debtors takes such action, then (i) the Plan shall be deemed null and void in all respects, (ii) nothing contained herein and no act taken in preparation for Confirmation of the Plan will (a) constitute or be deemed to constitute a waiver or release of any Claims by or against the Debtors or any other Entity, (b) prejudice in any manner, the rights of the Debtors or any Entity in any further proceeding involving the Debtors or related to the Chapter 11 Case, or (c) constitute an admission of any nature.

12.3 **Non-Severability of Plan of Reorganization.** The provisions of the Plan are inextricably

intertwined with the Confirmation Order and are non-severable and mutually dependent. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan is valid and enforceable pursuant to its terms.

12.4 **Post-Confirmation Matters.** Counsel for the Debtors shall be responsible for obtaining the entry of a Final Decree in this case. The Disbursing Agent shall file post-confirmation reports with the Office of the United States Trustee. The fees and expenses of counsel for the Debtors for post-confirmation services and the fees and expenses of the Disbursing Agent shall be the obligation of the Reorganized Debtors and shall be paid promptly upon submission of appropriate billings.

12.5 **Headings.** The headings used in this Plan are inserted for convenience only and neither constitute a portion of the Plan nor in any manner affect the provisions of the Plan.

12.6 **Successors and Assigns.** The rights and obligations of any Entity named or referred to in the Plan shall be binding upon and inure to the benefit of the successors and assigns of such Entity.

12.7 **Governing Law.** Except to the extent of the Bankruptcy Code and the Bankruptcy Rules are applicable, the rights and obligations arising hereunder and under any agreement, documents or instruments executed in connection herewith or in furtherance hereof, shall be governed by and construed and enforced in accordance with, the substantive laws of the State of New Jersey, without regard to the principles of conflicts laws thereof.

12.8 **Notices.** Any notice, demands, Claim or other communication under this Plan, shall be in writing and shall be deemed to have been given upon personal delivery thereof, upon delivery by overnight mail carrier, or upon the fifth day following the mailing thereof, if sent by certified mail, return receipt requested, postage pre-paid, to the last known address of the Entity to which such notice is given.

12.9 **Admissibility.** In the event the Confirmation Order is not entered, the provisions of this Plan shall be of no force or effect. Any statement made herein by the Debtors shall be deemed to be a

statement made in connection with a settlement or compromise and shall not be admissible in any subsequent proceeding.

12.10 **Time**. In computing any period of time prescribed or allowed by this Plan, the day of the act or event from which the designated period begins to run shall not be included. The last day of the period so computed shall be included, unless it is not a Business Day, in which event the period runs until the end of the next succeeding Business Day.

12.11 **Use of Terms**. As used in this Plan, singular terms shall include the plural, plural terms shall include the singular and pronouns shall include all pronouns. “Includes” and “including” are not exclusive.

12.12 **Confirmation Order**. The Confirmation Order shall ratify all transactions effectuated by the Debtors previously approved by the Bankruptcy Court during the period commencing on the Filing Date and ending on the Confirmation Date.

12.13 **Section 1146 Exemption**. Pursuant to Bankruptcy Code section 1146(c): (a) the issuance, transfer, or exchange of notes or equity securities under the Plan; (b) the creation of any mortgage, deed of trust, lien, pledge, or other security interest; (c) the making or assignment of any contract, lease or sublease; or (d) the making or delivery of any deed or other instrument of transfer under, in the furtherance of, or in connection with, will not be subject to any stamp tax, or other similar tax or any tax held to be a stamp tax or other similar tax by applicable law.