



**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**IN RE** : **Chapter 11**  
: **Case No. 12-05861 (ERW)**  
**Qualteq, Inc. (d/b/a VCT New Jersey,** : **Jointly Administered**  
**Inc.) et al.,** :  
**Debtors.** :

**DISCLOSURE STATEMENT PURSUANT TO SECTION 1125 OF THE  
BANKRUPTCY CODE FOR THE THIRD AMENDED JOINT  
PLAN OF REORGANIZATION OF QUALTEQ, INC. AND  
AFFILIATED DEBTORS IN POSSESSION**

HARLEY J. GOLDSTEIN  
MATTHEW E. MCCLINTOCK  
DAVID A. HALL  
GOLDSTEIN & MCCLINTOCK LLLP  
208 S. LaSalle Street, Suite 1750  
Chicago, Illinois 60604  
Telephone: (312) 337-7700  
Facsimile: (312) 277-2305

ATTORNEYS FOR DEBTORS

**DISCLOSURE STATEMENT DATED MARCH 2, 2012  
SOLICITATION OF VOTES WITH RESPECT TO  
THE THIRD AMENDED JOINT PLAN OF REORGANIZATION OF  
QUALTEQ, INC. AND AFFILIATED DEBTORS IN POSSESSION**

All creditors entitled to vote thereon are urged to vote in favor of the Third Amended Joint Plan of Reorganization of Qualteq, Inc. (“Qualteq”) and its Debtor Affiliates attached hereto as Exhibit I (the “Plan”) to this Disclosure Statement (the “Disclosure Statement”). A summary of the voting instructions is set forth in Section II.D.1. Additional instructions are contained on the ballots distributed to creditors entitled to vote on the Plan (the “Ballots”). **To be counted, your Ballot must be duly completed, executed and received by [ ] (the “Voting Deadline”), unless extended in writing by the Debtors.** The Debtors and their independent chief restructuring officer believe that the Plan is in the best interests of creditors and urge all creditors to vote in favor of the Plan.

**All creditors entitled to vote on the Plan are encouraged to read and carefully consider this entire Disclosure Statement, including the Plan attached as Exhibit I and the Risk Factors described under Section VII, prior to submitting Ballots in response to this solicitation. The effectiveness of the proposed Plan is subject to material conditions precedent, some of which may not be satisfied or waived by the relevant parties. See Section XII.**

All capitalized terms used in this Disclosure Statement and not otherwise defined herein shall have the meanings given to them in the Plan. The summaries of the Plan and other documents contained in this Disclosure Statement are qualified by reference to the Plan itself, the exhibits thereto and the documents described therein.

**Any statements in this Disclosure Statement concerning the provisions of any other document are not complete descriptions of such document, and in each instance reference is made to such document for the full text thereof.**

No person is authorized by any of the Debtors in connection with the Plan or the solicitation of acceptances of the Plan to give any information or to make any representation other than as contained in this Disclosure Statement and the exhibits attached hereto or incorporated by reference or referred to herein, and, if given or made, such information or representation may not be relied upon as having been authorized by any of the Debtors. Although the Debtors will make available to creditors entitled to vote on acceptance of the Plan such additional information as may be required by applicable law prior to the Voting Deadline, the delivery of this Disclosure Statement will not under any circumstances imply that the information herein is correct as of any time after the date hereof.

The information contained in this Disclosure Statement, including the information regarding the history, businesses and operations of the Debtors, the financial information regarding the Debtors and the liquidation analyses and projections relating to the Debtors, is included for purposes of soliciting acceptances of the Plan, and not for any other purpose. Nothing in this Disclosure Statement is intended to be or constitutes a concession by or admission of any Debtor for any purpose.

## **FORWARD-LOOKING STATEMENTS**

This Disclosure Statement contains forward-looking statements based primarily on the current expectations of the Debtors and projections about future events and financial trends affecting the financial condition of the Debtors' businesses. The words "believe," "may," "estimate," "continue," "anticipate," "intend," "expect" and similar expressions identify these forward-looking statements. These forward-looking statements are subject to a number of risks, uncertainties and assumptions, including those described below under the caption "Risk Factors" in Section VII. In light of these risks and uncertainties, the forward-looking events and circumstances discussed in this Disclosure Statement may not occur, and actual results could differ materially from those anticipated in the forward-looking statements. The Debtors do not undertake any obligation to update or revise publicly any forward-looking statements, whether as a result of new information, future events or otherwise.

This Disclosure Statement has not been approved or disapproved by the United States Securities and Exchange Commission (the "SEC"), any state securities commission or any securities exchange or association nor has the SEC, any state securities commission or any securities exchange or association passed upon the accuracy or adequacy of the statements contained herein.

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## I. PRELIMINARY STATEMENT

Collectively, the Debtors operate one of the largest vertically-integrated direct marketing businesses in North America, providing a full range of direct marketing services to numerous Fortune 500 companies, major national banks, and other well-known customers. The Debtors offer their customers a broad array of services – including database management and customization, customized printing, mail sorting and shipping, and plastic card production and personalization – from multiple facilities in Illinois, Iowa, and New Jersey.

The Debtors include the following entities:

**Qualteq, Inc., d/b/a VCT New Jersey, Inc. (“VCT-NJ”)**, a Delaware corporation, together with VCT (defined below), is a multi-national manufacturer and world leader in plastic card production and related services. VCT-NJ can produce cards in a wide range of thicknesses and finishes, and can include a variety of materials to improve card durability and security (such as smart chips and encoding). VCT-NJ operates from a facility located in New Jersey.

**Versatile Card Technology, Inc. (“VCT”)**, an Illinois corporation, provides largely the same services as VCT-NJ but operates from a facility located in Illinois.

**Global Card Services, Inc. (“GCS”)**, an Illinois corporation, operates as a full-service source for secured plastic card customization (such as for credit cards or other cards that carry a cash balance). GCS, the industry leader in the production of personalized plastic cards, custom card carriers, and plastic card labels, operates from a facility located in Illinois.

**Unique Embossing Services, Inc. (“UES”)**, an Illinois corporation, provides high-speed embossing of all types of promotional and direct mail packages using state-of-the-art equipment (such as the latest in Video Jet imprinting) at a facility located in Illinois.

**Unique Data Services, Inc. (“UDS”)**, an Illinois corporation, provides customized data processing services to customers, including extensive production services such as thermal imaging, plastic card embossing, and personalization of plastic cards (typically non-secure cards). UDS operates at a facility located in Illinois.

**Creative Automation Company (“CAC”)**, an Illinois corporation, provides customers with cutting-edge database management and computer processing services, forms printing and personalization, and mailing of folding product for customers from a facility located in Illinois.

**Unique Mailing Services, Inc. (“UMS”)**, an Illinois corporation, operates a full-service lettershop (complete with a United States Postal Service substation) and computerized warehouse where it provides services such as labeling,

admarketing, metering, inserting, and promotional card affixing to its customers. UMS operates from a facility located in Illinois.

**Automated Presort, Inc. (“API”)**, an Illinois corporation, uses multi-lined optical character readers to barcode, commingle by zip code (as requested by customers), and presort mail from over 250 customer mailings to optimize customer savings and delivery times. Automated Presort operates from facilities located in Illinois and Iowa.

**Fulfillment Xcellence, Inc. (“FXI”)**, an Illinois corporation, serves as a project manager for the Debtors’ direct marketing business, offering customers seeking to use services provided by more than one of the Debtors’ companies the convenience of “one-stop shopping.”

**Vmark, Inc. (“Vmark”)**, an Illinois corporation, serves largely as a holding company for certain of the other Debtor entities.

**Veluchamy, LLC**, an Illinois limited liability company, owns, without limitation, the real estate where VCT-NJ is headquartered.

**Creative Investments**, an Illinois general partnership, owns, without limitation, the real property where CAC is headquartered.

**1400 Centre Circle, LLC**, an Illinois limited liability company, owns, without limitation, the real property where API is headquartered.

**5200 Thatcher, LLC**, an Illinois limited liability company, owns, without limitation, the real property where VCT is headquartered.

**5300 Katrine, LLC**, an Illinois limited liability company, owns, without limitation, the real property where UDS is headquartered.

**Avadamma, LLC**, an Illinois limited liability company, owns, without limitation, the real property where GCS, UES, and University Subscription Services, Inc. (“USS”) are headquartered and several other parcels of real property.

**Anar Real Estate, LLC (“Anar”)**, an Illinois limited liability company that acts as property manager for several of the other Debtors that own real estate, performing maintenance and bookkeep functions, among others.

Although the Debtors’ trade name of “Vmark” is relatively recent, the first of the Vmark companies was actually established in 1969. Almost all of the other Debtors were formed and grown by Vmark’s founders since that time, although CAC and VCT-NJ were acquired as mature businesses in 1981 and 2003, respectively.

Today, the Debtors operate from nine domestic facilities with over 1,000,000 square feet of production space. The Debtors’ approximately 1,370 employees – none unionized – executed over six billion marketing messages for customers in the year prior to the Petition Date, making

them one of the largest direct marketing solution providers in North America. The Debtors also collectively constitute one of the nation's largest privately-held, minority-owned businesses and one of the largest minority certified suppliers in the United States – a certification that gives them a distinct advantage in marketing to major corporate clients.

Although the Debtors have been historically profitable – generating a small operating profit on gross revenues of approximately \$155 million in 2010 – in the months leading to the filing of these cases, the Debtors' businesses had been harmed by unrelated litigation and judgments against certain of the Debtors' shareholders. The Debtors' problems first arose in December of 2010 when Vasu and Jaganath Naidu (individual creditors of Debtor Vmark, Inc., who are owed approximately \$1.23 million) and Rajiv Parthasarathy (an individual creditor of Debtor Versatile Card Technology, Inc. who is owed approximately \$980,000) obtained judgments against Pethinaidu Veluchamy ("Mr. Veluchamy"), the Debtors' founder.

Due to default provisions in certain of the Debtors' loan documents, millions of dollars in loans from numerous lenders – including BBH Financial Services (API), Key Equipment Finance (GCS, VCT, UMS), TCF (VCT), TD Bank (VCT-NJ), Inland Bank (UMS), Pitney Bowes (UMS), Broadway Bank-MB Financial (Avadamma LLC), Harris Bank (Creative Investments), Skyland Bank (Veluchamy LLC), and Western Springs National Bank (GCS, API) – were suddenly in default. These defaults and associated cross-defaults (due to cross-default provisions in other loan facilities) caused a ripple of effects given that the Debtors collectively had at least 27 secured lenders as of the Petition Date.

Subsequent developments only exacerbated these problems, including another sizable judgment in favor of Bank of America, N.A. ("BANA") against Mr. Veluchamy and his wife, Parameswari Veluchamy ("Mrs. Veluchamy") and, collectively with Mr. Veluchamy, the "Veluchamys"). BANA's judgment against the Veluchamys is discussed in greater detail below.

The Debtors' concerns about their continued ability to operate through these significant distractions, and the fact that many customers exhibited insecurity about the Debtors' stability in light of the litigation surrounding the Debtors' principals led to the filing of these bankruptcy cases (defined below). Indeed, the uncertainty stemming from the foregoing litigation threatened key customer relationships, and competitors began aggressively waging a negative campaign, suggesting to customers that the Debtors may be unable to service their orders during the critical holiday season. The Debtors vitally needed stability and a way to assure customers that the high level of service they have always received from the Debtors would not be disrupted.

In light of these circumstances, and to best exercise their fiduciary duties, the Debtors retained Dan Scouler of Scouler & Company ("Scouler") as an independent Chief Restructuring Officer who, since early August, 2011, has had the final decision-making authority with respect to the Debtors' operations and strategic restructuring. Since the Petition Date, Scouler has maintained supervisory authority with respect to the Debtors' operations. After a thorough review of the Debtors' options, Scouler determined that the filing of these cases provided the most appropriate path, and that a proactive chapter 11 bankruptcy filing presented the best and most efficient forum for globally resolving the Debtors' financial issues, restoring the confidence of customers and suppliers, and generally maximizing value for all stakeholders.

Thus, on August 14, 2011 (the “Initial Petition Date”), each of the Debtors except for Anar (the “Initially Filed Debtors”) filed their petitions for relief under chapter 11 of the Bankruptcy Code in the United States Bankruptcy Court for the District of Delaware (the “Bankruptcy Court”). On September 11, 2011 (the “Anar Petition Date” and together, with the Initial Petition Date, the “Petition Date”), Anar filed its petition for relief with the Bankruptcy Court. Each of the chapter 11 cases of the Debtors (the “Reorganization Cases”) is being jointly administered for administrative purposes.

### Operational Restructuring Efforts During These Reorganization Cases

Since the Petition Date, the Debtors have worked tirelessly with Scouler to stabilize their businesses and normalize relationships with their customers and vendors. While sales experienced initial declines subsequent to the bankruptcy filing, sales in recent periods have proven stable. In that regard, the Debtors’ cash position at this time is, generally speaking, quite strong.

Scouler has also engaged in a top to bottom review and assessment of the Debtors’ operations to identify and resolve numerous operational inefficiencies that may be addressed by measures implemented following the Debtors’ emergence from bankruptcy, including the consolidation of accounting, cash management and administrative functions of the Debtors, which are currently managed on an individual basis by each Debtor, rather than on a consolidated basis.

Pursuant to the Plan, the operating Debtors intend to replace their numerous cash collateral lenders, and potentially the DIP Lender with a single, consolidated lender group, which will greatly simplify the Debtors’ capital structure and reduce costs. The Debtors, in conjunction with Scouler, continue to analyze their businesses to identify ways to maximize value, and will continue through the Effective Date to seek ways in which they can enhance their businesses.

A general discussion of the Plans’ terms, its treatment of creditors and other relevant information is set forth below.

## **II. CLAIMS CLASSIFICATION AND VOTING UNDER THE PLAN**

### **II.A. Introduction**

The following is a brief overview of certain provisions of the Plan. This overview is qualified by reference to the provisions of the Plan, which is attached hereto as Exhibit I, and the exhibits thereto, as amended from time to time.

The confirmation of a plan, which is the vehicle for satisfying the rights of holders of claims against and equity interests in a debtor, is the overriding purpose of a chapter 11 case. Upon confirmation of a plan, it becomes binding on the debtor and all of its creditors and stakeholders, and the obligations owed by the debtor to those parties are compromised and exchanged for the obligations specified in the plan. The Plan contemplates a reorganization of the Debtors and is therefore referred to as a “Plan of Reorganization.”

The Debtors and the Committee believe that the Plan is in the best interests of their estates and creditors. **All creditors entitled to vote on the Plan are urged to vote in favor of the Plan prior to 5:00 p.m., Eastern Time, \_\_\_\_\_, 2012, the Voting Deadline.**

**II.B. Summary of Classes and Treatment of Claims and Interests**

The Plan divides holders of Claims against and Interests in the Debtors into eight separate classes. The classes, proposed treatment and the estimated percentage recovery for each class under the Plan is provided in the table below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified. See Section II.C. for the provisions of the Plan governing such claims.

**SUMMARY OF CLASSIFICATION AND TREATMENT UNDER THE PLAN**

<b>CLASS</b>	<b>TREATMENT</b>	<b>STATUS/ VOTING RIGHTS</b>	<b>ESTIMATED PERCENTAGE RECOVERY</b>
Class 1 Other Secured Claims	Each holder of an Allowed Claim in Class 1 shall receive, at the option of the Reorganized Debtors, in full and final satisfaction and discharge of such Claim, either: (a) cash in the full amount of the Allowed Other Secured Claim; (b) the return of the collateral securing such Allowed Claim; or (c) such other treatment that satisfies section 1129 of the Bankruptcy Code.	Unimpaired  Deemed to Have Accepted the Plan  Not Entitled to Vote	100%
Class 2 Priority Claims	Each holder of an Allowed Priority Claim against a Debtor will receive, in full and final satisfaction and discharge of such Claim, cash equal to the amount of such Allowed Claim, unless otherwise agreed by the holder of a Class 2 Claim.	Unimpaired  Deemed to Have Accepted the Plan  Not Entitled to Vote	100%
Class 3 Secured Lender Claims	Each holder of an Allowed Class 3 Claim shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.	Unimpaired  Deemed to Have Accepted the Plan  Not Entitled to Vote	100%
Class 4 Current Vendor Claims	Each holder of an Allowed Class 4 Claim shall receive cash in an amount equal to the Allowed amount of their Class 4 Claim with distributions to such Holders to occur on or after the final Business Day of the sixth full calendar month following the Effective Date, or on the immediately	Impaired  Entitled to Vote	100%

CLASS	TREATMENT	STATUS/ VOTING RIGHTS	ESTIMATED PERCENTAGE RECOVERY
	following Quarterly Distribution Date following the date a Claim becomes an Allowed Class 4 Claim, whichever is later. Distributions made to Holders of Class 4 Claims shall not include interest.		
Class 5 Other Unsecured Claims	Each holder of a Class 5 Claim shall receive, at the option of the Reorganized Debtors, (i) cash in an amount equal to the Allowed amount of their Class 5 Claim payable on the Effective Date, or (ii) cash payments of principal and interest paid in equal monthly installments over ten years sufficient to provide such holder the value, as of the Effective Date, equal to the Allowed amount of such holder's claim; <i>provided, however</i> , that no payments on account of Allowed Class 5 Claims shall be made prior to the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.	Impaired Entitled to Vote	100%
Class 6 Intercompany Ordinary Course Claims	Class 6 Claims shall be Reinstated.	Unimpaired Deemed to Have Accepted the Plan Not Entitled to Vote	100%
Class 7 Intercompany Loan Claims	Class 7 Claims shall be Reinstated.	Unimpaired Deemed to have Accepted the Plan Not Entitled to Vote	100%
Class 8 Debtor Equity Interests	On the Effective Date, Class 8 Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.	Unimpaired Deemed to Have Accepted the Plan Not Entitled to Vote	N/A

The Debtors have classified the Claims unsecured creditors in classes 4 and 5 separately and provided different treatment for such Claims for valid business reasons. Holders of Claims in Class 4 consist of creditors with whom the Debtors will continue doing business following their emergence from chapter 11, including some of their most important vendors, contract parties and others, each of whom have a vested interest in preserving the value of the Debtors and their operations going forward. Holders of Claims in Class 5 consist of creditors that no longer conduct business with the Debtors, or are not otherwise significant to the Debtors'

business operations going forward. Class 5 will also include Allowed Fraudulent Transfer Liability Claims. The Debtors believe that holders of Claims such as the Allowed Fraudulent Transfer Liability Claims have interests divergent from those of vendors, service providers, and other parties in interest that form a critical part of the Debtors' constituency and whose support will be needed upon the Debtors' emergence from chapter 11. This is particularly true in the case of the Allowed Fraudulent Transfer Liability Claims, which arise out of litigation unrelated to the Debtors, and are held by one or more parties that have little or no interest in preserving the value of the Debtors' business operations.

## **II.C. Unclassified Claims**

### **II.C.1. Payment of Administrative Claims**

#### **a. Administrative Claims in General**

Except as specified in Section III.A.1 of the Plan, and subject to the bar date provisions therein, unless otherwise agreed by the holder of an Administrative Claim and the applicable Reorganized Debtor, each holder of an Allowed Administrative Claim will receive, in full satisfaction of its Administrative Claim, cash equal to the Allowed amount of such Administrative Claim either (i) as soon as practicable after the Effective Date or (ii) if the Administrative Claim is not allowed as of the Effective Date, within 45 days after the date on which an order allowing such Administrative Claim becomes a Final Order or a Stipulation of Amount and Nature of Claim is executed by the applicable Reorganized Debtor and the holder of the Administrative Claim.

#### **b. DIP Loan Claims**

On or before the Effective Date, all outstanding DIP Loan Claims shall be paid in full in cash in accordance with the DIP Amendment unless a different treatment is agreed to by the DIP Lender in writing.

#### **c. Exit Facility Fee Claims**

On or before the Effective Date, all Exit Facility Fee Claims will be paid in full in cash.

#### **d. Statutory Fees**

On or before the Effective Date, cash shall be disbursed on account of Administrative Claims for fees payable pursuant to 28 U.S.C. § 1930 in an amount equal to the amount of such Administrative Claims. Notwithstanding any other provisions in this Plan to the contrary, each and every Debtor shall remain obligated to pay fees pursuant to 28 U.S.C. § 1930 until such time as a particular case is closed, dismissed or converted to a case proceeding under chapter 7 of the Bankruptcy Code.

#### **e. Ordinary Course Liabilities**

Administrative Claims based on liabilities incurred by a Debtor in the ordinary course of its business, including Administrative Trade Claims, any Intercompany Ordinary Course Claims or Intercompany Loan Claims that are Administrative Claims, Administrative Claims of governmental units for Taxes and Administrative Claims arising from those contracts and leases of the kind described in Section V.C of the Plan, will be satisfied by the applicable Reorganized Debtor pursuant to the terms and conditions of the particular transaction giving rise to such Administrative Claims, without any further action by the holders of such Administrative Claims or further approval of the Bankruptcy Court.

f. Bar Dates for Administrative Claims

i. General Bar Date Provisions

Except as otherwise provided in Section III.A.1.f.ii.B of the Plan, unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtors, pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order, no later than 30 days after the Effective Date. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims and that do not File and serve such a request by the applicable Bar Date shall be forever barred from asserting such Administrative Claims against the Debtors, the Reorganized Debtors or their respective property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests must be Filed and served on the requesting party within 90 days after the Effective Date.

ii. Bar Dates for Certain Administrative Claims

A. Professional Compensation

Professionals or other Entities asserting a Fee Claim for services rendered before the Effective Date must File and serve on the Reorganized Debtors and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, the Fee Order or other order of the Bankruptcy Court a Final Fee Application no later than 45 days after the Effective Date; *provided, however*, that any Professional who may receive compensation or reimbursement of expenses pursuant to the Ordinary Course Professionals Order may continue to receive such compensation and reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court review or approval, pursuant to the Ordinary Course Professionals Order. A Professional may include any outstanding, non-Filed monthly or interim request for payment of a Fee Claim pursuant to the Fee Order in its Final Fee Application. Objections to any Final Fee Application must be Filed and served on the Reorganized Debtors and the requesting party by 65 days after the Effective Date. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court, including the Fee Order, regarding the payment of Fee Claims. Any pending, Filed interim requests for a Fee Claim pursuant to the Fee Order shall be resolved in the ordinary course in accordance with the Fee Order or, if sooner, in connection with the particular Professional's Final Fee Application.

B. Ordinary Course Liabilities

Holders of Administrative Claims based on liabilities incurred by a Debtor in the ordinary course of its business, including Administrative Trade Claims, any Intercompany Ordinary Course Claims or Intercompany Loan Claims that are Administrative Claims, Administrative Claims of governmental units for Taxes, and Administrative Claims arising from those contracts and leases of the kind described in Section V.C of the Plan shall not be required to File or serve any request for payment of such Administrative Claims. Such Administrative Claims shall be satisfied pursuant to Section III.A.1.e of the Plan.

### **II.C.2. Payment of Priority Tax Claims**

#### **a. Priority Tax Claims**

Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, unless otherwise agreed by the holder of a Priority Tax Claim and the applicable Debtor or Reorganized Debtor, each holder of an Allowed Priority Tax Claim will receive under the Plan, in full satisfaction of its Priority Tax Claim, payment in full of the allowed amount of the Priority Tax Claim, disbursed on the later of the Effective Date or as soon as practicable after the date when such Claim becomes an Allowed Claim.

#### **b. Other Provisions Concerning Treatment of Priority Tax Claims**

Notwithstanding the provisions of Section III.A.2.a of the Plan, any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the holder for actual pecuniary loss shall be treated as a Class 4 Claim, and the holder (other than as the holder of a Class 4 Claim) may not assess or attempt to collect such penalty from the Reorganized Debtors or their respective property.

### **II.C.3. Disallowance of Reclamation Claims**

All Reclamation Claims will be disallowed under the Plan on the Effective Date, any related adversary proceedings will be dismissed on the Effective Date and any Allowed Claims relating to the provision of goods to the Debtors prior to the Petition Date will be treated and paid as Class 4 Claims.

## **II.D. Voting on and Confirmation of the Plan**

### **II.D.1. Voting Procedures and Requirements**

Pursuant to the Bankruptcy Code, only classes of claims against or equity interests in a debtor that are “impaired” under the terms of a plan are entitled to vote to accept or reject a plan. A class is “impaired” if the legal, equitable or contractual rights attaching to the claims or interests of that class are modified by the Plan, other than by curing defaults and reinstating maturity. Classes of claims and interests that are not impaired under the terms of a plan are not entitled to vote on such plan and are conclusively presumed to have accepted the plan. The classification of Claims and Interests under the Plan is summarized, together with an indication of whether each class of Claims or Interests is impaired or unimpaired, in Section II.B above.

Under the terms of the Plan, only holders of Claims in Class 4 and Class 5 are impaired and entitled to vote on the Plan.

Bankruptcy Rule 3017(d) provides that the “date [an] order approving the disclosure statement is entered,” or such other date established by the court, is the record date for determining the “holders of stock, bonds, debentures, notes, and other securities” entitled to receive the materials specified in Bankruptcy Rule 3017(d), including ballots for voting on a plan of reorganization. **The record date for voting purposes has been established as 5:00 p.m. Eastern Time on \_\_\_\_\_, 2012.**

Please carefully follow all of the instructions contained on the Ballot or Ballots provided to you with this Disclosure Statement if you are entitled to vote on the Plan. All Ballots must be completed and returned in accordance with the instructions provided. It is of the utmost importance to the Debtors that you vote promptly to accept the Plan. If you are entitled to vote and you did not receive a Ballot, received a damaged Ballot or lost your Ballot, please call the Voting Agent at 855.626.3311. You may also obtain additional copies of this Disclosure Statement, the Plan and Ballots at [www.phaseeleven.com/qualteq](http://www.phaseeleven.com/qualteq).

**To be counted, your Ballot or Ballots must be received by the Voting Agent by no later than 5:00 p.m., Eastern Time, \_\_\_\_\_, 2012. Votes cannot be transmitted orally, by email or facsimile.** Accordingly, you must return your signed and completed Ballot, by mail, personal delivery or overnight courier promptly and **in advance**, so that it is **received** by the Voting Agent prior to **5:00 p.m., Eastern Time \_\_\_\_\_, 2012.**

Holders of Claims in Class 4 or Class 5 may withdraw or modify their executed Ballots by delivering (or having their nominee deliver) to the Voting Agent, prior to the Voting Deadline, a subsequent properly completed and duly executed Ballot. After the Voting Deadline, withdrawals of or modifications to executed Ballots will not be permitted unless expressly agreed to by the Debtors in writing. Withdrawal or revocation of votes accepting or rejecting the Plan may be affected only in accordance with the Bankruptcy Code and the Bankruptcy Rules.

#### **II.D.2. Hearing on Confirmation of the Plan**

In order to confirm the Plan, the Bankruptcy Code requires the Bankruptcy Court to hold a hearing on whether the Debtors have fulfilled the confirmation requirements of section 1129 of the Bankruptcy Code (the “Confirmation Hearing”). The Confirmation Hearing has been scheduled for \_\_\_\_\_, 2012 at \_\_:00 \_\_.m. (Eastern Time). The Debtors expect that the Confirmation Hearing will be held in the usual courtroom of the Honorable Eugene R. Wedoff, 219 South Dearborn Street, Room 748, Chicago, Illinois 60604. The Confirmation Hearing may be adjourned from time to time by the Bankruptcy Court without further notice, except for an announcement of the adjourned date made at the Confirmation Hearing.

At the Confirmation Hearing, the Bankruptcy Court will confirm the Plan only if all of the applicable requirements of section 1129 of the Bankruptcy Code for confirmation are met. Among such requirements are that the Plan:

a) is accepted by the requisite holders of Claims and Interests in each impaired class under the Plan;

b) provides that each creditor voting against the Plan in an impaired class will receive at least as much as it would if the Debtors were instead liquidated pursuant to chapter 7 of the Bankruptcy Code; and

c) is not likely to be followed by the liquidation, or need for further financial reorganization, of the Debtors.

The “cramdown” provisions of section 1129(b) of the Bankruptcy Code permit confirmation of a chapter 11 plan of reorganization in certain circumstances even if the Plan is not accepted by all impaired classes of claims and interests. A detailed description of the requirements for confirmation of the Plan is contained in Section VI of this Disclosure Statement.

If either Class 4 or Class 5 votes to reject the Plan, (a) the Debtors may seek to satisfy the requirements for confirmation of the Plan under the cramdown provisions of section 1129(b) of the Bankruptcy Code and, if required, may amend the Plan to conform to the standards of such section or (b) the Plan may be withdrawn with respect to a particular Debtor, without affecting the Plan as to other Debtors, or in its entirety.

Any objection to Confirmation must be made in writing and must specify in detail the name and address of the objector, all grounds for the objection and the amount of the Claim or Interest held by the objector. Any such objections must be filed with the Bankruptcy Court and served upon the persons designated in the notice of the Confirmation Hearing included with this Disclosure Statement and in the manner and by the deadline described therein.

### III. CAPITAL STRUCTURE AS OF THE PETITION DATE

#### III.A. Secured Lenders

The following chart provides an overview of the Debtors’ secured debt structure. All amounts set forth below are approximations and for informational purposes only:<sup>1</sup>

<b>Borrower</b>	<b>Lender</b>	<b>Asserted Collateral</b>
API	BBH Financial Services	Equipment
API	General Electric Capital Corporation	Equipment
API	Oakbrook Financial, Inc.	Equipment

<sup>1</sup> The column labeled “asserted collateral” should not be deemed to be an admission by the Debtors that any lenders are secured (or are secured in the collateral described above).

CAC	Oakbrook Financial, Inc.	All of CAC's property and assets
FXI	Amalgamated Bank of Chicago	All of FXI's property and assets (co-borrower with VCT)
GCS	Burr Ridge Bank and Trust	All of GCS's property and assets
GCS	Heartland Bank	Equipment
GCS	Jules & Associates, Inc. <sup>2</sup>	Equipment
GCS	Key Equipment Finance, Inc.	Equipment
UDS	Oakbrook Financial, Inc.	All of UDS's property and assets
UMS	Inland Bank	All of UMS's property and assets
UMS	Oakbrook Financial, Inc.	Equipment
UMS	Oakbrook Financial, Inc.	Equipment
UMS	Oakbrook Financial, Inc.	Equipment
UMS	Pitney Bowes Credit Corporation and Pitney Bowes Global Financial Services, LLC	Multiple equipment liens
UMS	Alliance Leasing, Inc.	Equipment
VCT	Amalgamated Bank of Chicago	All of VCT's property and assets (VCT is a co-borrower with FXI)
VCT	General Electric Capital Corporation	Equipment
VCT	GE Government Finance	Equipment

<sup>2</sup> This loan is guaranteed by FXI and VCT.

VCT	TCF Equipment Finance, Inc.	Equipment
VCT	Key Equipment Finance	Equipment
VCT-NJ	Sterling Bank	All of VCT-NJ's property and assets <sup>3</sup>
VCT-NJ	TD Equipment Finance, Inc.	Equipment
1400 Centre Circle, LLC	Inland Bank & Trust	Mortgage on real property owned by 1400 Centre Circle, LLC
5200 Thatcher, LLC	The Northern Trust Company	All of 5200 Thatcher, LLC's rights under real estate trust agreement; mortgage on the underlying real property
5300 Katrine, LLC	Burr Ridge Bank & Trust	Mortgage on real property owned by 5300 Katrine, LLC
Avadamma, LLC	MB Financial	Avadamma is a series LLC with four series, each of which has a separate FEIN number and owns a separate real estate asset through a trust. MB Financial asserts a security interest in the beneficial interest in each of the trusts and asserts that it holds mortgages on the underlying real estate assets.
Creative Investments, LLC	Harris Bank	All of Creative Investments, LLC's property and assets, including real property

<sup>3</sup> This debt is also secured by a second mortgage on real property owned by Veluchamy, LLC.

Veluchamy, LLC	Skylands Bank	First mortgage on real property owned by Veluchamy, LLC
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The estimated total of Secured Lender Claims is approximately \$75,000,000.

### **III.B. Unsecured Trade Debt**

In the ordinary course of operating their direct marketing and retail business, the Debtors have historically purchased raw materials and other goods and services from over 1,400 vendors. Significant raw materials the Debtors purchase from third party vendors include paper for printing and mailing, and dyes, plastics and other materials used by the Debtors to create their signature products. The Debtors will continue assessing their relationships with their vendors and suppliers, terminating relationships where there are economic or other reasons for doing so, and forging new relationships where needed to improve service and realize cost efficiencies. Consequently, the Debtors may discontinue relationships with certain of their vendors and suppliers that are owed money as of the Petition Date. The Plan classifies separately the Claims of vendors with whom they will continue business and the Claims of vendors with whom they will not continue business. Current Vendor Claims are classified in Class 4, while the Claims of discontinued vendors and suppliers are classified as Other Unsecured Claims in Class 5.

### **III.C. Intercompany Claims**

The primary operating Debtors include the following companies (the “Opco Debtors”): VCT-NJ; API; CAC; FXI; GCS; UDS; UES; UMS and VCT.

These Opco Debtors each provide distinct and unique services to their respective customer bases. When a customer order requires the services of multiple Opco Debtor entities, such as the production of a plastic card that will ultimately be affixed to a direct marketing package and included in a mass mailing, each of the Opco Debtors will bill the others for the unique work performed by such Opco Debtor with respect to the order, and Debtor FXI often times will ultimately process the order and bill the customer for the entire completed project. In other instances, such as embossing and personalizing a plastic card, a customer may have an order that implicates only one Debtor entity. In this way, the Debtors have independent and unconsolidated operations, accounting processes and operating performance measures.

Given the separate billing processes and isolated nature of each Opco Debtor’s operations, as well as the coordinated nature of customer orders, significant intercompany claims arise between the Opco Debtors in the ordinary course of business. The Debtors believe, as of the Petition Date, approximately \$11,665,766 in Intercompany Ordinary Course Claims were outstanding.

Additionally, prior to the Petition Date, it was routine for the Debtors to loan each other funds when cash needs arose from time to time. Such loans would be used by the recipient Debtor for operations, including the purchase of necessary raw material and making payroll. Prior to the Petition Date, these loans were repaid when free cash became available. These loans

were greatly curtailed following the Petition Date. Nevertheless, as of the Petition Date, approximately \$7,865,915 was outstanding.

#### IV. EVENTS LEADING TO THE DEBTORS' CHAPTER 11 FILING

As described earlier, although the Debtors have been historically profitable, in the months leading up to the Petition Date, the Debtors' businesses had been harmed by unrelated litigation and judgments against certain of the Debtors' shareholders. The Debtors' problems first arose in December of 2010 with judgments against the Veluchamys in favor of certain individual creditors in excess of \$2 million. As noted, although unrelated to the Debtors, due to default provisions in certain of the Debtors' loan documents, millions of dollars in loans from numerous lenders were suddenly in default. These defaults and associated cross-defaults (due to cross-default provisions in other loan facilities) caused a ripple of effects given that the Debtors collectively had at least 27 secured lenders.

Subsequent developments only exacerbated these problems, including significant judgments obtained by BANA in Bank of America, N.A., Successor to LaSalle Bank, N.A. v. First Mutual Bancorp of Illinois, Inc. and Pethinaidu Veluchamy, Case No. 09 cv 05108, and Bank of America, N.A., Successor to LaSalle Bank, N.A. v. Pethinaidu Veluchamy and Parameswari Veluchamy, Case No. 09 cv 05109, each pending in the United States District Court for the Northern District of Illinois (the "District Court Litigation"). The judgments entered in the District Court Litigation totaled approximately \$40,000,000 (the "BANA Judgments"). Following entry of the BANA Judgments in December, 2010, BANA initiated supplemental collection proceedings (the "Supplemental Proceedings") to collect on its judgments, which included serving numerous citations to discover assets pursuant to Illinois law (the "Citations") on third parties, including certain of the Debtors.

As with the other litigation, the District Court Litigation is substantively unrelated to the Debtors aside from the Citations served on the Debtors in the Supplemental Proceedings. Nevertheless, because of BANA's extremely aggressive collection efforts, which put at risk not just the parties to the litigation, but also the Debtors, the BANA Judgments generated significant negative publicity, and created uncertainty and discomfort among the Debtors' customers, vendors and work force. Indeed, in the aftermath of the BANA Judgments, the Debtors were struggling to hold on to concerned customers, and competitors had been actively waging a campaign to take advantage of the Debtors' plight by stealing the Debtors' customers.

Despite the cascade of defaults and negative publicity emanating from the judgments against the Veluchamys, the Debtors managed to maintain operations for several months before the bankruptcy filings. Unfortunately, however, the foregoing issues resulted in serious concerns about the Debtors' continued ability to operate. This is particularly true given that the Debtors' businesses are seasonal, with the Debtors' greatest volumes of both sales of plastic cards (including retailer gift cards) and shipments of promotional materials arriving in the months leading up to the holidays. As the Debtors were gearing up for their busiest season, their cash needs (for example, to purchase raw materials and other inputs and to fund payroll and other costs) were most acute. Any unexpected disruption in operations at that time would have been devastating to the Debtors' ability to survive over the long term.

The Debtors' concerns about their continued ability to operate during this critical part of the year were further heightened by the fact that many customers exhibited insecurity about the Debtors' stability in light of the litigation surrounding the Debtors' principals. The Debtors vitally needed stability and a way to assure customers that the high level of service they have always received from the Debtors would not be disrupted. Thus, the Debtors' Chief Restructuring Officer determined that a proactive chapter 11 bankruptcy filing presented the best and most efficient forum for globally resolving their financial issues, restoring the confidence of customers and suppliers, and generally maximizing value for all stakeholders.

## **V. EVENTS DURING THE CHAPTER 11 CASES**

### **V.A. Commencement of Chapter 11 Cases**

On the Petition Date, the Debtors commenced their cases under chapter 11 of the Bankruptcy Code. The Debtors are operating their businesses and managing their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. The Debtors' chapter 11 cases have been consolidated for procedural purposes only and are administered jointly as *In re: Qualteq, Inc. (d/b/a VCT New Jersey, Inc.), et al.* (Case No. 11-10884 (KJC)).

### **V.B. First Day Relief**

On the Petition Date, the Debtors filed a number of motions and other pleadings (the "First Day Motions"), the most significant of which are described below. The First Day Motions were proposed to ensure an orderly transition into chapter 11.

The First Day Motions included:

- (a) Motion for Entry of an Order Directing Joint Administration of the Debtors' Chapter 11 Cases;
- (b) Motion for Entry of an Order (A) Authorizing the Debtors to Pay Prepetition (I) Sales, Use, and Franchise Taxes and (II) Tolls, Fees, Licenses and Other Similar Charges and Assessments and (B) Authorizing Applicable Banks and Other Financial Institutions to Receive, Process, Honor and Pay Checks Presented for Payment Related Thereto;
- (c) Motion for Entry of an Order Authorizing Debtors to (A) Continue to Use Existing Cash Management System and Bank Accounts, (B) Continue Intercompany Transactions and Provide Administrative Priority Status to Intercompany Claims, and (C) Continue to Use Existing Checks and Business Forms;
- (d) Motion for Entry of an Order (A) Authorizing but not Requiring the Debtors to Pay Certain Prepetition (I) Wages, Salaries, and Other Compensation, (II) Employee Medical, Insurance, and Similar Benefits,

(III) Workers' Compensation Obligations, (IV) Vacation and Similar Benefits, and (V) Reimbursable Employee Expenses, (B) Authorizing but not Requiring the Debtors to Continue to Make Deductions from Employees' Paychecks, and (C) Authorizing and Directing Banks and Financial Institutions to Pay All Checks and Electronic Payment Requests Relating to the Foregoing;

- (e) Motion for Entry of Interim and Final Orders Determining Adequate Assurance of Payment of Future Utility Services;
- (f) Debtors' Emergency Motion Pursuant to Sections 361 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001 for Interim and Final Orders (1) Authorizing Use of Cash Collateral; (2) Scheduling a Final Hearing; and (3) for Related Relief; and
- (g) Motion for Interim and Final Orders Pursuant to Sections 105, 363, 503, 1107, and 1108 of the Bankruptcy Code (A) Authorizing the Debtors to Pay Certain Prepetition Claims of Critical Vendors; (B) Setting a Final Hearing on the Motion; and (C) Approving Procedures Related Thereto.

Additional First Day Motions were filed with the Bankruptcy Court on September 11, 2011 in connection with the filing of Anar, including:

- (a) Motion for Joint Administration of Their Related Chapter 11 Cases Pursuant to Fed. R. Bankr. P. 1015(b) and Local Rule 1015-1;
- (b) Motion to Allow an Order Pursuant to Section 105(a) of the Bankruptcy Code Directing That Certain Orders in the Chapter 11 Cases of Qualteq, Inc., et al. be Made Applicable to New Debtor; and
- (c) Motion to Approve Use of Cash Collateral Pursuant to Sections 361 and 363 of the Bankruptcy Code and Bankruptcy Rule 4001 for Interim and Final Orders: (1) Authorizing Use of Cash Collateral; (2) Scheduling Final Hearing; and (3) for Related Relief.

The First Day Motions were granted, including certain cash collateral orders described below, with certain adjustments or modifications to accommodate the concerns of the Bankruptcy Court, the United States Trustee and other parties in interest.

**V.C. Cash Collateral**

In addition to the First Day Motions entered in these cases, the Debtors have expended significant time and resources negotiating various interim, final, and amended cash collateral orders with their many cash collateral lenders. A chart summarizing these orders is as follows

<u>Debtor</u>	<u>Cash Collateral Bank</u>	<u>Orders Entered</u>
CAC	Oakbrook Financial, Inc.	Interim Order (08/16/2011, Docket No. 30) Final Order (10/06/2011, Docket No. 274)

UDS	Oakbrook Financial, Inc.	Interim Order (08/16/2011, Docket No. 30) Final Order (10/06/2011, Docket No. 274)
FXI	Amalgamated Bank of Chicago	Interim Order (08/18/2011, Docket No. 47) Final Order (10/06/2011, Docket No. 268) Amended Final Order (01/17/2012, Docket No. 692)
VCT	Amalgamated Bank of Chicago	Interim Order (08/18/2011, Docket No. 47) Final Order (10/06/2011, Docket No. 268) Amended Final Order (01/17/2012, Docket No. 692)
GCS	Burr Ridge Bank & Trust	Interim Order (08/18/2011, Docket No. 47) Final Order (10/06/2011, Docket No. 267)
UMS	Inland Bank & Trust	Interim Order (08/18/2011, Docket No. 47) Final Order (10/06/2011, Docket No. 269)
VCT-NJ	Sterling Bank	Interim Order (08/18/2011, Docket No. 48) Second Interim Order (09/06/2011, Docket No. 132) Third Interim Order (10/06/2011, Docket No. 27)
Avadamma LLC	MB Financial	Interim Order (09/13/2011, Docket No. 181) Amended Interim Order (09/15/2011, Docket No. 201) Final Order (10/06/2011, Docket No. 272)
Veluchamy LLC	Skylands Bank	Interim Order (09/13/2011, Docket No. 181) Amended Interim Order (09/15/2011, Docket No. 201) Final Order (10/06/2011, Docket No. 273)
Creative Investments	Harris Bank	Interim Order (09/13/2011, Docket No. 181) Amended Interim Order (09/15/2011, Docket No. 201) Final Order (10/06/2011, Docket No. 265)
1400 Centre Circle LLC	Inland Bank	Interim Order (09/13/2011, Docket No. 181) Amended Interim Order (09/15/2011, Docket No. 201) Final Order (10/06/2011, Docket No. 271)
5200 Thatcher LLC	Northern Trust	Interim Order (09/13/2011, Docket No. 181) Amended Interim Order (09/15/2011, Docket No. 201) Final Order (10/06/2011, Docket No. 273)
5300 Katrine LLC	Burr Ridge Bank and Trust	Interim Order (09/13/2011, Docket No. 181) Amended Interim Order (09/15/2011, Docket No. 201) Final Order (10/06/2011, Docket No. 263)

**V.D. Debtor-in-Possession Financing**

On October 19, 2011, the Debtors filed their motion to obtain authorization for VCT-NJ, as borrower, to obtain a senior secured superpriority loan in the maximum principal amount of \$4,500,000 (the “DIP Financing”), substantially on the terms and conditions set forth in that certain Assumption Agreement, Amendment to Loan and Security Agreement, and Amendment to Other Loan Documents by and among VCT-NJ and Debtors VCT and Veluchamy LLC (“Veluchamy” and, with VCT and VCT-NJ, the “Sterling Loan Debtors”) and Sterling National Bank (“Sterling”), (as amended, supplemented, or otherwise modified and in effect from time to time, the “DIP Amendment,” and together with any and all other related documents and agreements entered into in connection with or related to the DIP Financing, the “DIP Loan Documents”) from Sterling.

Prior to the Petition Date, Sterling, as lender, VCT-NJ, as borrower, VCT, as guarantor and Veluchamy, as mortgagor, among others, were parties to that certain Loan and Security Agreement dated as of July 29, 2011 (the “Prepetition Credit Agreement”) pursuant to which,

among other things, Sterling agreed, subject to the terms and conditions set forth in the Prepetition Credit Agreement, to make certain loans and other financial accommodations to VCT-NJ through a term loan facility and a revolving loan facility which such loans totaled, as of the Petition Date, an amount not less than \$3,714,962.83 (the “Prepetition Secured Indebtedness”).

On November 3, 2011, the Bankruptcy Court approved the DIP Financing and the DIP Amendment (and related DIP Loan Documents) over BANA’s objection, pursuant to which Sterling was authorized to “roll-up” the Prepetition Secured Indebtedness with the DIP Financing, and the parties assumed and reaffirmed their obligations under the Prepetition Credit Agreement (and related documents), as amended pursuant to the DIP Amendment. Sterling’s claims with respect to the DIP Financing are approximately \$3,800,000.

#### **V.E. Appointment of the Creditors Committee**

On August 25, 2011, the United States Trustee appointed the Creditors Committee. The membership of the Creditors Committee and the professional advisors to the Creditors Committee are as follows:

##### Creditors Committee Members

- (a) **Plami S.A. De. C.V.**, Attn: Javier Miguel Checa, Calzada de la Naranja NO 167 2do Piso, Fracc, Industrial Alec Blanco, Naucalpan, Estado de Mexico 53370, Phone: 011-525-521-222401, Fax: 011-5255-55763526
- (b) **Quad/Graphics Inc.**, Attn: Patricia A. Rydzik, N63 W23075 State Hwy 74, Sussex WI 53089, Phone: 414-566-2127, Fax: 414-566-9415
- (c) **XPEDX**, Attn: Jeff Biskaduros, 261 River Road, Clifton NJ 07014, Phone: 973-405-2231, Fax: 973-405-2143
- (d) **Bradner Smith & Company a wholly owned subsidiary of Bradner Center Company**<sup>4</sup>, Attn: Christopher Kouros, 2300 Arthur Avenue, Elk Grove Village, IL 60007, Phone: 847-290-5551, Fax: 847-290-7979
- (e) **JDSU Uniphase Corporation**, Attn: May Adrig, 430 N. McCarthy Blvd., Milpitas CA 95035, Phone: 408-546-7081, Fax: 408-546-4372

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<sup>4</sup> Bradner Smith & Company withdrew its participation on the Creditors Committee on October 24, 2011.

Creditors Committee Counsel

- (a) Lowenstein Sandler PC, 65 Livingston Avenue, Roseland, New Jersey 07068
- (b) Cozen O'Connor, Suite 1400, Chase Manhattan Centre, 1201 North Market Street, Wilmington, Delaware 19801

Creditors Committee Financial Advisor

- (a) EisnerAmper LLP, 750 Third Avenue, New York, NY 10017

**V.F. Dismissal of the University Subscription Services, Inc. Case**

USS originally filed its bankruptcy with the other Debtors in the case styled *In re University Subscription Services, Inc.*, Case No. 11-12585 (KJC) (the “USS Chapter 11 Case”). USS’s business is limited to marketing magazine subscriptions largely to university students and faculty. University Subscription has six employees and acts as a broker for magazine publishers, providing sales and order processing of magazine subscriptions in exchange for a portion of any profits received on each subscription sold. USS’s services are not an integral component of any of the Debtors’ direct marketing services, which have evolved significantly since the founding of USS.

After a significant review of USS’s operations, Scouler concluded that USS was no longer a logical component of the Debtors’ larger operating enterprise because the business is no longer vibrant, and is unlikely to significantly grow in any material way in the coming years given that media trends continue moving away from print. Moreover, USS was no longer part of the Debtors’ core business function, and did not enhance the value of the Debtors collectively as an operating concern.

Consequently, upon a motion of the Debtors, the USS case was dismissed on December 6, 2011 by order of the Bankruptcy Court. USS has paid all of its non-insider general unsecured and administrative claims as required by the Bankruptcy Court’s order and is proceeding to wind down its operations.

**V.G. Exit Financing**

By orders dated December 6, 2011, the Bankruptcy Court approved the retention by the Debtors of FocalPoint Securities, LLC (“FocalPoint”) and Crowe Horwath LLP (“Crowe”). FocalPoint and Crowe are essential to the Debtors’ efforts to exit from bankruptcy. In particular, Crowe, a nationally recognized accounting firm specializing in complex business accounting needs, is leading the Debtors’ efforts to present their financials and operating results in a consolidated fashion, allowing the Debtors to effectively undertake their efforts to secure exit financing to fund their distributions under the Plan, including refinancing existing debt and paying outstanding Claims, as well as to fund their operations post-emergence.

FocalPoint is a widely recognized investment bank that has been retained by the Debtors to seek out the most flexible, cost-effective means of capital that will allow the Debtors to exit bankruptcy and maximize value for the Debtors' many stakeholders. FocalPoint and Crowe have made significant progress to date since their initial engagements. Crowe has completed exhaustive financial due diligence reporting that will be incorporated into discussions with potential lenders and investors. FocalPoint is managing a comprehensive process structured to tap a variety of funding sources capable of effectuating the Debtors' exit from bankruptcy. To date, FocalPoint has held numerous conversations with potential third party lender candidates and investors interested in and capable of providing financing to the Debtors. Discussions are on-going as numerous parties have executed confidentiality agreements and have gained access to the Debtors' financial and operating information. The Debtors' overtures to secure financing have generated interest by several lending institutions.

On February 27, 2012, Bayside Vmark Funding, LLC ("Bayside") provided the Debtors with a commitment letter (the "Commitment Letter") to finance the Debtors' emergence from bankruptcy on the following terms:<sup>5</sup>

- Proposed Financing: \$38 million term loan, taken in a single draw.
- Expense Reimbursement: Subject to Bankruptcy Court's approval, the Debtors agree to pay or reimburse Bayside for all reasonable and documented expenses including, but not limited to, all reasonable and documented costs and expenses incurred by Bayside (whether incurred before or after the date hereof) (i) in connection with the Senior Credit Facility, the preparation of the Financing Documentation and the other Transactions, including, without limitation, any such costs and expenses incurred in connection with due diligence and travel, courier, reproduction, printing and delivery and any reasonable and documented fees and disbursements of Bayside's counsel, regardless of whether any of the Financing Documentation has been executed and regardless of whether the Commitment Letter shall have expired or been terminated and (ii) in connection with the enforcement of any of its rights and remedies hereunder. Additionally, subject to approval by the Bankruptcy Court, the Debtors agree to pay all amounts set forth in the Term Sheet, in immediately available funds, as and when indicated therein, including, without limitation, the Commitment Fee (as defined in the Term Sheet). Upon execution of the Commitment Letter by both parties, and subject to approval of the Bankruptcy Court, the Debtors are to provide Bayside with \$100,000 toward a deposit to fund such Expenses. The Debtors will replenish the Deposit in increments of \$50,000 upon reasonable notice by Bayside, which shall maintain receipts and provide on request summaries of expenses incurred and expected to be incurred.
- Administrative Priority of Bayside Claims or Obligations: The Commitment Letter further requires that the order entered by the Bankruptcy Court authorizing the Debtors to enter into the Commitment Letter, to pay the Deposit, and to honor their other obligations

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<sup>5</sup> Capitalized terms used in the summary of the Commitment Letter that are not defined herein shall have the meaning given in the Commitment Letter. To the extent of any inconsistency between the summary of the Commitment Letter set forth herein and the Commitment Letter, the terms and conditions of the Commitment Letter shall govern.

under the Commitment Letter. The order is to further provide that (i) no amounts paid to Bayside or any other Indemnified Person for any obligations under the Commitment Letter will be subject to disgorgement for any reason, and such provision shall be binding on all parties, including, without limitation, any chapter 7 or chapter 11 trustee appointed in any of the Bankruptcy Cases, (ii) all obligations to Bayside and any other Indemnified Person under the Commitment Letter will be administrative expense claims and (iii) no administrative claims against the Company, including, without limitation, any claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 503, 506, 507, 546, 726, 1113, 1114, or any other provision of the Bankruptcy Code, shall have or shall be deemed to have priority over any obligations to Bayside or any other Indemnified Party under the Commitment Letter.

- Indemnification: The Debtors are required to indemnify and hold harmless Bayside, its respective affiliates, and its and their respective directors, officers, employees, agents, representatives, legal counsel, and consultants against, and to reimburse each Indemnified Person upon its demand for, any losses, claims, damages, liabilities, or other expenses incurred by such Indemnified Person or asserted against such Indemnified Person by any third party or by the Debtors, or any of their subsidiaries, arising out of or in connection with the Commitment Letter, the Senior Credit Facility, the use of the proceeds thereof, the other Transactions or any related transaction, or any claim, litigation, investigation, or proceeding relating to any of the foregoing, and to reimburse each Indemnified Person upon demand for any legal or other expenses incurred in connection with investigating or defending any of the foregoing, whether or not such Indemnified Person is a party to any such proceeding; provided that the Debtors shall not be liable pursuant to this indemnity for any Losses to the extent that a court having competent jurisdiction shall have determined by a final judgment (not subject to further appeal) that such Loss resulted from the gross negligence or willful misconduct of such Indemnified Person. The Debtors shall not, without the prior written consent of any Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which such Indemnified Person is a party and indemnity has been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such indemnity. No Indemnified Person shall be responsible or liable for any damages arising from the use by others of the Information or other materials obtained through electronic, telecommunications, or other information transmission systems, or for any special, indirect, punitive, exemplary, or consequential damages that may be alleged as a result of the Commitment Letter, the Senior Credit Facility, the use of proceeds, the other Transactions, or any related transaction. No Indemnified Person shall be liable for any indirect or consequential damages in connection with its activities related to the Senior Credit Facility.
- Exclusivity: The Debtors agree that in the event they, or any of their subsidiaries or their advisors or representatives, receives any offer or proposal, whether oral or written, with respect to the arrangement, sale, solicitation, syndication, or issuance of any credit facilities, equity, or debt security (including any renewals thereof), they will promptly inform (and, to the extent available, provide a copy to) Bayside of the terms thereof.

- Deadline for Obtaining an Approval Order: The Debtors are required to use their reasonable best efforts to provide Bayside with a copy of an order entered by the Court authorizing the Debtors to enter in to the Commitment Letter on or before March 9, 2012 at 5:00 p.m. (Eastern Time).
- Deadline for Effective Date. The Debtors are required to effectuate the Plan by May 31, 2012.

The Debtors have filed a motion to be heard on March 6, 2012 for authorization from the Bankruptcy Court to enter into and perform their obligations under the Commitment Letter.

### **V.H. Venue Motion**

On September 2, 2011, BANA filed a motion to transfer venue of the Reorganization Cases to Bankruptcy Court for the Northern District of Illinois [Docket No. 107] (the “Venue Motion”). While initially filed under seal, the Venue Motion was made available for public viewing on October 12, 2011 [Docket No. 320]. On October 31, 2011, the Bankruptcy Court entered an agreed order (the “Scheduling Order”) setting forth a schedule for discovery, establishing deadlines for filing briefs with the Bankruptcy Court, and scheduling December 16, 2011 as the hearing date on the Venue Motion (the “Venue Hearing”).

On November 4, 2011, the Debtors filed their objection to the Venue Motion [Docket No. 436] (the “Objection”). The Creditors Committee, as well as several other parties in interest, including Sterling (the DIP Lender), and the Debtors’ largest unsecured creditor — Plami S.A. De. C.V. — joined the Debtors in objecting to the Venue Motion (see Docket Nos. 434, 435, 437, 570).

On December 16, 2011, the Bankruptcy Court took evidence from, and heard legal argument by, the parties in respect of the Venue Motion. At the conclusion of the hearing the Bankruptcy Court took the matter under advisement and instructed the parties that a ruling would be issued at a later date to be determined. On February 16, 2012, the Bankruptcy Court transferred venue of the Reorganization Cases to the United States Bankruptcy Court for the Northern District of Illinois. The Reorganization Cases are pending before the Honorable Eugene R. Wedoff.<sup>6</sup>

### **V.I. BANA Proofs of Claim**

On December 13, 2011, on the eve of the trial on the Venue Motion, and in an apparent attempt to establish standing to be heard in the Reorganization Cases, BANA filed the following proofs of claim (the “BANA Claims”) against several of the Debtors:

- Claim against API in an amount not less than \$71,632.00 (Claim #148)

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<sup>6</sup> Use of the term “Bankruptcy Court” following February 16, 2012 shall refer to the United States Bankruptcy Court for the Northern District of Illinois.

- Claim against Avadamma LLC in an amount not less than \$34,049.44 (Claim #149)
- Claim against CAC in an amount not less than \$58,080.00 (Claim #150)
- Claim against FXI in an amount not less than \$25,168.00 (Claim #151)
- Claim against GCS. in an amount not less than \$104,362.36 (Claim #152)
- Claim against UDS in an amount not less than \$19,360.00 (Claim #153)
- Claim against VCT in an amount not less than \$154,880.00 (Claim #154)
- Claim against Vmark in an amount not less than \$474,320.00 (Claim #155)
- Claim against Anar in an amount not less than \$243,452.02 (Claim #156)
- Claim against UMS in an amount not less than \$411,152.87 (Claim #157)

The BANA Claims are based on certain alleged violations by certain of the Debtors (the “Recipient Debtors”) of Citations issued by BANA in connection with the Supplemental Proceedings. The Illinois statute governing the Citations provides that:

[a] citation may prohibit the party to whom it is directed from making or allowing any transfer or other disposition of, or interfering with, any property not exempt from the enforcement of a judgment therefrom, a deduction or garnishment, belonging to the judgment debtor or to which he or she may be entitled or which may thereafter be acquired by or become due to him or her, and from paying over or otherwise disposing of any moneys not so exempt which are due or to become due to the judgment debtor, until the further order of the court or the termination of the proceeding, whichever occurs first.

735 ILCS 2-1402(f)(1).

In summary, BANA claims that the Recipient Debtors made \$2,575,682.17 in pre-petition payments in violation of the Citations.

One aspect of the BANA Claims relates to Claims 148, 150-155 and 157, in which BANA alleges that in the period from July 1 to July 6, 2011, API, CAC, FXI, GCS, UDS and VCT, as S corporations, made distributions to Vmark, Inc. for the ultimate purpose of paying the estimated personal federal income tax liability of Vmark’s shareholders, Mrs. Veluchmay, Arun Veluchamy, and Anu Veluchamy (collectively, the “Shareholders”), in the aggregate amount of \$980,000. BANA alleges that the portion of these distributions made on account of Mrs. Veluchamy’s equity interest in Vmark was made in violation of the Citations issued to API, CAC, FXI, UDS, and VCT.

BANA further alleges that on July 8, 2011, Vmark then used the funds from the aforementioned distributions to make three payments to the U.S. Treasury for the purpose of

paying the estimated personal income tax liability of the Shareholders. BANA alleges that the payment of \$474,320 on behalf of Mrs. Veluchamy constituted a violation of the Vmark Citation.

BANA further alleges that on July 6, 2011, UMS made three payments to the U.S. Treasury, totaling \$96,000, representing payments made for the purpose of paying the estimated personal federal income tax liability of the Shareholders. BANA alleges that \$12,739.20 was paid on account of Mrs. Veluchamy's estimated personal tax liability. Again, BANA alleges that the portion of these distributions made on behalf of Mrs. Veluchamy violated the Citations issued to UMS.

Upon learning about BANA's allegations, Dan Scouler, the Debtors' independent CRO, immediately asked his staff and the Debtors' counsel to jointly conduct an investigation to determine whether the payments highlighted by BANA were in fact made in violation of the Citations. Based on the results of the investigation, Mr. Scouler concluded that only \$1,715,682.17 of the total amount asserted by BANA to be in violation of the Citations was potentially actionable, and of that amount, only \$541,491.60 arguable gave rise to payment (including several payments included out of an abundance of caution).

As soon as Mr. Scouler learned that \$541,491.60 in payments were arguably made in violation of Citations, in an exercise of his fiduciary duty, Mr. Scouler sent a demand letter to the Veluchamys, demanding that the entire \$541,491.60 be repaid, together with interest at the rate of 9% per year (the Illinois judgment rate) from the date of each transfer. Mr. Scouler's objective was to recover the funds and put the Recipient Debtors who made the payments in the same position they would have been had the payments not been made (or likely a better one given the above-market nature of the interest rate charged). Prior to the filing of the BANA Claims, and pursuant to Mr. Scouler's demand, the entire \$541,491.60 had already been repaid, with interest.

On December 16, 2011, the Debtors filed their First Omnibus Objection to the BANA Claims (the "BANA Claims Objection"), asserting, generally, that the BANA Claims should be expunged because they had already been repaid, as set forth above, or were otherwise not valid under the applicable Illinois citation statute. On January 10, 2012, BANA filed its response to the BANA Claims Objection. The Bankruptcy Court held a status conference on the matter on January 17, 2012. No date has been scheduled for a hearing on the BANA Claims Objection. Upon the Bankruptcy Court's determination with respect to the BANA Claims Objection, the Debtors may seek Bankruptcy Court approval to pay in full the entirety of any of the BANA Claims that may be ultimately allowed on grounds that the fees which are being incurred to address BANA's continued attempt to derail these proceedings dwarf the amount of BANA's alleged Claims.

## **V.J. Debtor Equity Interests**

The Veluchamys filed for chapter 7 bankruptcy relief in the Northern District of Illinois on August 16, 2011 (the "Chapter 7 Cases"). Although Mr. Veluchamy founded the Debtors, Arun and Anu Veluchamy – the Veluchamys' two adult children – have in recent years managed

the operations of the Debtors. Mrs. Veluchamy holds a minority in interest in the Debtors, which, by virtue of the Chapter 7 Cases, are held by the chapter 7 trustee in those cases (the “Chapter 7 Trustee”). While Mrs. Veluchamy’s Equity Interests are part of her chapter 7 estate, the Debtors have been informed that Mrs. Veluchamy’s Equity Interests are subject to significant liens of third parties that would need to be satisfied before the Chapter 7 Trustee could realize any value on account of such Equity Interests. Mrs. Veluchamy’s Equity Interests are also subject to, among other things, dilution under existing agreements.

Most significantly, Mrs. Veluchamy owns a 48.4% stake in Vmark, which, in turn, is the 100% sole owner of the equity interests in the following Debtors: API; CAC; FXI; UDS; UES; VCT; VCT-NJ; and GCS. The equity interests in Vmark (the “Vmark Interests”) are held among Mrs. Veluchamy, Anu Veluchamy and Arun Veluchamy, as follows:

<u>Holder</u>	<u>Voting Equity Interests</u>	<u>Non-Voting Equity Interests</u>	<u>Total Equity Interests</u>
Mrs. Veluchamy	700,002 (19.8%)	13,300,038	14,000,040 (48.4% Total)
Anu Veluchamy	1,419,998 (40.1%)	6,042,262	7,462,260 (25.8%)
Arun Veluchamy	1,420,000 (40.1%)	6,042,300	7,462,300 (25.8%)

Total authorized issued and non-issued Vmark shares are as follows:

<u>Total Authorized Shares</u>	<u>Total Issued Shares</u>	<u>Total Authorized, Non-Issued Shares</u>
<b><u>Voting:</u></b> 4,000,000	<b><u>Voting:</u></b> 3,540,000	<b><u>Voting:</u></b> 460,000
<b><u>Non-Voting:</u></b> 38,000,000	<b><u>Non-Voting:</u></b> 25,384,600	<b><u>Non-Voting:</u></b> 12,615,400

The Plan provides that, on and after the Effective Date, the Reorganized Debtors will be authorized to redeem their Equity Interests from existing shareholders under applicable law, relevant agreements and the Plan, without further notice to or order of the Bankruptcy Court. Vmark’s board of directors will determine the amount, if any, of Equity Interests to redeem, and the value of such Equity Interests, which such value will be determined by reasonable means through a nationally recognized third-party appraiser of Reorganized Vmark’s choosing.

Following the determination of value, the purchase of such Equity Interests shall be affected within 5 business days by the payment of the redemption amount in full, in cash to the applicable shareholder, unless otherwise agreed by the parties. Upon redemption, the affected Equity Interests shall be deemed cancelled. Following the Effective Date of the Plan, the Debtor Equity Interests shall remain subject to any agreements existing as of the Petition Date.

The Debtors believe that this deferred ability to redeem the Equity Interests is necessary and appropriate, as authorized under applicable law, because the Debtors and their principals will need the ability to gauge the reaction of customers and vendors to confirmation of the Plan, resolution of the Fraudulent Transfer Liability Claims, and the Chapter 7 Trustee's continued possession of Equity Interests in the Debtors. In particular, the Reorganized Debtors will need flexibility to assure key constituencies that the companies have made a clean break from the very issues that drove the filing of these cases, and may need to effect a redemption of Equity Interests to remove any uncertainty with respect to the Debtors' capital structure and to ensure that Vmark and the Opco Debtors are managed with a consistent view towards maximizing value.

### **V.K. Fraudulent Transfer Liability Claims**

BANA, the Federal Deposit Insurance Corporation (the "FDIC") and the Chapter 7 Trustee assert that there are Fraudulent Transfer Liability Claims that exist against the Debtors. In connection with the Supplemental Proceedings, BANA conducted an extensive investigation into, among other things, the Fraudulent Transfer Liability Claims. As of the date hereof, none of BANA, the FDIC or the Chapter 7 Trustee have filed Claims in the Reorganization Cases against the Debtors based on any Fraudulent Transfer Claims.

The Fraudulent Transfer Liability Claims are based on a series of alleged transfers during the period September, 2009 through September, 2010 whereby Arun Veluchamy and Anu Veluchamy allegedly received millions of dollars in payments from the Veluchamys. Through a series of transactions, these funds were allegedly used to fund loan repayments to the Veluchamys, real estate purchases, equipment purchases and working capital for the Debtors, and the extinguishment bank debt, amongst other things.

Until proofs of claim with respect to the Fraudulent Transfer Liability Claims are actually filed, the Debtors cannot state with certainty their precise exposure. Nevertheless, the Debtors anticipate that they will have significant defenses to any such Claims. As a result, the Debtors anticipate objecting to any Fraudulent Transfer Liability Claims, at least in part, and seeking to have the Bankruptcy Court determine and liquidate the Allowed amount of such Fraudulent Transfer Liability Claims, if any, in conjunction with the Confirmation Hearing. The Fraudulent Transfer Liability Claims are classified with non-current trade vendors and other Claims in Class 5 under the Plan.

### **V.L. Claims Process and Bar Date**

By order dated December 29, 2011 (the "Bar Date Order"), the Bankruptcy Court established the following dates for the filing of proofs of claims in these Reorganization Cases:

- (a) the general bar date for all claims, except as noted below, of March 11, 2012 at 4:00 p.m. (ET) (the "Bar Date");
- (b) a bar date for any claims arising out of the rejection of an executory contract or unexpired lease the later of either (i) March 11, 2012 at 4:00 p.m. (ET), (ii) the first

business day that is at least twenty-one (21) calendar days after the mailing of (a) a notice of an order approving the rejection of an executory contract or unexpired lease, or (b) the notice of rejection of an executory contract or unexpired lease in accordance with any procedural order entered by the Bankruptcy Court, or (iii) twenty-eight (28) days following the effective date of any plan or reorganization that contemplates the rejection of any executory contract or unexpired lease;

(c) a bar date for Claims arising from the recovery of a voidable transfer the later of (i) March 11, 2012 at 4:00 p.m. (ET), or (ii) the first business day that is at least thirty (30) calendar days after the mailing of the notice of entry of any order approving the avoidance of a transfer as the bar date for filing claims arising out of a voidable transfer.

(d) a bar date for Claims that were reduced by amendments to the Debtors' schedules the later of (i) March 11, 2012 at 4:00 p.m. (ET), or (ii) the first business day that is at least twenty-one (21) calendar days after the mailing of the notice of such amendment in accordance with Bankruptcy Rule 1009(a), provided, however, that in the case of any amendment to the Schedules after the Bar Date in which the affected claimant did not file a proof of claim prior to the Bar Date, only to the extent such proof of claim does not exceed the amount scheduled for such claim before the amendment.

Notice of the Bar Date Order was served on all parties in interest in these cases on January 6, 2012. Notice of the Bar Date Order was published in nationally recognized publications. Given the recent establishment of the various claims bar dates in the Reorganization Cases, minimal proofs of claim have been filed against the Debtors to date. The Debtors expect the number of claims filed against their estates, and the amounts owing with respect thereto, will increase significantly in the coming weeks. Nevertheless, the Debtors believe they have, and will have, valid objections to many of the Claims that have been filed and that will be filed. Accordingly, the Debtors intend to file objections to Claims on a number of grounds, including, among others, that such Claims: (a) are duplicative of other Claims asserted against the Debtors; (b) were filed after the applicable bar date; (c) have been amended and superseded by subsequently filed Claims; (d) overstate the Debtors' liability; (e) do not represent a valid obligation of the Debtors; and/or (f) were asserted with the improper priority status.

## **VI. REQUIREMENTS FOR CONFIRMATION OF THE PLAN**

### **VI.A. Requirements of Section 1129(a) of the Bankruptcy Code**

To confirm the Plan, the Bankruptcy Code requires that the Bankruptcy Court make a series of findings concerning the Plan and the Debtors, including that:

- (a) the Plan otherwise complies with the applicable provisions of the Bankruptcy Code;
- (b) the Debtors have complied with the applicable provisions of the Bankruptcy Code;

- (c) the Debtors, as proponents of the Plan, have proposed the Plan in good faith and not by any means forbidden by law;
- (d) disclosure regarding the Plan has been made that is required by section 1125 of the Bankruptcy Code;
- (e) the Plan has classified Claims and Interests in a permissible manner;
- (f) the disclosures required under section 1129(a)(5) concerning the identity and affiliations of persons who will serve as officers, directors and voting trustees of the Debtors have been made;
- (g) the Plan is in the “best interests” of all holders of Claims or Interests in an impaired Class by providing to creditors or interest holders on account of such Claims or Interests property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain in a chapter 7 liquidation, unless each holder of a Claim or Interest in such Class has accepted the Plan;
- (h) the Plan has been accepted by the requisite votes of creditors and equity interest holders in impaired classes, except to the extent that cramdown is available under section 1129(b) of the Bankruptcy Code;
- (i) at least one Class of Claims that is impaired under the Plan has voted to accept the Plan, without including any acceptance of the Plan by any insider;
- (j) the Plan is feasible; and
- (k) all fees and expenses payable under 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, have been paid, or the Plan provides for the payment of such fees on the Effective Date.

## **VI.B. Requirements of Section 1129(b) of the Bankruptcy Code**

The Bankruptcy Code permits confirmation of a plan even if it is not accepted by all impaired classes, as long as all of the other requirements for confirmation set forth in section 1129(a) of the Bankruptcy Code have been met and the plan is “fair and equitable” and does not “discriminate unfairly” as to any impaired class that has not accepted the plan. These so-called “cramdown” provisions are set forth in section 1129(b) of the Bankruptcy Code.

### **VI.B.1. Fair and Equitable**

The Bankruptcy Code establishes different “cramdown” tests for determining whether a plan is “fair and equitable” with respect to dissenting impaired classes of secured creditors, unsecured creditors and equity interest holders as follows:

Secured Creditors. A plan is fair and equitable to a class of secured claims that rejects the plan if the plan provides: (a) that each of the holders of the secured claims included in the

rejecting class (i) retains the liens securing its claim to the extent of the allowed amount of such claim, whether the property subject to those liens is retained by the debtor or transferred to another entity and (ii) receives on account of its secured claim deferred cash payments having a present value, as of the effective date of the plan, at least equal to such holder's interest in the estate's interest in such property; (b) for the sale, subject to section 363(k) of the Bankruptcy Code, of any property that is subject to the liens securing the claims included in the rejecting class, free and clear of such liens with such liens to attach to the proceeds of the sale, and the treatment of such liens on proceeds in accordance with clause (a) or (c) of this paragraph; or (c) that each of the holders of the secured claims included in the rejecting class realizes the "indubitable equivalent" of its allowed secured claim.

Unsecured Creditors. A plan is fair and equitable as to a class of unsecured claims that rejects the plan if the plan provides that: (a) each holder of a claim included in the rejecting class receives or retains under the plan, property of a value, as of the effective date of the plan, equal to the amount of its allowed claim; or (b) the holders of claims and interests that are junior to the claims of the rejecting class will not receive or retain any property under the plan on account of their existing interests.

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

In the event the Debtors do not receive sufficient votes in favor of the Plan from the holders of Claims in either Class 4 or Class 5 for such classes to have accepted the Plan, the Debtors reserve the right to seek confirmation through cramdown, modify the Plan or to determine, in their sole discretion, not to seek to confirm the Plan.

#### **VI.B.2. "Unfair Discrimination"**

A plan of reorganization does not "discriminate unfairly" if a dissenting class is treated substantially equally with respect to other classes similarly situated, or any discrimination among the classes is determined not to be unfair by the Bankruptcy Court.

#### **VI.C. Best Interests of Creditors Test; Liquidation Analysis**

Notwithstanding acceptance of the Plan by each impaired Class, to confirm the Plan, the Bankruptcy Court must determine that the Plan is in the best interests of each holder of a Claim or Interest in any such impaired Class who has not voted to accept the Plan. If an impaired Class does not unanimously accept the Plan, the "best interests" test requires that the Bankruptcy Court find that the Plan provides to each member of such impaired Class a recovery on account of the member's Claim or Interest that has a value, as of the Effective Date, at least equal to the value of the distribution that each such member would receive if the applicable Debtor or Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date.

As noted above, Classes 4 and 5 are impaired under the Plan. To estimate what members of Classes 4 and 5 would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code, the Bankruptcy Court must first determine the cash that would be available if each of the Chapter 11 Cases were converted to a chapter 7 case under the Bankruptcy Code and each of the respective Debtor's assets were liquidated by a chapter 7 trustee (the "Liquidation Value"). The Liquidation Value of a Debtor would consist of the net proceeds received from the disposition of such Debtor's assets plus any cash held by such Debtor.

The information contained in Exhibit II hereto provides a summary of the Liquidation Values of the Debtors' interests in property, assuming a chapter 7 liquidation in which one or more trustees appointed by the Bankruptcy Court would liquidate each Debtor's properties and interests. The Liquidation Values have been prepared solely for use in this Disclosure Statement and do not represent values that are appropriate for any other purpose. Nothing in this analysis is intended to be or constitutes a concession by or admission of any Debtor for any purpose.

As illustrated in Exhibit II, the Debtors believe that a chapter 7 liquidation of each of the Debtors' Estates would result in diminution in the value to be realized by holders of Claims, as compared to the proposed distributions under the Plan.

#### **VI.D. Feasibility**

In connection with confirmation of the Plan, the Bankruptcy Court will have to determine that the Plan is feasible pursuant to section 1129(a)(11) of the Bankruptcy Code, which requires that the confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors. The Debtors believe that the Reorganized Debtors will be able to perform their obligations under the Plan and continue to operate their businesses without further financial reorganization or liquidation.

To support their belief in the Plan's feasibility, the Debtors have prepared the projections for Reorganized Debtors, as set forth in Exhibit III attached to this Disclosure Statement (the "Projections").

The Projections were not prepared with a view toward compliance with the guidelines established by the American Institute of Certified Public Accountants ("AICPA"), the Financial Accounting Standards Board (the "FASB") or the rules and regulations of the SEC. Furthermore, the Projections have not been audited, reviewed or subjected to any procedures designed to provide any level of assurance by the Debtors' independent certified public accountants.

While presented with numerical specificity, the Projections are based upon a variety of estimates and assumptions, which, while considered reasonable by the Debtors, may not be realized, and are subject to significant business, economic and competitive uncertainties and contingencies, many of which are beyond the control of the Debtors. Consequently, the Projections should not be regarded as a representation or warranty by the Debtors, or any other person, as to the accuracy of the Projections, or that the Projections will be realized. Actual results may vary materially from those presented in these Projections.

## **VII. RISK FACTORS**

Prior to voting on the Plan, each holder of a Claim entitled to vote should consider carefully the risk factors described below, as well as all of the information contained in this Disclosure Statement, including the Exhibits hereto. These risk factors should not, however, be regarded as constituting the only risks involved in connection with the Plan and its implementation. See Section XV for a discussion of certain tax considerations in connection with the Plan.

### **VII.A. Risks In Connection with the Reorganization Cases**

#### **VII.A.1. Risk of Non-Confirmation of the Plan**

Even if all impaired Classes accept or are deemed to accept the Plan, the Plan may still not be confirmed by the Bankruptcy Court. Section 1129 of the Bankruptcy Code, which sets forth the requirements for Confirmation, requires, among other things: (a) that Confirmation not be followed by a need for further reorganization or liquidation (i.e., that the plan is “feasible”); (b) that the value of distributions to dissenting holders not be less than the value of distributions to such holders if the Debtors were liquidated under chapter 7 of the Bankruptcy Code; and (c) that the Plan and the Debtors otherwise comply with the applicable provisions of the Bankruptcy Code. Although the Debtors believe that the Plan will meet all of the applicable requirements, there can be no assurance that the Bankruptcy Court will reach the same conclusion.

#### **VII.A.2. Nonconsensual Confirmation**

Pursuant to the “cramdown” provisions of section 1129 of the Bankruptcy Code, the Bankruptcy Court can confirm the Plan at the Debtors’ request if, excluding the acceptance of any “insider,” at least one impaired Class has accepted the Plan and the Bankruptcy Court determines that the Plan “does not discriminate unfairly” and is “fair and equitable” with respect to each impaired Class that has not accepted the Plan.

The Debtors reserve the right to modify the terms of the Plan, as necessary, to seek Confirmation without the acceptance of all impaired Classes. Such modification could result in less favorable treatment for non-accepting Classes of Claims than the treatment currently provided for in the Plan. Further, in the event an impaired Class of Claims fails to approve the Plan, the Debtors may determine, in their sole discretion, not to seek Confirmation of the Plan.

#### **VII.A.3. Conditions Precedent to the Effectiveness of the Plan**

Even if confirmed, the Plan may still not become effective if the conditions to effectiveness set forth in Section VIII.B of the Plan are not satisfied, or duly waived in accordance with Section VIII.C of the Plan. See Section XII to this Disclosure Statement for a description of the conditions to the effectiveness of the Plan.

#### **VII.A.4. Allowance of Claims**

The Debtors' estimate of Claims is based upon the Debtors' books and records. There can be no assurance, however, that the Debtors' estimates of the likely aggregate Allowed Claims will prove to be accurate. After the Debtors have conducted a more detailed analysis of filed Claims, including the Fraudulent Transfer Liability Claims, the Debtors' estimates may change. Further, an additional risk factor relates to the amount of Allowed Administrative Claims that may be asserted. Increased Administrative Claims could have a negative impact on the feasibility of the Plan, and the Debtors ultimate ability to confirm the Plan.

In addition, given the sheer volume of Claims filed against the Debtors, the cost of administering such claims will be substantial and may also adversely impact recoveries for holders of claims in certain Classes.

#### **VII.A.5. The Debtors May Object to the Amount, or the Secured or Priority Status, of a Claim**

The Debtors reserve the right to object to the amount, or the Secured or Priority status, of any Claim. Any such Holder of a Claim will receive its specified share of the estimated distributions described in the Disclosure Statement only to the extent its Claim becomes an Allowed Claim.

#### **VII.A.6. Causes of Action**

In accordance with section 1123(b) of the Bankruptcy Code, even after Confirmation of the Plan, the Reorganized Debtors will retain and may enforce causes of action against creditors, other than Recovery Actions. Accordingly, a holder of a Claim may be subject to one or more such claims brought by the Reorganized Debtors, even if such holder has voted in favor of the Plan.

### **VII.B. Risks Related to Financial Projections**

#### **VII.B.1. The Reorganized Debtors May Not be Able to Achieve Their Projected Financial Results**

The Reorganized Debtors may not be able to meet their projected financial results or achieve the revenue or cash flow that the Reorganized Debtors have assumed in projecting their future business prospects. If the Reorganized Debtors do not achieve these projected revenue or cash flow levels, the Reorganized Debtors may lack sufficient liquidity to continue operating as planned after the Effective Date. The Projections represent the Debtors' view of future operations based on currently known facts and various hypothetical assumptions. The Projections do not, however, guarantee the Reorganized Debtors' future financial performance.

#### **VII.B.2. Financial Projections are Subject to Inherent Uncertainty Due to the Numerous Assumptions Used in Their Formulation**

The Projections are based on numerous assumptions including: timely confirmation pursuant to the terms of the Plan; the anticipated future performance of the Reorganized Debtors; general business and economic conditions; and other matters, many of which are beyond the

control of the Reorganized Debtors and some or all of which may not materialize. In addition, unanticipated events and circumstances occurring subsequent to the date that the Disclosure Statement is approved by the Bankruptcy Court may affect the actual financial results of the Reorganized Debtors' operations. These variations may be material and may adversely affect the ability of the Reorganized Debtors to make payments with respect to their obligations following the Effective Date. In addition, this Disclosure Statement does not reflect any events that may occur subsequent to the date of this Disclosure Statement. Such events may have a material impact on the information contained in this Disclosure Statement.

**VII.C. Risks Related to the Reorganized Debtors' Business and Financial Condition**

**VII.C.1. The Debtors Are Dependent On Their Management Team, and the Loss of Any Key Member of This Team Could Negatively Impact the Debtors' Ability to Implement Our Business Plan**

The Debtors' success depends largely upon the services of certain key personnel, and in particular, certain personnel that have developed significant relationships with the Debtors' largest and most important customers. If the Debtors are not able to retain such key personnel, their business, financial condition, cash flows or results of operations could be materially and adversely affected.

**VII.C.2. The Exit Facility Will Restrict Activities and Require the Reorganized Debtors to Maintain Certain Financial Ratios**

The Exit Facility will contain a number of covenants and other provisions that will restrict the Reorganized Debtors' ability to engage in various financing transactions and operating activities. The Exit Facility also will require the Reorganized Debtors to maintain certain financial metrics. The ability of the Reorganized Debtors to meet their financial and other covenants may be affected by events beyond their control. If the Reorganized Debtors default under any of these requirements, the lender could declare all outstanding borrowings, accrued interest, and fees to be due and payable. If that were to occur, there can be no assurance that the Reorganized Debtors would have sufficient liquidity to repay or refinance this indebtedness or any of their other debt.

### **VII.C.3. Demand for Products is Difficult to Gauge**

Customer spending patterns are difficult to predict and are sensitive to the general economic climate. Declines in customer spending could reduce the Reorganized Debtors' revenues, gross margins, earnings, and liquidity. Forecasting demand for the Debtors' services is difficult given the cyclical nature of the Debtors' businesses, which can vary by season and from one geographic region to another. If the demand is lower than expected, gross margins and earnings may be affected.

### **VII.C.4. Maintaining Relationships with Third Parties**

The Reorganized Debtors' business is dependent on continued good relations with third-party vendors and suppliers for some of their products and services. The Reorganized Debtors do not directly control these vendors or the quality of their goods and therefore cannot control the selection, grading and shipping of some of these products. If these vendors and suppliers do not fulfill orders to customers' satisfaction, including customers' expectation of quality, such customers may not purchase from the Reorganized Debtors in the future.

The Reorganized Debtors rely upon third-party carriers for product shipments, including shipments to, from and between their stores. Accordingly, they are subject to risks, including employee strikes and inclement weather, which may affect such third-party carriers' abilities to meet delivery needs. Among other things, any circumstances that require the Reorganized Debtors to use other delivery services for all or a portion of their shipments could result in increased costs and delayed deliveries and could materially harm their business. In addition, the Reorganized Debtors are subject to the risk that their service providers may increase the rates they charge, terminate an existing contract, decrease the rate discounts provided when an existing contract is renewed or that we may be unable to agree on the terms of a new contract, any of which could materially adversely affect operating results.

Increases in delivery rates or changes in the availability of rate discounts could have a negative impact on operating results to the extent that the Reorganized Debtors are unable to pass such increased costs on directly to customers or offset such increased costs by raising selling prices. In addition to outsourcing materials and production for some products, the Reorganized Debtors also depend on third-parties for telecommunications, maintenance of certain technology systems and shipment of products. The inability to acquire such services, or the loss of one or more key vendors, could have a negative effect on business and financial results.

### **VII.C.5. Decrease in the Availability, or Increase in the Cost, of Raw Materials**

Operations depend, in part, on the availability of various raw materials, including plastics, dyes, paper and other key materials relied upon by the Debtors in the ordinary course of business. The availability of raw materials may decrease and their prices are likely to be volatile as a result of, among other things, changes in overall supply and demand levels, and new laws or regulations. Disruption in the supply of raw materials could temporarily impair the Reorganized Debtors' ability to manufacture some products or require the payment of higher prices in order to

obtain these raw materials from other sources. In the event raw material costs increase, the Reorganized Debtors may not be able to pass these higher costs on to customers in full or at all. Any increase in the prices for raw materials could materially increase costs and therefore lower gross margins.

#### **VII.C.6. Unexpected Costs Associated With Environmental Compliance or Liability**

The Reorganized Debtors' operations are subject to comprehensive federal, state and local laws and regulations relating to environmental protection. If they do not fully comply with applicable environmental laws and regulations or the permits required for operations, or if a release of hazardous materials occurs at or from one of the Reorganized Debtors' facilities, they could become subject to fines, penalties, or other sanctions as well as to lawsuits alleging exposure, personal injury or property damage. The Reorganized Debtors could also be held liable for the cost of remedying the condition or incur costs related to retrofitting or upgrading facilities. In addition, maintaining or achieving compliance with the existing and increasingly stringent future environmental requirements could require the Reorganized Debtors to make material additional expenditures.

### **VIII. MEANS FOR IMPLEMENTATION OF THE PLAN**

#### **VIII.A. Debtor Equity Interests**

At the Confirmation Hearing, or at any time thereafter, the Debtors, or Reorganized Debtors shall have continuing authorization to redeem their Equity Interests from existing shareholders under applicable law, relevant agreements and the Plan, without further notice to or order of the Bankruptcy Court. Vmark's board of directors shall determine the amount, if any, of Equity Interests to redeem, and the value of such Equity Interests, which such value shall be determined by reasonable means through a nationally recognized third-party appraiser of Reorganized Vmark's choosing.

Following the determination of value, whether by agreement or court order, the purchase of such Equity Interests shall be affected within 5 business days by the payment of the redemption amount in full, in cash to the applicable shareholder, unless otherwise agreed by the parties. Upon redemption, the affected Equity Interests shall be deemed cancelled.

Following the Effective Date of the Plan, the Debtor Equity Interests shall remain subject to all applicable law governing such Equity Interests, and any agreements existing as of the Petition Date.

#### **VIII.B. Continued Corporate Existence and Vesting of Assets in the Reorganized Debtors**

Except as otherwise provided in the Plan, each Debtor will, as a Reorganized Debtor, continue to exist after the Effective Date as a separate legal Entity, with all the powers of a corporation or other applicable form of legal entity under applicable law and without prejudice to

any right to alter or terminate such existence (whether by merger, dissolution or otherwise) under applicable state law. Except as otherwise provided herein as of the Effective Date, all property of the respective Estates of the Debtors, and any property acquired by a Debtor or Reorganized Debtor under the Plan, will vest in the applicable Reorganized Debtor, free and clear of all Claims, liens, charges, other encumbrances and Interests. On and after the Effective Date, each Reorganized Debtor may operate its businesses and may use, acquire and dispose of property and compromise or settle any Claims without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan or the Confirmation Order.

### **VIII.C. Restructuring Transactions**

#### **VIII.C.1. Restructuring Transactions Generally**

On or after the Confirmation Date, the applicable Debtors or Reorganized Debtors may enter into such Restructuring Transactions and may take such actions as the Debtors (at any time on or prior to the Effective Date) or the Reorganized Debtors determine to be necessary or appropriate to effect a corporate restructuring of their respective businesses, to simplify the overall corporate structure of the Reorganized Debtors or to preserve the value of any available net operating losses and other favorable tax attributes and/or to maximize the value of the Reorganized Debtors, all to the extent not inconsistent with any other terms of the Plan or existing law. Such Restructuring Transactions may include one or more transfers, mergers, consolidations, conversions, restructurings (including the issuance or redemption of one or more series of Equity Interests in one or more of the Reorganized Debtors), dispositions, liquidations or dissolutions, as may be determined by the Debtors or the Reorganized Debtors (at any time on or prior to the Effective Date) to be necessary or appropriate.

The actions to effect these transactions may include: (a) the execution and delivery of appropriate agreements or other documents of transfer, merger, consolidation, conversion, restructuring, disposition, liquidation or dissolution containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable state law and such other terms to which the applicable Entities may agree; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, duty or obligation on terms consistent with the terms of the Plan and having such other terms to which the applicable Entities may agree; (c) the filing of appropriate certificates or articles of merger, consolidation, conversion, dissolution or change in corporate form pursuant to applicable state law; and (d) the taking of all other actions that the applicable Entities determine to be necessary or appropriate, including the actions contemplated in Section IV.A of the Plan, or making filings or recordings that may be required by applicable state law in connection with such transactions.

#### **VIII.C.2. Obligations of Any Successor Corporation in a Restructuring Transaction**

Without in any way limiting Section IV.C.1. of the Plan, the Restructuring Transactions may include one or more transfers, mergers, consolidations, conversions, restructurings,

dispositions, liquidations or dissolutions, as may be determined by the Debtors (at any time on or prior to the Effective Date) or the Reorganized Debtors to be necessary or appropriate to result in substantially all of the respective assets, properties, rights, liabilities, duties and obligations of certain of the Reorganized Debtors vesting in one or more surviving, resulting or acquiring entities, provided that such entities shall be able to satisfy the liabilities, duties and obligations of the Reorganized Debtors under the Plan, or existing law. In each case in which the surviving, resulting or acquiring entity in any such transaction is a successor to a Reorganized Debtor, such surviving, resulting or acquiring entity will perform the obligations of the applicable Reorganized Debtor pursuant to the Plan.

**VIII.D. Corporate Governance, Directors and Officers, Employment-Related Agreements and Compensation Programs, Continuation of Certain Employee and Workers' Compensation Benefits, Special Provisions Regarding Insured Claims and Insurance Policies and Corporate Action**

**VIII.D.1. Certificates of Incorporation and By-Laws of the Reorganized Debtors**

As of the Effective Date, the Certificates of Incorporation and the By-Laws (or comparable constituent documents) of the Debtors will be reaffirmed and restated for the Reorganized Debtors, and shall be amended to prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a) of the Bankruptcy Code. After the Effective Date or the effective time of any applicable Restructuring Transaction, the Reorganized Debtors may further amend and/or restate their Certificates of Incorporation or By-Laws (or comparable constituent documents) as permitted by applicable state law, subject to the terms and conditions of such constituent documents.

**VIII.D.2. Directors and Officers of the Reorganized Debtors**

Subject to any requirement of Bankruptcy Court approval pursuant to section 1129(a)(5) of the Bankruptcy Code, the initial board of directors and the officers of each of the Reorganized Debtors will be identified in the Plan Supplement. The compensation to be disbursed to the directors, executives and officers serving for each of the Reorganized Debtors as of the Effective Date also will be disclosed in the Plan Supplement.

**VIII.D.3. Employee Benefits**

From and after the Effective Date, the Reorganized Debtors intend to continue (or continue as modified or replaced) their existing employee benefit policies, plans and agreements, including but not limited to: (a) medical, dental, vision, prescription drug, accident, life and disability insurance; (b) sick pay, short-term disability pay and long-term disability insurance; and (c) vacation and holiday pay.

**VIII.D.4. Retiree Benefits**

From and after the Effective Date, the Reorganized Debtors will be obligated to pay retiree benefits (as defined in section 1114(a) of the Bankruptcy Code), if any, and any similar

health, disability, or death benefits, if any, in accordance with the terms of the retiree benefit plans or other agreements governing the payment of such benefits, subject to any rights to amend, modify or terminate such benefits under the terms of the applicable retiree benefits plan, other agreement or applicable nonbankruptcy law. Nothing herein or the Plan shall be construed as a determination that any benefits offered by the Debtors are in fact retiree benefits as defined in Section 1114 of the Bankruptcy Code.

#### **VIII.D.5. Workers' Compensation Benefits**

From and after the Effective Date, the Reorganized Debtors may continue to pay valid Claims arising before the Petition Date under the Debtors' workers' compensation programs.

#### **VIII.D.6. New Employment, Retirement, Indemnification and Other Related Agreements and Compensation Programs**

As of the Effective Date, the Reorganized Debtors shall have authority, as determined by Reorganized Debtors' boards of directors, to: (a) maintain, amend or revise existing employment, retirement, welfare, incentive, severance, indemnification and other agreements with their active and retired directors, officers and employees, subject to the terms and conditions of any such agreement; (b) enter into new employment, retirement, welfare, incentive, severance, indemnification and other agreements for active and retired employees; and (c) enter into and implement any management incentive plan.

#### **VIII.D.7. Limitations on Amounts to Be Distributed to Holders of Allowed Insured Claims**

Distributions under the Plan to each holder of an Allowed Insured Claim shall be in accordance with the treatment provided under the Plan for the Class in which such Allowed Insured Claim is classified, but solely to the extent that such Allowed Insured Claim is not satisfied from proceeds payable to the holder thereof under any pertinent insurance policies and applicable law. Nothing in Section IV.D.7 of the Plan shall in any way operate to, or have the effect of, impairing in any respect the legal, equitable or contractual rights and defenses of the insureds or insurers with respect to the Insurance Policies and Agreements. The rights and obligations of the insureds and insurers under the Insurance Policies and Agreements shall be determined under such policies and related agreements, including the terms, conditions, limitations, exclusions and endorsements thereof, which shall remain in full force and effect under their terms and under any applicable non-bankruptcy law. Each of the non-Debtor counterparties to the Insurance Policies and Agreements reserves all its rights and defenses under the Insurance Policies and Agreements and applicable non-bankruptcy law, including any defenses to coverage.

#### **VIII.D.8. Reinstatement and Continuation of Insurance Policies**

From and after the Effective Date, each of the Debtors' insurance policies in existence as of the Effective Date shall be reinstated and continued in accordance with its terms and, to the extent applicable, shall be deemed assumed by the applicable Reorganized Debtor pursuant to section 365 of the Bankruptcy Code and Section V.A of the Plan.

#### **VIII.D.9. Corporate Action**

Pursuant to section 1142 of the Bankruptcy Code and section 303 of the Delaware General Corporation Law and any comparable provisions of the business corporation law of any other state, the following (which will occur and be deemed effective as of the date specified in the documents effectuating the same or, if no date is so specified, the Effective Date) shall be authorized and approved in all respects and for all purposes without any requirement of further action by stockholders or directors of any of the Debtors or the Reorganized Debtors or any other person or entity: the Restructuring Transactions; the adoption of new or amended and restated certificates of incorporation or formation and by-laws or similar constituent documents for the Reorganized Debtors; the initial selection of directors and officers for the Reorganized Debtors; the Distribution of cash pursuant to the Plan; the transactions contemplated by the Plan including any redemption of Equity Interests; the adoption, execution, delivery and implementation of all contracts, leases, instruments, releases and other agreements or documents related to any of the foregoing; the adoption, execution and implementation of employment, retirement and indemnification agreements, incentive compensation programs, retirement income plans, welfare benefit plans and other employee plans and related agreements, including any management incentive plan; and other matters involving the corporate structure of any Debtor or Reorganized Debtor or corporate action to be taken by or required of any Debtor or Reorganized Debtor.

#### **VIII.E. Obtaining Cash for Plan Distributions and Transfers of Funds Among the Debtors and the Reorganized Debtors**

The Debtors (at any time on or prior to the Effective Date) or Reorganized Debtors, as applicable, are authorized to execute and deliver any documents necessary or appropriate to obtain cash for funding the Plan. All cash necessary for the Reorganized Debtors to disburse cash payments pursuant to the Plan will be obtained through a combination of one or more of the following: (1) the Reorganized Debtors' cash balances; (2) the Exit Facility, (3) any additional means of financing or funding that the Debtors or the Reorganized Debtors determine is necessary or appropriate, and (4) the proceeds of any tax refunds. The terms of the Exit Financing, and any other source of Plan funding will be included as part of the Plan Supplement in advance of the Confirmation Hearing. As of the Effective Date, the Exit Financing Lenders shall succeed to the liens, claims and encumbrances of the existing holders of Satisfied Secured Lender Claims. The Reorganized Debtors will be entitled to transfer funds between and among themselves as they determine to be necessary or appropriate to enable the Reorganized Debtors to satisfy their obligations under the Plan.

#### **VIII.F. Preservation of Rights of Action; Settlement of Claims and Releases**

##### **VIII.F.1. Preservation of Rights of Action by the Debtors and the Reorganized Debtors**

Except as provided in the Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code and to the fullest extent possible under applicable law, the Reorganized Debtors shall retain and may enforce (and shall have the sole right to enforce) any claims,

demands, rights and causes of action that any Debtor or Estate may hold against any Entity, other than the Recovery Actions. The Reorganized Debtors or their successors may pursue, or not pursue, such retained claims, demands, rights or causes of action, as they deem appropriate in their discretion.

#### **VIII.F.2. Comprehensive Settlement of Claims and Controversies**

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan, including the releases set forth in Section IV.F.3 of the Plan, shall constitute a good faith compromise and settlement of all Claims or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Claim, Interest or any Distribution to be made pursuant to the Plan on account of any Allowed Claim or Interest, including the Fraudulent Transfer Liability Claims. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such Claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, the Reorganized Debtors and their respective property and Claim and Interest holders and is fair, equitable and reasonable.

#### **VIII.F.3. Releases**

##### **a. Releases by Debtors and Reorganized Debtors**

**Upon the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date the Debtors and the Reorganized Debtors, on behalf of themselves and their affiliates, the Estates and their respective successors, assigns and any and all Entities who may purport to claim by, through, for or because of them shall forever release, waive and discharge all Liabilities that they have, may have or had (whether known or unknown) against any Released Party. Subject to the occurrence of the Effective Date, without limiting the generality or effect of the foregoing, the Debtors and the Reorganized Debtors release and waive all Recovery Actions as of the date of entry of the Confirmation Order.**

##### **b. General Releases by Holders of Claims or Interests**

**As of the Effective Date, in consideration for the obligations of the Debtors and the Reorganized Debtors under the Plan and the cash, contracts, instruments, releases, agreements or documents to be entered into or delivered in connection with the Plan, each holder of a Claim, whether directly held, or held indirectly through a third party, that votes in favor of the Plan shall be deemed to forever release, waive and discharge all Liabilities in any way relating to a Debtor, the Reorganization Cases, the Estates, the Disclosure Statement, or the Plan that such entity has, had or may have (whether known or unknown) against any Released Party, the Debtors, the Reorganized Debtors or any employees, agents or partners of the Debtors; *provided, however*, that Section IV.F.3.b of the Plan shall not be binding on holders of Claims in Class 4 until the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.**

##### **c. Injunction Related to Releases**

**As further provided in Section X.B of the Plan, the Confirmation Order shall permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively or otherwise, of any Liabilities released pursuant to the Plan at the times set forth in the Plan.**

**VIII.G. Cancellation and Surrender of Instruments, Securities and Other Documentation**

Except as otherwise provided in the Plan or in any contract, instrument or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article III of the Plan, all Prepetition Loan Documents in respect of Satisfied Secured Lender Claims shall be cancelled and of no further force and effect without any further action on the part of any Debtor or Reorganized Debtor, and the obligations of any of the Debtors under such Prepetition Loan Documents shall be discharged; *provided, however,* that the Prepetition Loan Documents in respect of Satisfied Secured Lender Claims shall continue in effect solely for the purpose of allowing the relevant holders of Satisfied Secured Lender Claims to receive their Distributions under the Plan *provided further, however,* that the Exit Financing Lenders shall succeed to the liens, claims and encumbrances of the existing holders of Satisfied Secured Lender Claims. The holders of or parties to such cancelled instruments, securities and other documentation shall have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof, except the rights provided pursuant to the Plan. No Distribution under the Plan shall be made to or on behalf of any holder of an Allowed Claim evidenced by such cancelled instruments or securities unless and until such instruments or securities are received by the applicable Disbursing Agent to the extent required in Section VI.H of the Plan. The Prepetition Loan Documents in respect of Reinstated Secured Lender Claims shall not be cancelled or otherwise discharged pursuant to Section IV.H or any other provision of the Plan.

**VIII.H. Release of Liens**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document assumed, entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article III of the Plan, all mortgages, deeds of trust, liens or other security interests against any property on account of a Satisfied Secured Lender Claim (including any instrument of guaranty, pledge or other third party collateral), other than those liens and security interests granted pursuant to the DIP Amendment, assigned to the Exit Financing Lenders or in respect of Reinstated Secured Lender Claims, shall be fully released and discharged, and all of the right, title and interest of any holder of such mortgages, deeds of trust, liens or other security interests, including any rights to any collateral thereunder, shall revert to the applicable Reorganized Debtor and its successors and assigns.

**VIII.I. Effectuating the Equity Interest Redemption**

The Debtors or Reorganized Debtors may enter into and effectuate any necessary contracts, agreements or other documents and take any actions appropriate or necessary to consummate a redemption of the Equity Interests contemplated in Section IV.A of the Plan.

#### **VIII.J. Effectuating Documents; Further Transactions; Exemption from Certain Transfer Taxes**

The chief executive officer, chief restructuring officer, chief financial officer, secretary and treasurer, as applicable, of each Debtor or Reorganized Debtor shall be authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan. The chief executive officer, chief restructuring officer, chief financial officer, secretary and treasurer, as applicable, of each Debtor or Reorganized Debtor shall be authorized to certify or attest to any of the foregoing actions. Pursuant to section 1146(a) of the Bankruptcy Code, the following shall not be subject to any stamp, real estate transfer, mortgage recording, sales or use, or other similar tax: (1) the issuance, transfer or exchange of notes or equity securities under the Plan; (2) the creation of any mortgage, deed of trust, lien, pledge or other security interest; (3) the making or assignment of any lease or sublease; (4) any Restructuring Transaction; or (5) the making or delivery of any deed or other instrument of transfer, sale or assignment under, in furtherance of or in connection with the Plan, including any merger agreements, agreements or other documents of transfer, conversion, consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale or assignments executed in connection with any Restructuring Transaction pursuant to the Plan.

### **IX. TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

#### **IX.A. Executory Contracts and Unexpired Leases to Be Assumed**

##### **IX.A.1. Assumption Generally**

Except as otherwise provided in the Plan or the Schedule of Rejected Executory Contracts and Unexpired Leases, or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, or in a motion pending before the Bankruptcy Court seeking authority to reject an Executory Contract or Unexpired Lease or in a Final Order of the Bankruptcy Court, on the Effective Date, pursuant to section 365 of the Bankruptcy Code, the Debtors will be deemed to assume each Executory Contract or Unexpired Lease. Without limiting the foregoing, on the Effective Date, the Debtors will assume all employment contracts without modification.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the assumption by the Debtors of Executory Contracts and Unexpired Leases pursuant to Section V.A.1 of the Plan as of the Effective Date, except for Executory Contracts and Unexpired Leases that (a) have been rejected pursuant to a Final Order of the Bankruptcy Court, (b) are subject to a pending motion for reconsideration or appeal of an order authorizing the rejection of such Executory Contract or Unexpired Lease, (c) are subject to a motion to reject such Executory

Contract or Unexpired Lease filed on or prior to the Effective Date, or (d) are listed on the Schedule of Rejected Executory Contracts and Unexpired Leases.

Nothing in the Plan, including listing a contract or lease on the Schedule of Rejected Executory Contracts and Unexpired Leases, will constitute an admission by a Debtor or Reorganized Debtor that any contract or lease is an Executory Contract or Unexpired Lease or that a Debtor or Reorganized Debtor has any liability thereunder. The Debtors will be required to satisfy the applicable requirements of section 365 of the Bankruptcy Code with respect to the assumption and, if applicable, the assignment of each contract or lease included on the Schedules of Assumed Executory Contracts and Unexpired Leases.

#### **IX.A.2. Payment of Cure Claims**

The amount of any Cure Amount Claim necessary to assume any Executory Contract or Unexpired Lease to be assumed pursuant to the Plan will be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, at the option of the applicable Debtor or Reorganized Debtor: (1) by payment of such Cure Amount Claim in cash on the later of the Effective Date, and the date on which a disputed Cure Amount Claim is resolved by agreement of the parties or by an order of the Bankruptcy Court; or (2) on such other terms as are agreed to by the parties to such Executory Contract or Unexpired Lease.

As of the Effective Date, and after payment of any necessary cure amounts owing to contract or lease counterparties pursuant to section 365 of the Bankruptcy Code, all contract and lease counterparties shall be forever barred and estopped from asserting or claiming against the Debtors or Reorganized Debtors that any additional amounts are due or other defaults exist, that conditions to assumption and/or assignment must be satisfied under such Executory Contracts or Unexpired Leases or that there is any objection or defense to assumption and/or assignment of such Executory Contracts and Unexpired Leases.

Any provision in any Executory Contract or Unexpired Lease to be assumed under the Plan that purports to declare a breach, default, or right to payment or modification as a result of an assignment or change of control in respect of the Debtors or Reorganized Debtors, or as a result of the Reorganizations Cases, is unenforceable, and all Executory Contracts and Unexpired Leases to be assumed under the Plan shall remain in full force and effect, subject only to payment of the appropriate cure amount, if any. No sections or provisions of any Executory Contract or Unexpired Lease that purport to provide for additional payments, penalties, charges, rent acceleration or other financial accommodations in favor of the non-Debtor third party thereto shall have any force and effect with respect to the Reorganization Cases or the transactions contemplated by the Plan, and such provisions constitute unenforceable anti-assignment provisions under section 365(f) of the Bankruptcy Code and are otherwise unenforceable under section 365(e) of the Bankruptcy Code and/or applicable case law.

#### **IX.A.3. Assignments Related to the Restructuring Transactions**

As of the effective time of an applicable Restructuring Transaction, any Executory Contract or Unexpired Lease to be held by any Debtor or another surviving, resulting or acquiring corporation in an applicable Restructuring Transaction, shall be deemed assigned to

the applicable Entity, pursuant to section 365 of the Bankruptcy Code. The Debtors shall satisfy the applicable requirements of section 365 of the Bankruptcy Code with respect to any contract or lease the Debtors assign as part of a Restructuring Transaction.

#### **IX.A.4. Rejection of Executory Contracts and Unexpired Leases**

The Confirmation Order will constitute an order of the Bankruptcy Court approving the rejection of each Executory Contract or Unexpired Lease listed on the Schedule of Rejected Executory Contracts and Unexpired Leases pursuant to section 365 of the Bankruptcy Code as of the Effective Date. Any Claim arising from the rejection of any Executory Contract or Unexpired Lease will be considered an Other Unsecured Claim pursuant to section 365 of the Bankruptcy Code, and, subject to allowance, paid in accordance with Sections V.A.5 and III.B.5 of the Plan.

Rejection or repudiation of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors or Reorganized Debtors under such Executory Contracts or Unexpired Leases. Notwithstanding any applicable nonbankruptcy law to the contrary, the Debtors and Reorganized Debtors expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties, indemnifications or continued maintenance obligations on goods or services previously purchased by the contracting Debtors or Reorganized Debtors from counterparties to rejected or repudiated Executory Contracts or Unexpired Leases.

#### **IX.B. Rejection Damage Claims**

Except as otherwise provided in a Final Order approving the rejection of an Executory Contract or Unexpired Lease, Claims arising out of the rejection of an Executory Contract or Unexpired Lease must be filed with the Bankruptcy Court on or before 28 days after the Effective Date. Any Claims not Filed within such time period will be forever barred from receiving a distribution from the Debtors, the Reorganized Debtors or the Estates.

The Debtors reserve the right to object to, settle, compromise or otherwise resolve any Claim filed on account of a rejected Executory Contract or Unexpired Lease. Undisputed Claims for rejection damages filed in connection with a rejected Executory Contract or Unexpired Lease shall be paid in accordance with Section III.B.5 of the Plan.

#### **IX.C. Obligations to Indemnify Directors, Officers and Employees**

Any and all directors and officers liability and fiduciary (including ERISA) insurance or tail policies in existence as of the Effective Date shall be reinstated and continued in accordance with their terms and, to the extent applicable, shall be deemed assumed or assumed and assigned by the applicable Debtor or Reorganized Debtor, pursuant to section 365 of the Bankruptcy Code and the Plan. Each insurance carrier under such policies shall continue to honor and administer the policies with respect to the Reorganized Debtors in the same manner and according to the same terms and practices applicable to the Debtors prior to the Effective Date.

The obligations of each Debtor or Reorganized Debtor to indemnify any Person who is serving or served as one of its directors, officers or employees as of the Petition Date by reason of such Person's prior or future service in such a capacity or as a director, officer or employee of another corporation, partnership or other legal entity, to the extent provided in the applicable certificates of incorporation, by-laws or similar constituent documents, by statutory law or by written agreement, policies or procedures of or with such Debtor, will be deemed and treated as executory contracts that are assumed by the applicable Debtor or Reorganized Debtor pursuant to the Plan and section 365 of the Bankruptcy Code as of the Effective Date. Accordingly, such indemnification obligations will survive and be unaffected by entry of the Confirmation Order, irrespective of whether such indemnification is owed for an act or event occurring before or after the Petition Date.

#### **IX.D. Contracts and Leases Entered Into After the Petition Date**

Notwithstanding any other provisions of the Plan, contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor, any obligation to indemnify directors, officers and employees as set forth in Section V.B of the Plan and all directors and officers liability and fiduciary insurance or tail policies in existence as of the Effective Date, shall be performed by the Debtor or Reorganized Debtor liable thereunder in accordance with the terms and conditions of such contracts and leases in the ordinary course of its business. Accordingly, such contracts and leases and other obligations (including any assumed Executory Contracts and Unexpired Leases, any obligation to indemnify directors, officers and employees as set forth in Section V.B of the Plan and all directors and officers liability and fiduciary insurance or tail policies in existence as of the Effective Date) shall survive and remain unaffected by entry of the Confirmation Order.

### **X. PROVISIONS GOVERNING PLAN DISTRIBUTIONS**

#### **X.A. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan, Distributions to be made on the Effective Date to holders of Claims that are Allowed Claims as of the Effective Date shall be deemed made on the Effective Date if made on the Effective Date or as promptly thereafter as practicable, but in any event no later than: (1) 30 days after the Effective Date or (2) such later date when the applicable conditions of Section VI.D.2.a (regarding undeliverable Distributions), Section VI.G.3 (regarding compliance with Tax requirements) or Section VI.H (regarding surrender of cancelled instruments or securities) are satisfied. Distributions on account of Claims that become Allowed Claims after the Effective Date shall be made pursuant to Sections VI.G.2, III.B.4, and III.B.5. Any Claim that is disallowed by order of the Bankruptcy Court (or any other court of competent jurisdiction) prior to the Effective Date shall be deemed expunged (to the extent not already expunged) as of the Effective Date without the necessity for further Bankruptcy Court approval and the holder of any such Claim shall not be entitled to any Distributions under the Plan.

#### **X.B. Method of Distributions to Holders of Claims**

The Reorganized Debtor or such Third Party Disbursing Agents as the Reorganized Debtors may employ in their sole discretion shall make all Distributions of cash and other instruments or documents required under the Plan. Each Disbursing Agent shall serve without bond, and any Disbursing Agent may employ or contract with other Entities to assist in or make the Distributions required by the Plan.

**X.C. Compensation and Reimbursement for Services Related to Distributions**

Each Third Party Disbursing Agent providing services related to Distributions pursuant to the Plan shall receive from the Reorganized Debtors, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services. These payments shall be disbursed on terms agreed to with the Reorganized Debtors and shall not be deducted from Distributions to be made pursuant to the Plan to holders of Allowed Claims receiving Distributions from a Third Party Disbursing Agent.

**X.D. Delivery of Distribution and Undeliverable or Unclaimed Distributions**

**X.D.1. Delivery of Distributions**

Distributions to holders of Allowed Claims shall be made by a Disbursing Agent (a) at the addresses set forth on the respective proofs of Claim Filed by holders of such Claims; (b) at the addresses set forth in any written certification of address change delivered to the Disbursing Agent (including pursuant to a letter of transmittal delivered to a Disbursing Agent) after the date of Filing of any related proof of Claim; or (c) at the addresses reflected in the applicable Debtor's Schedules if no proof of Claim has been Filed and the Disbursing Agent has not received a written notice of a change of address.

**X.D.2. Undeliverable Distributions Held by Disbursing Agents**

a. Holding and Investment of Undeliverable Distributions

If any Distribution to a holder of an Allowed Claim is returned to a Disbursing Agent as undeliverable, no further Distributions shall be made to such holder unless and until the applicable Disbursing Agent is notified by written certification of such holder's then current address. Undeliverable Distributions shall remain in the possession of the applicable Disbursing Agent pursuant to Section VI.D.2.a of the Plan until such time as a Distribution becomes deliverable. Undeliverable cash shall be held in segregated bank accounts in the name of the applicable Disbursing Agent for the benefit of the potential claimants of such funds. Any Disbursing Agent holding undeliverable cash shall invest such cash in a manner consistent with the Reorganized Debtors' investment and deposit guidelines.

b. After Distributions Become Deliverable

On each Quarterly Distribution Date, the applicable Disbursing Agents shall make all Distributions to holders of Allowed Class 4 Claims that become deliverable to holders of such Claims during the preceding calendar quarter, to the extent not distributed earlier pursuant to the terms set forth in Section III.B.4 or Section III.B.5 of the Plan.

c. Failure to Claim Undeliverable Distributions

Any holder of an Allowed Claim that does not assert a claim pursuant to the Plan for an undeliverable Distribution to be made by a Disbursing Agent within six months after the later of (i) the Effective Date and (ii) the last date on which a Distribution was attempted to be made to such holder shall have its claim for such undeliverable Distribution discharged and shall be forever barred from asserting any such claim against the Reorganized Debtors or their respective property. Unclaimed Distributions shall become property of the applicable Reorganized Debtor, free of any restrictions thereon, and any such Distributions held by a Third Party Disbursing Agent shall be returned to the applicable Reorganized Debtor. Nothing contained in the Plan shall require any Debtor, Reorganized Debtor or Disbursing Agent to attempt to locate any holder of an Allowed Claim.

**X.E. Distribution Record Date**

A Disbursing Agent shall have no obligation to recognize the transfer of, or the sale of any participation in, any Claim that occurs after the close of business on the Distribution Record Date and shall be entitled for all purposes herein to recognize and make Distributions only to those holders of Allowed Claims that are holders of such Claims, or participants therein, as of the close of business on the Distribution Record Date.

Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Distribution Record Date shall be treated as the holders of such Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to such transfer has not expired by the Distribution Record Date.

**X.F. Means of Cash Payments**

Except as otherwise specified herein, cash disbursements made pursuant to the Plan to holders of Claims shall be in U.S. currency by checks drawn on a domestic bank selected by the Reorganized Debtors or, at the option of Reorganized Debtors, by wire transfer from a domestic bank; *provided, however*, that cash disbursements to foreign holders of Allowed Claims may be made, at the option of the Reorganized Debtors, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

**X.G. Timing and Calculation of Amounts to be Distributed**

**X.G.1. Timing of Distributions Under the Plan**

Any Distribution to be made by any Debtor or Reorganized Debtor pursuant to the Plan shall be deemed to have been timely made if made within 30 days after the time therefore specified in the Plan. Except as otherwise provided in the Plan, no interest shall accrue or be disbursed with respect to any Distribution as a consequence of such Distribution not having been made on the Effective Date.

**X.G.2. Allowed Claims**

On the Effective Date, subject to the treatment provided for in Sections III.B.4 and III.B.5 of the Plan, each holder of an Allowed Claim shall receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class. On each Quarterly Distribution Date, Distributions also shall be made pursuant to Section VI.D of the Plan to holders of Disputed Claims in any such Class that were allowed during the preceding calendar quarter. Such quarterly Distributions also shall be in the full amount that the Plan provides for Allowed Claims in the applicable Class.

**X.G.3. Compliance with Tax Requirements**

In connection with the Plan, to the extent applicable, each Disbursing Agent shall comply with all Tax withholding and reporting requirements imposed on it by any governmental unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, each Disbursing Agent shall be authorized to take any actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the Distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding Distributions pending receipt of information necessary to facilitate such Distribution, or establishing any other mechanisms it believes are reasonable and appropriate.

Notwithstanding any other provision of the Plan, each Entity receiving a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed on it by any governmental unit on account of such Distribution, including income, withholding and other Tax obligations.

**X.H. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any Distribution pursuant to the Plan on account of an Allowed Claim evidenced by the notes, instruments, securities or other documentation cancelled pursuant to Section IV.G, the holder of such Claim may be required by the Disbursing Agent to tender, as specified in Section VI.H of the Plan, the applicable notes, instruments, securities or other documentation evidencing such Claim to the applicable Disbursing Agent, together with any letter of transmittal required by such Disbursing Agent, and/or execute any assignment documents for the benefit of the Exit Financing Lenders. Pending such surrender, any Distributions pursuant to the Plan on account of any such Claim may be treated as an undeliverable Distribution pursuant to Section VI.D.2.a of the Plan.

**X.I. Setoffs**

Except with respect to claims of a Debtor or Reorganized Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Reorganized Debtors or, as instructed by the applicable Reorganized Debtor, a Third Party Disbursing Agent may, pursuant to section 553 of the Bankruptcy Code or applicable nonbankruptcy law, set off against any Allowed Claim and the Distributions to be made pursuant to the Plan on account of such Claim (before any Distribution is made on account of such Claim) the claims and rights of any nature that the applicable Debtor or Reorganized Debtor may hold against the holder of such Allowed Claim; provided, however, that neither the failure to effect a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the applicable Debtor or Reorganized Debtor of any claims, rights or causes of action that the Debtor or Reorganized Debtor may possess against such a Claim holder. Nothing in the Plan will preclude any person serving as one of the Debtors' or Reorganized Debtors' directors, officers or employees prior to or following the Petition Date from asserting a right of recoupment of any kind against any debt, obligation or liability, and any such right of recoupment is expressly preserved.

**X.J. Allocation of Payments**

Amounts disbursed to holders of Claims in satisfaction thereof shall be allocated first to the principal amounts of such Claims, with any excess being allocated to interest that has accrued on such Claims but remains unpaid.

**X.K. Postpetition Interest**

Except as otherwise provided herein or as required by applicable bankruptcy law, Postpetition Interest shall not be disbursed on account of any Claim.

**XI. PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

**XI.A. Prosecution of Objection to Claims**

### **XI.A.1. Objections to Claims**

Objections to Claims must be Filed and served on the holders of such Claims by the Claims Objection Bar Date, and, if Filed prior to the Effective Date, such objections must be served on the parties on the then-applicable service list in the Reorganization Cases. If an objection has not been Filed to a proof of Claim or an amendment has not been made to the Schedules with respect to a scheduled Claim by the Claims Objection Bar Date, the Claim to which the proof of Claim or Schedules relates shall be treated as an Allowed Claim if such Claim has not been allowed earlier.

### **XI.A.2. Authority to Prosecute Objections**

After the Effective Date, the Reorganized Debtors shall have the authority to File (if applicable), settle, compromise, withdraw or litigate to judgment objections to all Claims, including pursuant to any alternative dispute resolution or similar procedures approved by the Bankruptcy Court. After the Effective Date, the Reorganized Debtors may settle, compromise or otherwise resolve any Disputed Claim or any objection or controversy relating to any Claim without approval of the Bankruptcy Court.

### **XI.A.3. Liquidation and Resolution of Fraudulent Transfer Liability Claims**

The Fraudulent Transfer Liability Claims, and any objections of the Debtors and other parties in interest to such Claims, shall be determined prior to, or in conjunction with the Confirmation Hearing. The Fraudulent Transfer Liability Claims shall be Allowed in the amount determined by the Bankruptcy Court in accordance with the Fraudulent Transfer Liability Claims Liquidation Proceedings and Distributions on account of such Fraudulent Transfer Liability Claims shall be made in the amounts so determined by the Bankruptcy Court, and in accordance with Section III.B.5 of the Plan. The Final Order allowing the Fraudulent Transfer Liability Claims shall be binding for all purposes with respect to the Reorganization Cases, and in any other forum in which such Claims may be asserted.

### **XI.A.4. Liquidation and Resolution of Litigation Claims**

Any unliquidated or disputed Litigation Claim that is a Timely Claim shall be Allowed or Disallowed in accordance with applicable law, in the Bankruptcy Court. At all times prior to or after the Effective Date, the Bankruptcy Court shall retain jurisdiction relating to Litigation Claims, including the Debtors' right to have such Claims liquidated in the Bankruptcy Court pursuant to section 157(b)(2)(B) of title 28 of the United States Code, as may be applicable. Any Litigation Claim liquidated pursuant to a judgment obtained in accordance with Section VII.A.4 of the Plan and applicable nonbankruptcy law that is no longer appealable or subject to review shall be deemed an Allowed Claim in Class 5 against the applicable Debtor in such liquidated amount upon the agreement of the parties or order of the Bankruptcy Court. In the event a Litigation Claim is resolved pursuant to a judgment or order that (a) is obtained in accordance with Section VII.A.4 of the Plan, (b) is no longer appealable or subject to review and (c) provides for no recovery against the applicable Reorganized Debtor, such Litigation Claim shall be deemed expunged without the necessity for further Bankruptcy Court approval upon the

applicable Reorganized Debtor's service of a copy of such judgment or order upon the holder of such Litigation Claim. Nothing contained in Section VII.A.4 of the Plan shall constitute or be deemed a waiver of any claim, right or cause of action that a Debtor or Reorganized Debtor may have against any person or entity in connection with or arising out of any Litigation Claim.

**XI.A.5. Authority to Amend Schedules**

The Debtors or the Reorganized Debtors shall have the authority to amend the Schedules with respect to any Claim and to make Distributions based on such amended Schedules without approval of the Bankruptcy Court. If any such amendment to the Schedules reduces the amount of a Claim or changes the nature or priority of a Claim, the Debtor or Reorganized Debtor shall provide the holder of such Claim with notice of such amendment and such holder shall have 20 days to File an objection to such amendment with the Bankruptcy Court. If no such objection is Filed, the Debtor or Reorganized Debtor may proceed with Distributions based on such amended Schedules without approval of the Bankruptcy Court.

**XI.B. Treatment of Disputed Claims**

Notwithstanding any other provisions of the Plan, no payments or Distributions shall be made on account of a Disputed Claim until such Claim becomes an Allowed Claim.

**XI.C. Enforcement of Bar Date Order**

In accordance with section 502(b)(9) of the Bankruptcy Code, any Entity that failed to File a proof of Claim by the applicable Bar Date and was not otherwise permitted to File a proof of Claim after the applicable Bar Date by a Final Order of the Bankruptcy Court is and shall be barred, estopped and enjoined from asserting any Claim against the Debtors (i) in an amount that exceeds the amount, if any, that is identified in the Schedules on behalf of such Entity as undisputed, noncontingent and liquidated; or (ii) of a different nature or a different classification than any Claim identified in the Schedules on behalf of such Entity. All Claims Filed after the applicable Bar Date and for which no Final Order has been entered by the Bankruptcy Court determining that such Claims were Timely Filed shall be disallowed and expunged. Any Distribution on account of such Claims shall be limited to the amount, if any, listed in the applicable Schedules as undisputed, noncontingent and liquidated.

**XII. CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

**XII.A. Conditions to Confirmation**

The following shall be conditions to Confirmation unless such conditions shall have been duly waived pursuant to Section VIII.C of the Plan:

1. All documents filed with the Plan Supplement shall be (i) in form and substance reasonably satisfactory to the Debtors, and (ii) with respect to any document filed with the Plan

Supplement that may have any impact or effect on the Exit Credit Facility, reasonably satisfactory to the Exit Facility Lenders; and

#### **XII.B. Conditions to the Effective Date**

The Effective Date shall not occur and the Plan shall not be consummated unless and until each of the following conditions have been satisfied or duly waived pursuant to Section VIII.C of the Plan:

1. Entry of the Confirmation Order, which shall be (a) in form and substance satisfactory to the Debtors, and (b) with respect to any provision thereof that may have any impact or effect on the Exit Credit Facility, reasonably satisfactory to the Exit Facility Lenders, and such Confirmation Order shall have become a Final Order;

2. The Exit Facility, including all documentation related thereto, shall each be in form and substance reasonably satisfactory to the Debtors, the Exit Facility Lenders, and shall have been consummated;

3. All governmental and third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan shall have been obtained, not be subject to unfulfilled conditions and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose materially adverse conditions on such transactions; and

4. The Plan, the Plan Supplement, and all documents necessary to implement the Plan, shall be in form and substance reasonably satisfactory to the Debtors, and shall have been executed and delivered to the applicable parties.

#### **XII.C. Waiver of Conditions to Confirmation or the Effective Date**

The conditions to Confirmation set forth in Section VIII.A of the Plan and the conditions to the Effective Date set forth in Section VIII.B of the Plan, as described above, may be waived in whole or part in writing by the Debtors at any time without an order of the Bankruptcy Court.

#### **XII.D. Effect of Nonoccurrence of Conditions to the Effective Date**

If each of the conditions to the Effective Date is not satisfied or duly waived in accordance with Section VIII.C of the Plan, then upon motion by the Debtors upon notice to such parties in interest as the Bankruptcy Court may direct, the Confirmation Order shall be vacated by the Bankruptcy Court; *provided, however*, that, notwithstanding the Filing of such motion, the Confirmation Order may not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived before the Bankruptcy Court enters an order granting such motion. If the Confirmation Order is vacated pursuant to Section VIII.D of the Plan, (1) the Plan shall be null and void in all respects, including with respect to the discharge of Claims; and (2) nothing

contained in the Plan shall (a) constitute a waiver or release of any claims by or against, or any Interest in, the Debtors or (b) prejudice in any manner the rights of the Debtors or any other party in interest.

### **XIII. DISCHARGE, INJUNCTION AND SUBORDINATION RIGHTS**

#### **XIII.A. Discharge of Claims**

1. Except as provided in the Plan or in the Confirmation Order, the rights afforded under the Plan and the treatment of Claims and Interests under the Plan shall be in exchange for and in complete satisfaction, discharge and release of all Claims, whether directly held, or held indirectly through a third party, including any interest accrued on Claims from the Petition Date. Except as provided in the Plan or in the Confirmation Order, Confirmation shall, as of the Effective Date discharge the Debtors from all Claims or other Liabilities that arose on or before the Effective Date and all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (a) a proof of Claim based on such debt is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (b) a Claim based on such debt is allowed pursuant to section 502 of the Bankruptcy Code, (c) a Claim is held directly or indirectly against any Debtor, or (d) the holder of a Claim based on such debt has accepted the Plan.

2. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination, as of the Effective Date, of a discharge of all Claims, including any debts and Liabilities against the Debtors, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge shall void any judgment obtained against a Debtor at any time, to the extent that such judgment relates to a discharged Claim.

#### **XIII.B. Injunctions**

1. Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, currently hold or may hold a Claim (directly or indirectly), or have asserted that they hold a Claim, or other debt or Liability that is discharged pursuant to the terms of the Plan shall be permanently enjoined from taking any of the following actions on account of any such discharged Claims, debts or Liabilities: (a) commencing or continuing in any manner any action or other proceeding against the Debtors, the Reorganized Debtors, or their respective property, other than to enforce any right pursuant to the Plan; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtors, the Reorganized Debtors, or their respective property, other than as permitted pursuant to (a) above; (c) creating, perfecting or enforcing any lien or encumbrance against the Debtors, the Reorganized Debtors, or their respective property; (d) asserting a setoff of any kind against any debt, liability or obligation due to the Debtors or the Reorganized Debtors; and (e) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan; *provided, however*, that Section X.B.1 of the Plan shall not be binding on holders of Claims in Class 4 until the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.

2. As of the Effective Date, all Entities that have held, currently hold or may hold any Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or Liabilities that are released pursuant to the Plan shall be permanently enjoined from taking any of the following actions against any released Entities, including the Released Parties, or their property on account of such released claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities: (a) commencing or continuing in any manner any action or other proceeding; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (c) creating, perfecting or enforcing any lien or encumbrance; (d) asserting a setoff of any kind against any debt, liability or obligation due to any released Entity; and (e) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan; *provided, however*, that Section X.B.3 of the Plan shall not be binding on holders of Claims in Class 4 until the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.

### **XIII.C. Subordination Rights**

The classification and manner of satisfying Claims and Interests under the Plan does not take into consideration subordination rights, and nothing in the Plan or Confirmation Order shall affect any subordination rights that a holder of a Claim may have with respect to any Distribution to be made pursuant to the Plan, whether arising under general principles of equitable subordination, contract, section 510(c) of the Bankruptcy Code or otherwise.

## **XIV. MISCELLANEOUS PLAN PROVISIONS**

### **XIV.A. Dissolution of the Committee**

On the Effective Date, the Creditors Committee shall dissolve and the members of such committee shall be released and discharged from all duties and obligations arising from or related to the Reorganization Cases. The Professionals retained by such committee and the members thereof shall not be entitled to assert any Fee Claim for any services rendered or expenses incurred after the Effective Date, except for services rendered and expenses incurred in connection with any applications for allowance of compensation and reimbursement of expenses pending on the Effective Date or Filed and served after the Effective Date pursuant to Section III.A.1.f.ii.A of the Plan.

### **XIV.B. Limitation of Liability**

1. The Debtors and Released Parties and their respective Representatives, employees, predecessors, successors, members and agents, acting in such capacity, shall neither have nor incur any liability to any Entity for any act taken or omitted to be taken in connection with, related to or arising out of the Reorganization Cases or the consideration, formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement or any transaction proposed in connection with the Reorganization Cases or any contract, instrument, release or other agreement or document

created or entered into, or any other act taken or omitted to be taken, in connection therewith; *provided, however*, that the provisions of Section XII.B of the Plan shall have no effect on: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability expressly provided under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan or (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct (including fraud); it being understood that prospective or forward-looking guidance or projections prepared or released by such parties shall be deemed not to constitute gross negligence or willful misconduct (including fraud).

2. Notwithstanding any other provision of the Plan, no holder of a Claim or Interest, no other party in interest, none of their respective Representatives agents, employees or affiliates, and no successors or assigns of the foregoing, shall have any right of action against the Released Parties or their respective Representatives, employees, predecessors, successors, members and agents, acting in such capacity, for any act or omission in connection with, relating to or arising out of the Reorganization Cases or the consideration, formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement or any transaction or document created or entered into, or any other act taken or omitted to be taken, in connection therewith, except for: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability expressly provided under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan or (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct (including fraud); it being understood that prospective or forward-looking guidance or projections prepared or released by such parties shall be deemed not to constitute gross negligence or willful misconduct (including fraud).

#### **XIV.C. Administrative Consolidation**

1. The classification and manner of satisfying all Claims and Interests under the Plan take into consideration the rights of holders of Claims and Interests, whether arising under contract, law or equity, that a holder of a Claim or Interest may have against each of the Debtors. Holders of Claims or Interests against more than one Debtor are classified in consolidated classes of Claims against and Interests in all Debtors in Article II in the Plan for administrative convenience with respect to voting and the making of distributions on account of Claims and Interests. Each such holder shall recover only once on account of the Claims against or Interests in the Debtors regardless of whether such holder has a Claim against or Interest in one Debtor or more than one Debtor. The Confirmation Order shall approve this administrative consolidation.

2. Such administrative consolidation shall not affect: (a) the legal and corporate structures of the Debtors; (b) pre- and post-Effective Date guarantees, liens and security interests that are required to be maintained (i) in connection with the Reinstated Secured Lender Claims

or contracts or leases that were entered into during the Reorganization Case or Executory Contracts and Unexpired Leases that have been or will be assumed or (ii) pursuant to the Plan; (c) Interests between and among the Debtors; (d) distributions from any insurance policies or proceeds of such policies; or (e) the revesting of assets in the separate Reorganized Debtors. In addition, such administrative consolidation shall not constitute a waiver of the mutuality requirement for setoff under section 553 of the Bankruptcy Code.

3. The Plan serves as a motion seeking entry of an order consolidating the Estates for administrative purposes only, as set forth above. Unless an objection to such consolidation is made in writing by any creditor affected by the Plan, filed with the Bankruptcy Court and served on the Debtors on or before the Plan objection deadline as established by the Bankruptcy Court, the consolidation (which may be the Confirmation Order) may be entered by the Bankruptcy Court. In the event any such objections are timely filed, a hearing with respect thereto shall occur at or before the hearing on confirmation of the Plan.

#### **XV. FEDERAL INCOME TAX CONSEQUENCES OF CONSUMMATION OF THE PLAN**

The federal income tax consequences of the Plan are complex and are subject to significant uncertainties. Neither the Debtors, nor any other party in interest have requested a ruling from the Internal Revenue Service (the “IRS”) or an opinion of counsel concerning same. This Disclosure Statement does not discuss all aspects of federal income taxation that may be relevant to a particular holder of a Claim or Interest in light such holder’s individual investment circumstances or to holders subject to special treatment under the federal income tax laws.

**ACCORDINGLY, EACH HOLDER OF A CLAIM OR INTEREST IS URGED TO CONSULT ITS OWN TAX ADVISOR AS TO THE CONSEQUENCES OF THE PLAN TO IT UNDER FEDERAL AND APPLICABLE STATE, LOCAL AND FOREIGN TAX LAWS. NOTHING CONTAINED HEREIN SHOULD BE CONSIDERED A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED ON A HOLDER’S INDIVIDUAL CIRCUMSTANCE.**

#### **XVI. ADDITIONAL INFORMATION**

Any statements in this Disclosure Statement concerning the provisions of any document are not necessarily complete, and in each instance reference is made to such document for the full text thereof.

#### **XVII. RECOMMENDATION AND CONCLUSION**

The Debtors believe that the Confirmation and consummation of the Plan is preferable to all other alternatives. Consequently, the Debtors and the Creditors Committee urge all holders of Claims in Class 4 and Class 5 to vote to accept the Plan and to evidence their acceptance by duly completing and returning their Ballots so that they will be received on or before **5:00 p.m., Eastern Time, on \_\_\_\_\_, 2012.**

Dated: March 2, 2012

Respectfully submitted,

Qualteq, Inc. (d/b/a VCT New Jersey, Inc.) (for  
itself and on behalf of the Debtors)

By:           /s/          Dan Scouler            
DAN SCOULER  
CHIEF RESTRUCTURING OFFICER

COUNSEL:

HARLEY J. GOLDSTEIN  
MATTHEW E. MCCLINTOCK  
DAVID A. HALL  
GOLDSTEIN & MCCLINTOCK LLLP  
208 S. LaSalle Street, Suite 1750  
Chicago, Illinois 60604  
Telephone: (312) 337-7700  
Facsimile: (312) 277-2305

ATTORNEYS FOR DEBTORS

**DISCLOSURE STATEMENT EXHIBIT I**

**THIRD AMENDED JOINT PLAN OF REORGANIZATION OF QUALTEQ, INC.  
AND AFFILIATED DEBTORS IN POSSESSION**

**DISCLOSURE STATEMENT EXHIBIT II**

**LIQUIDATION ANALYSIS OF THE DEBTORS**

**(To be Filed)**

**DISCLOSURE STATEMENT EXHIBIT III**

**PROJECTIONS FOR THE REORGANIZED DEBTORS**

**(To be Filed)**

**DISCLOSURE STATEMENT EXHIBIT IV**

**TERMS OF EXIT FACILITY**

**(Filed As Exhibit To Amended Plan)**

**DISCLOSURE STATEMENT EXHIBIT V**

**SOURCES AND USES OF CASH  
(To be Filed)**

**UNITED STATES BANKRUPTCY COURT  
NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION**

**IN RE** : **Jointly Administered**  
 : **Case No. 12-05861 (ERW)**  
**Qualteq, Inc. (d/b/a VCT New Jersey,** :  
**Inc.) et al.,** : **Chapter 11**  
 :  
**Debtors.** :  
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**THIRD AMENDED JOINT PLAN OF  
REORGANIZATION OF QUALTEQ,  
INC. AND AFFILIATED DEBTORS IN  
POSSESSION**

HARLEY J. GOLDSTEIN  
MATTHEW E. MCCLINTOCK  
DAVID A. HALL  
GOLDSTEIN & MCCLINTOCK LLLP  
208 S. LaSalle Street, Suite 1750  
Chicago, Illinois 60604  
Telephone: (312) 337-7700  
Facsimile: (312) 277-2305

**ATTORNEYS FOR DEBTORS**

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## INTRODUCTION

The Debtors propose the following Plan for the resolution of the outstanding claims and demands against and equity interests in the Debtors. The Debtors are proponents of the Plan within the meaning of section 1129 of the Bankruptcy Code. Reference is made to the Debtors' Disclosure Statement, filed contemporaneously with the Plan, for a discussion of the Debtors' history, businesses, results of operations, historical financial information, projections and properties and for a summary and analysis of the Plan. Other agreements and documents supplement the Plan and have been or will be Filed with the Bankruptcy Court. These supplemental agreements and documents are referenced in the Plan or the Disclosure Statement.

## ARTICLE I.

### DEFINED TERMS, RULES OF INTERPRETATION AND COMPUTATION OF TIME

#### I.A. Defined Terms

As used in the Plan, capitalized terms have the meanings set forth below. Any term that is not otherwise defined herein, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

**I.A.1. "Administrative Claim"** means a Claim for costs and expenses of administration allowed under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the respective Estates and operating the businesses of the Debtors; (b) compensation for legal, financial advisory, accounting and other services and reimbursement of expenses awarded or allowed hereunder or under sections 330(a), 331 or 503 of the Bankruptcy Code, including Fee Claims; (c) all fees and charges assessed against the Estates under chapter 123 of title 28, United States Code, 28 U.S.C. §§ 1911-1930; and (d) all Claims accorded priority pursuant to section 364(c)(1) of the Bankruptcy Code.

**I.A.2. "Administrative Trade Claim"** means an Administrative Claim arising from or with respect to the sale of goods or rendition of services on or after the Petition Date in the ordinary course of the applicable Debtor's business, including Administrative Claims of employees for wages, expense reimbursement and health and welfare benefits in each case, in the ordinary course of the applicable Debtor's business.

**I.A.3. "Affiliate"** means an "affiliate," as defined in section 101(2) of the Bankruptcy Code.

**I.A.4. "Allowed Claim"** means:

- a. a Claim that (i) has been listed by a particular Debtor on its Schedules as other than disputed, contingent or unliquidated and (ii) is not a Disputed Claim;
- b. a Timely Claim that is not a Disputed Claim;

c. a Timely Claim that is liquidated and allowed: (i) in any Stipulation of Amount and Nature of Claim executed by the Debtors or Reorganized Debtors and Claim holder; (ii) in any contract, instrument or other agreement entered into in connection with the Plan and, if prior to the Effective Date, approved by the Bankruptcy Court by Final Order; (iii) in a Final Order; or (iv) pursuant to the express terms of the Plan; or

d. a Claim listed by a particular Debtor on its Schedules as other than disputed, contingent or unliquidated or a Timely Claim that the Debtors or Reorganized Debtors determine prior to the Claims Objection Bar Date (i) will not be subject to an objection or to an amendment to the Schedules and (ii) will be satisfied in accordance with the terms of the Plan on or after the Effective Date;

Claims allowed solely for the purpose of voting to accept or reject the Plan pursuant to an order of the Bankruptcy Court shall not be considered “Allowed Claims” hereunder.

**I.A.5. “Allowed . . . Claim”** means an Allowed Claim in the particular Class or category specified.

**I.A.6. “Ballot”** means the ballots upon which holders of Impaired Claims or Interests entitled to vote shall cast their vote to accept or reject the Plan.

**I.A.7. “Bankruptcy Code”** means title 11 of the United States Code, as in effect on the Petition Date or thereafter amended with retroactive applicability to the Reorganization Cases.

**I.A.8. “Bankruptcy Court”** means the United States Bankruptcy Court for the Northern District of Illinois having jurisdiction over the Reorganization Cases as of February 16, 2012, and the United States Bankruptcy Court for the District of Delaware from the Petition Date through February 16, 2012.

**I.A.9. “Bankruptcy Rules”** means, collectively, the Federal Rules of Bankruptcy Procedure and the local rules of the Bankruptcy Court, as now in effect or hereafter amended with retroactive applicability to the Reorganization Cases.

**I.A.10. “Bar Date”** means the applicable bar date by which a proof of Claim or a request for payment of Administrative Claim must be or must have been Filed, as established by an order of the Bankruptcy Court, including any applicable claims bar date order and the Confirmation Order.

**I.A.11. “Business Day”** means any day, other than a Saturday, Sunday or “legal holiday” (as defined in Bankruptcy Rule 9006(a)).

**I.A.12. “By-Laws”** means the By-Laws of any Reorganized Debtor, which shall be included in draft form in the Plan Supplement with such changes as may be necessary to conform to the applicable law of the state of incorporation.

**I.A.13.** “**Certificate of Incorporation**” means the Certificate of Incorporation of any Reorganized Debtor, which shall be included in draft form in the Plan Supplement with such changes as may be necessary to conform to the applicable law of the state of incorporation.

**I.A.14.** “**Claim**” means a “claim,” as defined in section 101(5) of the Bankruptcy Code, against any Debtor.

**I.A.15.** “**Claims Objection Bar Date**” means, for all Claims the later of (a) 120 days after the Effective Date and (b) such other period of limitation as may be specifically fixed by the Plan, the Confirmation Order or a Final Order for objecting to such Claims.

**I.A.16.** “**Class**” means a class of Claims or Interests, as described in Article II.

**I.A.17.** “**Confirmation**” means the entry of the Confirmation Order on the docket of the Bankruptcy Court.

**I.A.18.** “**Confirmation Date**” means the first date on which the Confirmation Order is signed by the Bankruptcy Court and entered on its docket.

**I.A.19.** “**Confirmation Hearing**” means, collectively, the hearing or hearings held by the Bankruptcy Court on Confirmation of the Plan, as such hearing or hearings may be continued from time to time.

**I.A.20.** “**Confirmation Order**” means the order of the Bankruptcy Court that confirms the Plan pursuant to section 1129 of the Bankruptcy Code.

**I.A.21.** “**Creditors’ Committee**” means the Official Committee of Unsecured Creditors of the Debtors appointed by the U.S. Trustee on August 25, 2011 in the Reorganization Cases pursuant to section 1102 of the Bankruptcy Code and any duly appointed successors, as the same may be reconstituted from time to time.

**I.A.22.** “**Cure Amount Claim**” means a Claim under section 365(b)(1)(A) of the Bankruptcy Code pursuant to an Executory Contract or Unexpired Lease at the time such contract or lease is assumed by that Debtor under section 365 of the Bankruptcy Code.

**I.A.23.** “**Current Vendor Claim**” means an unsecured Claim of a vendor with whom the Debtors intend to continue conducting business following the Effective Date of the Plan. A Current Vendor Claim shall include Cure Amount Claims.

**I.A.24.** “**Debtors**” means, collectively, Qualteq, Inc. (d/b/a VCT New Jersey, Inc.), 1400 Centre Circle, LLC, 5200 Thatcher, LLC, 5300 Katrine, LLC, Anar Real Estate, LLC, Automated Presort, Inc., Avadamma LLC, Creative Automation Company, Creative Investments, a General Partnership, Fulfillment Xcellence, Inc., Global Card Services, Inc., Unique Data Services, Inc., Unique Embossing Services, Inc., Unique Mailing Services, Inc., Versatile Card Technology, Inc., Veluchamy LLC, and Vmark, Inc.

**I.A.25. “Deficiency Claim”** means an unsecured claim for the difference between (a) the total aggregate amount of an Allowed Claim and (b) the value received on account of the portion of such Allowed Claim that constitutes an Allowed Secured Claim.

**I.A.26. “DIP Amendment”** means that certain Assumption Agreement, Amendment to Loan and Security Agreement, and Amendment to Other Loan Documents dated November 8, 2011 by and among Qualteq, Inc. (d/b/a VCT New Jersey, Inc.) as Borrower, Debtors Versatile Card Technologies, Inc. and Veluchamy LLC as Guarantors, and the DIP Lender, pursuant to which the DIP Lender extended to Borrower postpetition senior secured superpriority financing in the maximum amount of \$4,500,000.

**I.A.27. “DIP Lender”** means Sterling National Bank as lender to Qualteq, Inc. (d/b/a VCT New Jersey, Inc.) under the DIP Amendment.

**I.A.28. “DIP Loan”** means the term and revolving loans extended by the DIP Lender to Qualteq, Inc. (d/b/a VCT New Jersey, Inc.) pursuant to the DIP Amendment in the maximum amount of \$4,500,000, as approved by the Bankruptcy Court on November 3, 2011.

**I.A.29. “DIP Loan Claims”** means Administrative Claims arising under the DIP Amendment on account of the DIP Loan.

**I.A.30. “Disbursing Agent”** means the Reorganized Debtors, each in their capacity as disbursing agents pursuant to Section VI.B, or any Third Party Disbursing Agent acting as a disbursing agent.

**I.A.31. “Disclosure Statement”** means the disclosure statement (including all exhibits and schedules thereto or referenced therein) that relates to the Plan, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code, as the same may be amended, modified or supplemented.

**I.A.32. “Disclosure Statement Order”** means an order entered by the Bankruptcy Court, which shall be a Final Order and which shall be in form and substance reasonably satisfactory to the Debtors approving, among other things, the Disclosure Statement as containing adequate information pursuant to section 1125 of the Bankruptcy Code, authorizing solicitation of the Disclosure Statement and the Plan, and approving related solicitation materials.

**I.A.33. “Disputed Claim”** means:

a. if no proof of Claim has been Filed by the applicable Bar Date or has not otherwise been deemed timely Filed under applicable law, (i) a Claim that is listed on a Debtor’s Schedules as disputed, contingent or unliquidated or (ii) a Claim that is not listed on a Debtor’s Schedules; or

b. if a Timely Claim, a Claim for which an objection, complaint or request for estimation has been Filed by the applicable Debtor, Reorganized Debtor or, prior to the Confirmation Date, any other party in interest, by the Claims Objection Bar Date, and such objection has not been withdrawn or denied by a Final Order.

The Fraudulent Transfer Liability Claims shall be deemed Disputed Claims until expressly Allowed by order of the Bankruptcy Court.

**I.A.34. “Disallowed Claim”** means all or such part of a claim that is disallowed by a Final Order.

**I.A.35. “Distribution”** means the distribution under the Plan of cash, notes, securities, interests or other property, as applicable, to the holders of Allowed Claims in accordance with and subject to the terms of this Plan.

**I.A.36. “Distribution Record Date”** means the Confirmation Date.

**I.A.37. “Effective Date”** means a day, as determined by the Debtors that is a Business Day no earlier than the date on which all conditions to the effective date in Section VIII.B have been met or waived pursuant to Section VIII.C.

**I.A.38. “Entity”** means an individual, 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.

**I.A.39. “Equity Interest”** means any equity security (as defined in section 101(16) of the Bankruptcy Code) in any Debtor, the common stock and any other equity, ownership or profit interests in any Debtor (whether or not arising under or in connection with any employment agreement), a membership interest in a limited liability company, or an interest of a limited or general partner in a limited partnership.

**I.A.40. “ERISA”** means the Employee Retirement Income Security Act of 1974, as amended, 29 U.S.C. §§ 1301-1461.

**I.A.41. “Estate”** means, as to each Debtor, the estate created for that Debtor in its Reorganization Case pursuant to section 541 of the Bankruptcy Code.

**I.A.42. “Executory Contract and Unexpired Lease” and “Executory Contract or Unexpired Lease”** mean a contract or lease to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code and the Confirmation Order.

**I.A.43. “Exit Facility”** means the senior secured lending facility on terms substantially similar to those provided for in the term sheet attached hereto as Exhibit A, or on better alternative financial terms as provided by another lender or investor presently performing due diligence on the Debtors.

**I.A.44. “Exit Facility Fee Claims”** means any Claims held by the Exit Facility Lenders pursuant to a lending commitment agreement by and among the parties to the Exit Facility approved by the Bankruptcy Court.

**I.A.45. “Exit Facility Lenders”** means Bayside Vmark Funding, LLC as the prospective lenders party to the Exit Facility.

**I.A.46. “Fee Claim”** means a Claim under sections 328, 330(a), 331, 503 or 1103 of the Bankruptcy Code for compensation of a Professional or other Entity for services rendered or expenses incurred in the Reorganization Cases.

**I.A.47. “Fee Order”** means the Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses of Professionals entered by the Bankruptcy Court on or about September 6, 2011.

**I.A.48. “File,” “Filed” or “Filing”** means file, filed or filing with the Bankruptcy Court or its authorized designee in the Reorganization Cases.

**I.A.49. “Final Fee Application”** means an application for final allowance of the Professionals’ aggregate Fee Claim as described in Section III.A.1.f.ii.A.

**I.A.50. “Final Order”** means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, as entered on the docket in any Reorganization Case or the docket of any other court of competent jurisdiction, that has not been reversed, stayed, modified or amended, and as to which the time to appeal or seek certiorari or move for a new trial, reargument or rehearing has expired, and no appeal or petition for certiorari or other proceedings for a new trial, reargument or rehearing has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been filed timely has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or the new trial, reargument or rehearing shall have been denied or resulted in no modification of such order.

**I.A.51. “Fraudulent Transfer Liability Claims”** means, collectively, any Claims asserted in one or more proofs of Claim timely filed against the Debtors (or a late filed Claim permitted to be filed by the Bankruptcy Court) by any party asserting a right to payment or other recovery against the Debtors on account of any theory of fraudulent transfer or conveyance liability.

**I.A.52. “Fraudulent Transfer Liability Claims Liquidation Procedure”** means, if the Debtors disagree with the amounts asserted in any of the Fraudulent Transfer Liability Claims or if such Claims are filed in an unliquidated amount, the procedures established by the Bankruptcy Court following notice and a hearing for determining the Allowed amount of any Fraudulent Transfer Liability Claims for all purposes under the Plan or otherwise.

**I.A.53. “Fraudulent Transfer Liability Claims Liquidation Proceedings”** means, if the Debtors disagree with the amounts asserted in any of the Fraudulent Transfer Liability Claims or if such Claims are filed in an unliquidated amount, the proceedings before the Bankruptcy Court in conjunction with the Confirmation Hearing, pursuant to which the Fraudulent Transfer Liability Claims will be liquidated and Allowed, if at all, for all purposes under the Plan, or otherwise.

**I.A.54. “Indemnified Party”** means any person who has served as a director, officer or employee of one of the Debtors or Reorganized Debtors on or following the Petition Date by reason of such person’s service in any such capacity as a director, officer or employee of any Debtor prior to or on or following the Petition Date.

**I.A.55.** “**Initial Filing Debtors**” means each of the Debtors except for Anar Real Estate, LLC.

**I.A.56.** “**Insurance Policies and Agreements**” means any insurance policies issued to the Debtors and any related agreements with the insurance companies parties thereto.

**I.A.57.** “**Insured Claim**” means any Claim arising from an incident or occurrence alleged to have occurred prior to the Effective Date that is covered under any Insurance Policies and Agreements applicable to the Debtors or their businesses.

**I.A.58.** “**Intercompany Loan Claims**” means any Claim by a Debtor entity or affiliated non-Debtor entity against a Debtor that was incurred as a loan outside of the ordinary course of business, whether or not such Claim is documented.

**I.A.59.** “**Intercompany Ordinary Course Claim**” means any Claim by a Debtor entity or affiliated non-Debtor entity against a Debtor which was incurred arising out of the ordinary course of the Debtors’ business operations and is evidenced by a purchase order or invoice reflecting the ordinary course nature of the Claim.

**I.A.60.** “**Interest**” means the rights of any holder of the stock of or Equity Interests in any Debtor and the rights of any Entity to purchase or demand the issuance of any of the stock of or Equity Interests in any Debtor, including, without limitation: (a) redemption, conversion, exchange, voting, participation and dividend rights; (b) liquidation preferences; and (c) stock options and warrants.

**I.A.61.** “**Internal Revenue Code**” means the Internal Revenue Code of 1986, as amended.

**I.A.62.** “**IRS**” means the Internal Revenue Service of the United States of America.

**I.A.63.** “**Liability**” or “**Liabilities**” means any and all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, arising in law, equity or otherwise, that are based in whole or in part on any act, event, injury, omission, transaction, agreement, employment, exposure or other occurrence taking place on or prior to the Effective Date, including, without limitation, the Fraudulent Transfer Liability Claims.

**I.A.64.** “**Litigation Claim**” means any Claim that has not been settled, compromised or otherwise resolved that (a) is not barred or disallowed by an order of the Bankruptcy Court or any other court of competent jurisdiction and (b) is, was or could have been the subject of a formal legal cause of action, a suit or any other proceeding against any Debtor, including any Claim that: (i) arises out of allegations of personal injury, wrongful death, property damage, products liability or similar legal theories of recovery; or (ii) arises under any federal, state or local statute, rule, regulation or ordinance governing, regulating or relating to health, safety or hazardous substances; *provided, however*, that no Fraudulent Transfer Liability Claim, Claims to recover unpaid trade claims obligations incurred by the Debtors in the ordinary

course of business, or Claim arising from the breach of a contract shall be a Litigation Claim unless a formal legal cause of action, suit or proceeding was or has been brought or threatened against the Debtors with respect to such Claim.

**I.A.65. “New Securities and Documents”** means any and all securities, notes, stock, instruments, certificates, and other documents or agreements required to be issued, executed or delivered pursuant to or in connection with this Plan.

**I.A.66. “Opco Debtors”** means, collectively, Automated Presort, Inc., Creative Automation Company, Fulfillment Xcellence, Inc., Unique Data Services, Inc., Unique Embossing Services, Inc., Versatile Card Technology, Inc., VCT New Jersey, Inc., and Global Card Services, Inc.

**I.A.67. “Ordinary Course Professionals Order”** means the Order Authorizing Debtors to Retain, Employ and Pay Certain Professionals in the Ordinary Course of Their Businesses entered by the Bankruptcy Court on October 6, 2011.

**I.A.68. “Other Secured Claims”** means Secured Claims other than Class 3 Claims, the DIP Loan Claims and the Exit Facility Fee Claims.

**I.A.69. “Other Unsecured Claims”** means any unsecured claims against any of the Debtors, including the Fraudulent Transfer Liability Claims, Rejection Damages Claims and Deficiency Claims, that are not Current Vendor Claims, Cure Amount Claims, Administrative Claims, Priority Tax Claims, Priority Claims, Intercompany Ordinary Course Claims, or Intercompany Loan Claims.

**I.A.70. “Petition Date”** means, with respect to the Initial Filing Debtors, August 14, 2011. Petition Date shall mean September 11, 2011 with respect to Anar Real Estate, LLC.

**I.A.71. “Plan”** means this joint plan of reorganization for the Debtors, to the extent applicable to any Debtor, and all Exhibits attached hereto or referenced herein, as well as the Plan Supplement, as the same may be amended, modified or supplemented.

**I.A.72. “Plan Supplement”** means the compilation of documents, schedules and exhibits to be Filed no later than thirty days prior to the Voting Deadline including the list of officers and directors of the Reorganized Debtors, the draft forms of Certificates of Incorporation, the draft forms of By-Laws, the Schedule of Assumed Executory Contracts and Unexpired Leases, and the draft Exit Facility documentation, if any, as each may thereafter be altered, amended, modified or supplemented in accordance with the terms hereof and in accordance with the Bankruptcy Code and Bankruptcy Rules.

**I.A.73. “Postpetition Interest”** means: (a) the federal judgment rate; (b) the rate of interest set forth in the contract or other applicable document between the holder of a Claim and the applicable Debtor giving rise to such holder’s Claim; or (c) such interest, if any, as otherwise agreed to by the holder of a Claim and the applicable Debtor.

**I.A.74. “Prepetition Loan Document”** means any loan agreement, security agreement, note, debt instrument, financing statement, mortgage or any other document of any

kind, including any instruments of guaranty, pledge or other third party collateral, evidencing a Secured Lender Claim classified in Class 3 hereunder.

**I.A.75. “Priority Claim”** means a Claim that is entitled to priority in payment pursuant to section 507(a) of the Bankruptcy Code that is not an Administrative Claim or a Priority Tax Claim.

**I.A.76. “Priority Tax Claim”** means a Claim that is entitled to priority in payment pursuant to section 507(a)(8) of the Bankruptcy Code.

**I.A.77. “Professional”** means any professional employed in the Reorganization Cases pursuant to sections 327, 328, 363 or 1103 of the Bankruptcy Code or any professional or other Entity seeking compensation or reimbursement of expenses in connection with the Reorganization Cases pursuant to section 503(b)(4) of the Bankruptcy Code.

**I.A.78. “Quarterly Distribution Date”** means for Distributions other than the initial Distribution to holders of Claims in Class 4 hereunder, the last Business Day of the month following the end of each calendar quarter after the Effective Date; *provided, however*, that if the Effective Date is within 45 days of the end of a calendar quarter, the first Quarterly Distribution Date shall be the last Business Day of the month following the end of the first calendar quarter after the calendar quarter including the Effective Date.

**I.A.79. “Reclamation Claim”** means a Claim for reclamation in accordance with section 546(c) of the Bankruptcy Code and section 2-702 of the Uniform Commercial Code.

**I.A.80. “Recovery Actions”** means, collectively and individually, preference actions, fraudulent conveyance actions and other claims or causes of action under sections 510, 544, 547, 548, 549 and 550 of the Bankruptcy Code and other similar state law claims and causes of action other than the Fraudulent Transfer Liability Claims.

**I.A.81. “Reinstated” or “Reinstatement”** means rendering a Claim or Interest unimpaired within the meaning of section 1124 of the Bankruptcy Code. Unless the Plan specifies a particular method of Reinstatement, when the Plan provides that a Claim or Interest will be Reinstated, such Claim or Interest will be Reinstated, at the applicable Debtor’s or Reorganized Debtor’s discretion (at any time on or prior to the Effective Date), which shall not be unreasonably withheld, in accordance with one of the following:

a. the legal, equitable and contractual rights to which such Claim or Interest entitles the holder will be unaltered; or

b. notwithstanding any contractual provision or applicable law that entitles the holder of such Claim or Interest to demand or receive accelerated payment of such Claim or Interest after the occurrence of a default:

i. any such default that occurred before or after the commencement of the applicable Reorganization Case, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code, will be cured;

ii. the maturity of such Claim or Interest as such maturity existed before such default will be reinstated;

iii. the holder of such Claim or Interest will be compensated for any damages incurred as a result of any reasonable reliance by such holder on such contractual provision or such applicable law;

iv. if such Claim or Interest arises from a failure to perform a nonmonetary obligation other than a default arising from failure to operate a nonresidential real property lease subject to section 365(b)(1)(A), compensating the Holder of such Claim or Interest (other than the Debtor or an insider) for any actual pecuniary loss incurred by such holder of such Claim or Interest as a result of such failure; and

v. the legal, equitable or contractual rights to which such Claim or Interest entitles the holder of such Claim or Interest will not otherwise be altered.

**I.A.82. “Reinstated Secured Lender Claim”** means, a Secured Lender Claim classified in Class 3 hereunder, which is Reinstated on the Effective Date pursuant to Section III.B.3 of this Plan.

**I.A.83. “Released Parties”** means, collectively and individually, (i) the Creditors’ Committee, its members (solely in their capacity as such) and its Representatives, (ii) the DIP Lenders and the DIP Lenders’ Representatives and (iii) the Debtors’ Representatives.

**I.A.84. “Reorganization Cases”** means: (a) when used with reference to a particular Debtor, the chapter 11 case pending for that Debtor in the Bankruptcy Court; and (b) when used with reference to all Debtors, the chapter 11 cases pending for the Debtors in the Bankruptcy Court.

**I.A.85. “Reorganized . . .”** means, when used in reference to a particular Debtor, such Debtor on and after the Effective Date.

**I.A.86. “Representatives”** means, with respect to any Entity, any officer, director, affiliate, subsidiary, attorney, advisor, investment banker, financial advisor, accountant or other professional of such entity, in each case in such capacity, together with each of their successors and assigns; *provided, however*, that with respect to the Debtors only, the foregoing applies to only those “Representatives” serving in any capacity as a Representative on or after the Petition Date, or, with respect to those Representatives serving as of the Petition Date, in any other capacity in which they served as a Representative at the request or with the consent of any Debtor prior to or after the Petition Date.

**I.A.87. “Restructuring Transactions”** means, collectively, those mergers, consolidations, restructurings, asset transfers, dispositions, liquidations or dissolutions that the Debtors or Reorganized Debtors, in each case determine to be necessary or appropriate in connection with the Plan or the Debtors’ emergence from the Reorganization Cases and not in violation of Section XII.D hereof.

**I.A.88. “Satisfied Secured Lender Claim”** means a Secured Lender Claim classified in Class 3 hereunder, which is to be paid in full, in cash on the Effective Date pursuant to Section III.B.3 of this Plan.

**I.A.89. “Schedule of Rejected Executory Contracts and Unexpired Leases”** means a schedule, in form and substance reasonably satisfactory to the Debtors that shall be filed with the Plan Supplement and shall include a list of all Executory Contracts and Unexpired Leases that the Debtors intend to reject.

**I.A.90. “Schedules”** means the schedules of assets and liabilities and the statements of financial affairs Filed by the Debtors on or about October 10, 2011, as required by section 521 of the Bankruptcy Code, as the same may have been or may be amended, restated, modified or supplemented.

**I.A.91. “Secured Claim”** means a Claim that is secured by a lien on property in which an Estate has an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Claim holder’s interest in the applicable Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to sections 506(a) and, if applicable, 1129(b) of the Bankruptcy Code.

**I.A.92. “Secured Lender Claims”** means, collectively, the following claims of secured lenders against a Debtor:

<u>CLASS</u>	<u>DEBTOR</u>	<u>SECURED LENDER CLAIM</u>
3A	Qualteq, Inc.  (“ <u>Qualteq</u> ”)	<b><u>Qualteq/TD Finance Secured Lender Claim</u></b>  Claim of TD Equipment Finance, Inc. pursuant to equipment loan agreement dated December 30, 2008 secured by liens in certain equipment of Debtor
3B	1400 Center Circle, LLC  (“ <u>1400 Center Circle</u> ”)	<b><u>1400 Center Circle/Inland Bank Secured Lender Claim</u></b>  Claim of Inland Bank & Trust pursuant to Business Loan Agreement dated December 29, 2009 secured by promissory note and mortgage
3C	5200 Thatcher, LLC  (“ <u>5200 Thatcher</u> ”)	<b><u>5200 Thatcher/Northern Trust Bank Secured Lender Claim</u></b>  Claim of Northern Trust Bank pursuant to Commercial Mortgage Balloon Note dated March 3, 2010 secured by mortgages in 5200-5220 Thatcher Road
3D	5300 Katrine, LLC  (“ <u>5300 Katrine</u> ”)	<b><u>5300 Katrine/Burr Ridge Bank Secured Lender Claim</u></b>  Claim of Burr Ridge Bank & Trust pursuant to Business Loan Agreement dated October 20, 2009 secured by promissory note

		mortgage
3E-1	Automated Presort, Inc.  ("API")	<b><u>API/BBH Financial Secured Lender Claim</u></b>  Claim of BBH Financial Services pursuant to Master Lease Agreement dated October 7, 2009 secured by lien in certain equipment of Debtor
3E-2	Automated Presort, Inc.	<b><u>API/GE Capital Secured Lender Claim</u></b>  Claim of GE Capital Corporation pursuant to promissory note, master security agreement and guaranty dated March 18, 2011 secured by liens in certain equipment of Debtor
3E-3	Automated Presort, Inc.	<b><u>API/Oakbrook Financial Secured Lender Claim</u></b>  Claim of Oakbrook Financial, Inc. pursuant to Loan and Security Agreement dated September 17, 2010 secured by liens in certain equipment of the Debtor
3F	Avadamma LLC  ("Avadamma")	<b><u>Avadamma/MB Financial Secured Lender Claim</u></b>  Claim of MB Financial Bank pursuant to Loan Agreement and Notes dated March 26, 2009 secured by liens in (i) University Plaza, 1213 Butterfield Road, Downers Grove, IL 60515, (ii) Meadowbrook Mall, 63 <sup>rd</sup> and Woodward, Downers Grove, IL 60516, (iii) 270 W. North Ave., Villa Park, IL 60181, and (iv) 500 LaSalle St., Chicago, IL 60654
3G	Creative Automation Company  ("CAC")	<b><u>CAC/Oakbrook Financial Secured Lender Claim</u></b>  Claim of Oakbrook Financial, Inc. pursuant to Loan Agreement and commercial security agreement dated July 15, 2010
3H	Creative Investments, a General Partnership  ("CI")	<b><u>CI/Harris Bank Secured Lender Claims</u></b>  Claims of Harris Trust and Savings Bank pursuant to loan agreements dated November 15, 2002 and January 1, 2008 secured by liens in certain real estate property of Debtor including 125, 200-220 FencI Lane, Hillside, IL 60162
3I-1	Fulfillment Xcellence, Inc.  ("FXI")	<b><u>FXI/ABOC Secured Lender Claim</u></b>  Claim of Amalgamated Bank of Chicago pursuant to Business Loan Agreement dated November 18, 2009, "change in terms agreement" dated June 30, 2011 and cash collateral orders entered by the

		Bankruptcy Court
3I-2	Fulfillment Xcellence, Inc.	<b><u>FXI/Jules Secured Lender Claim</u></b>  Claim of Jules and Associates pursuant to Master Lease Agreement dated September 2, 2010 secured by liens in certain equipment of Debtor
3J-1	Global Card Services, Inc.  ("GCS")	<b><u>GCS/Burr Ridge Secured Lender Claim</u></b>  Claim of Burr Ridge Bank & Trust pursuant to Secured Loan Agreement dated July 26, 2010, "change in terms" agreements dated January 18, 2011 and May 12, 2011 and cash collateral orders entered by the Bankruptcy Court
3J-2	Global Card Services, Inc.	<b><u>GCS/Jules Secured Lender Claim</u></b>  Claim of Jules and Associates pursuant to Master Lease Agreement dated September 2, 2010 secured by liens in certain equipment of Debtor
3J-3	Global Card Services, Inc.	<b><u>GCS/Key Equipment Secured Lender Claim</u></b>  Claim of Key Equipment Finance, Inc. pursuant to promissory note and master security agreement dated December 18, 2007 secured by liens in certain equipment of Debtor
3J-4	Global Card Services, Inc.	<b><u>GCS/Heartland Secured Lender Claim</u></b>  Claim of Heartland Bank pursuant to loan agreements dated June 22, 2007 and August 7, 2007
3K	Unique Data Services, Inc.  ("UDS")	<b><u>UDS/Oakbrook Financial Secured Lender Claim</u></b>  Claim of Oakbrook Financial, Inc. pursuant to loan note and security agreement dated May 16, 2011
3L-1	Unique Mailing Services, Inc.  ("UMS")	<b><u>UMS/Inland Bank Secured Lender Claim</u></b>  Claim of Inland Bank & Trust pursuant to Business Loan Agreement dated December 29, 2009
3L-2	Unique Mailing Services, Inc.	<b><u>UMS/Alliance Leasing Secured Lender Claim</u></b>  Claim of Alliance Leasing, Inc. (as assignee of Key Equipment Finance, Inc.) pursuant to Security Agreement and Promissory Note dated January 22, 2008 and Master Assignment Agreement dated

		February 26, 2008, secured by a lien in certain equipment of Debtor
3L-3	Unique Mailing Services, Inc.	<b><u>UMS/Oakbrook Financial Secured Lender Claims</u></b>  Claim of Oakbrook Financial, Inc. pursuant to Loan and Security Agreement dated January 14, 2011 secured by liens in certain equipment of Debtor
3L-4	Unique Mailing Services, Inc.	<b><u>UMS/Pitney Bowes Secured Lender Claim</u></b>  Claim of Pitney Bowes pursuant to Master Lease Agreement dated December 30, 2005 secured by liens in certain equipment of Debtor
3M-1	Versatile Card Technology, Inc.  (“ <u>VCT</u> ”)	<b><u>VCT/ABOC Secured Lender Claim</u></b>  Claim of Amalgamated Bank of Chicago pursuant to Business Loan Agreement dated November 18, 2009, “change in terms agreement” dated June 30, 2011 and cash collateral orders entered by the Bankruptcy Court
3M-2	Versatile Card Technology, Inc.	<b><u>VCT/GE Secured Lender Claims</u></b>  Claims of GE Capital Corporation and GE Government Finance pursuant to loan agreements dated May 26, 2011 and December 1, 2007 each secured by liens in certain equipment of Debtor
3M-3	Versatile Card Technology, Inc.	<b><u>VCT/Jules Secured Lender Claim</u></b>  Claim of Jules and Associates pursuant to master equipment lease dated September 2, 2010 secured by liens in certain equipment of Debtor
3M-4	Versatile Card Technology, Inc.	<b><u>VCT/Key Equipment Secured Lender Claim</u></b>  Claim of Key Equipment Finance, Inc. pursuant to loan agreement secured by liens in certain equipment of Debtor
3M-5	Versatile Card Technology, Inc.	<b><u>VCT/TCF Secured Lender Claim</u></b>  Claim of TCF Equipment Finance, Inc. pursuant to loan agreement secured by liens in certain equipment of Debtor
3N	Veluchamy LLC  (“ <u>Veluchamy</u> ”)	<b><u>Veluchamy/Skylands Bank Secured Lender Claim</u></b>  Claim of Skylands Community Bank pursuant to Business Loan Agreement and Note dated October 2, 2008 secured by certain real

		estate of Debtor
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**I.A.93.** “**Securities Act**” means the Securities Act of 1933 and the rules and regulations promulgated pursuant thereto.

**I.A.94.** “**Stipulation of Amount and Nature of Claim**” means a stipulation or other agreement between the applicable Debtor or Reorganized Debtor and a holder of a Claim or Interest establishing the Allowed amount or nature of such Claim or Interest that is (a) entered into in accordance with any Claim settlement procedures established by order of the Bankruptcy Court in these Reorganization Cases, (b) expressly permitted by the Plan or (c) approved by order of the Bankruptcy Court.

**I.A.95.** “**Tax**” means (a) any net income, alternative or add-on minimum, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, license, employment, payroll, withholding, property, excise, severance, stamp, occupation, premium, environmental, escheat or windfall profit tax, custom, duty or other tax, governmental fee or other like assessment or charge of any kind whatsoever (together in each instance with any interest, penalty, addition to tax or additional amount) imposed by any federal, state, local or foreign taxing authority; or (b) any liability for payment of any amounts of the foregoing types as a result of being a member of an affiliated, consolidated, combined or unitary group, or being a party to any agreement or arrangement whereby liability for payment of any such amounts is determined by reference to the liability of any other Entity.

**I.A.96.** “**Third Party Disbursing Agent**” means an Entity designated by the Reorganized Debtors to act as a Disbursing Agent pursuant to Section VI.B.

**I.A.97.** “**Timely Claim**” means a Claim for which a proof of Claim or request for payment of Administrative Claim was Filed by the applicable Bar Date and in accordance with the Bar Date Order or is otherwise determined to be timely Filed by a Final Order of the Bankruptcy Court.

**I.A.98.** “**U.S. Trustee**” means the United States Trustee for the Northern District of Illinois.

**I.A.99.** “**Voting Deadline**” means \_\_\_\_\_, 2012 at 5:00 p.m., Eastern Time, which is the deadline for submitting ballots to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code.

**I.B. Rules of Interpretation and Computation of Time**

**I.B.1. Rules of Interpretation**

For purposes of the Plan, unless otherwise provided herein: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural; (b) unless otherwise provided in the Plan, any reference in the Plan to a contract, instrument, release or other agreement or document being in a particular form or on

particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions; (c) any reference in the Plan to an existing document or Exhibit Filed or to be Filed means such document or Exhibit, as it may have been or may be amended, modified or supplemented pursuant to the Plan or Confirmation Order; (d) any reference to an Entity as a holder of a Claim or Interest includes that Entity’s successors, assigns and affiliates; (e) all references in the Plan to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits of or to the Plan; (f) the words “herein,” “hereunder” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (g) the words “includes” or “including” are not limiting; (h) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (i) subject to the provisions of any contract, certificates of incorporation, by-laws, similar constituent documents, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the rights and obligations arising under the Plan will be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and the Bankruptcy Rules; and (j) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply.

**I.B.2. Computation of Time**

In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

**ARTICLE II.**

**CLASSES OF CLAIMS AND INTERESTS**

All Claims and Interests, except Administrative Claims and Priority Tax Claims, are placed in the Classes set forth below. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims, as described in Section III.A, have not been classified and thus are excluded from the following Classes. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any remainder of the Claim or Interest qualifies within the description of such other Classes.

**Class 1: Other Secured Claims.** Other Secured Claims against any Debtor.

**Class 2: Priority Claims.** Priority Claims against any Debtor.

**Class 3: Secured Lender Claims.** A Secured Lender Claim against any Debtor as follows:

**3A – Secured Lender Claims Against Qualteq, Inc.**

<u>CLASS</u>	<u>CLAIM</u>
3A	Qualteq/TD Finance Secured Lender Claim

**3B – Secured Lender Claims Against 1400 Center Circle**

<u>CLASS</u>	<u>CLAIM</u>
3B	1400 Center Circle/Inland Bank Secured Lender Claim

**3C – Secured Lender Claims Against 5200 Thatcher LLC**

<u>CLASS</u>	<u>CLAIM</u>
3C	5200 Thatcher/Northern Trust Bank Secured Lender Claim

**3D – Secured Lender Claims Against 5300 Katrine LLC**

<u>CLASS</u>	<u>CLAIM</u>
3D	5300 Katrine/Burr Ridge Bank Secured Lender Claim

**3E – Secured Lender Claims Against Automated Presort, Inc.**

<u>CLASS</u>	<u>CLAIM</u>
3E-1	API/BBH Financial Secured Lender Claim
3E-2	API/GE Capital Secured Lender Claim
3E-3	API/Oakbrook Financial Secured Lender Claim

**3F – Secured Lender Claims Against Avadamma LLC**

<u>CLASS</u>	<u>CLAIM</u>
3F	Avadamma/MB Financial Secured Lender Claim

**3G – Secured Lender Claims Against Creative Automation Company**

<u>CLASS</u>	<u>CLAIM</u>
3G	CAC/Oakbrook Financial Secured Lender Claim

**3H – Secured Lender Claims Against Creative Investments, a General Partnership**

<u>CLASS</u>	<u>CLAIM</u>
3H	CI/Harris Bank Secured Lender Claim

**3I – Secured Lender Claims Against Fulfillment Xcellence, Inc.**

<u>CLASS</u>	<u>CLAIM</u>
3I-1	FXI/ABOC Secured Lender Claim
3I-2	FXI/Jules Secured Lender Claim

**3J – Secured Lender Claims Against Global Card Services, Inc.**

<u>CLASS</u>	<u>CLAIM</u>
3J-1	GCS/Burr Ridge Secured Lender Claim
3J-2	GCS/Jules Secured Lender Claim
3J-3	GCS/Key Equipment Secured Lender Claim
3J-4	GCS/Heartland Secured Lender Claim

**3K – Secured Lender Claims Against Unique Data Services, Inc.**

<u>CLASS</u>	<u>CLAIM</u>
3K	UDS/Oakbrook Financial Secured Lender Claims

**3L – Secured Lender Claims Against Unique Mailing Services, Inc.**

<u>CLASS</u>	<u>CLAIM</u>
3L-1	UMS/Inland Bank Secured Lender Claim
3L-2	UMS/Alliance Leasing Secured Lender Claim
3L-3	UMS/Oakbrook Financial Secured Lender Claims
3L-4	UMS/Pitney Bowes Secured Lender Claim

**3M – Secured Lender Claims Against Versatile Card Technology, Inc.**

<u>CLASS</u>	<u>CLAIM</u>
3M-1	VCT/ABOC Secured Lender Claim
3M-2	VCT/GE Secured Lender Claims
3M-3	VCT/Jules Secured Lender Claim
3M-4	VCT/Key Equipment Secured Lender Claim
3M-5	VCT/TCF Secured Lender Claim

**3N – Secured Lender Claims Against Veluchamy LLC**

<u>CLASS</u>	<u>CLAIM</u>
3N	Veluchamy/Skylands Bank Secured Lender Claims

**Class 4: Current Vendor Claims.** Current Vendor Claims against any Debtor.

**Class 5: Other Unsecured Claims.** Other Unsecured Claims against any Debtor.

**Class 6: Intercompany Ordinary Course Claims.** Intercompany Ordinary Course Claims against any Debtor.

**Class 7: Intercompany Loan Claims.** Intercompany Loan Claims against any Debtor.

**Class 8: Debtor Equity Interests.** Interests in the Debtors as follows:

<u>CLASS</u>	<u>DEBTOR</u>
8A	Qualteq Equity Interests
8B	1400 Center Circle Equity Interests
8C	5200 Thatcher Equity Interests
8D	5300 Katrina Equity Interests
8E	API Equity Interests
8F	Avadamma Equity Interests
8G	CAC Equity Interests

8H	CI Equity Interests
8I	FXI Equity Interests
8J	GCS Equity Interests
8K	UDS Equity Interests
8L	UES Equity Interests
8M	UMS Equity Interests
8N	VCT Equity Interests
8O	Veluchamy Equity Interests
8P	Vmark Equity Interests
8Q	Anar Equity Interests

**ARTICLE III.**

**TREATMENT OF CLAIMS AND INTERESTS**

**III.A. Unclassified Claims**

**III.A.1. Payment of Administrative Claims**

**a. Administrative Claims in General**

Except as specified in this Section III.A.1, and subject to the bar date provisions herein, unless otherwise agreed by the holder of an Administrative Claim and the applicable Reorganized Debtor, each holder of an Allowed Administrative Claim shall receive, in full satisfaction of its Administrative Claim, cash equal to the Allowed amount of such Administrative Claim either (i) as soon as practicable after the Effective Date or (ii) if the Administrative Claim is not allowed as of the Effective Date, within 45 days after the date on which an order allowing such Administrative Claim becomes a Final Order or a Stipulation of Amount and Nature of Claim is executed by the applicable Reorganized Debtor and the holder of the Administrative Claim.

**b. DIP Loan Claims**

On or before the Effective Date, all outstanding DIP Loan Claims shall be paid in full in cash in accordance with the DIP Amendment unless a different treatment is agreed to by the DIP Lender in writing.

c. **Exit Facility Fee Claims**

On or before the Effective Date, any Exit Facility Fee Claims shall be paid in full in cash.

d. **Statutory Fees**

On or before the Effective Date, cash shall be disbursed on account of Administrative Claims for fees payable pursuant to 28 U.S.C. § 1930 in an amount equal to the amount of such Administrative Claims. Notwithstanding any other provisions in this Plan to the contrary, each and every Debtor shall remain obligated to pay fees pursuant to 28 U.S.C. § 1930 until such time as a particular case is closed, dismissed or converted to a case proceeding under chapter 7 of the Bankruptcy Code.

e. **Ordinary Course Liabilities**

Administrative Claims based on liabilities incurred by a Debtor in the ordinary course of its business, including Administrative Trade Claims, any Intercompany Ordinary Course Claims or Intercompany Loan Claims that are Administrative Claims, Administrative Claims of governmental units for Taxes and Administrative Claims arising from those contracts and leases of the kind described in Section V.C, shall be satisfied by the applicable Reorganized Debtor pursuant to the terms and conditions of the particular transaction giving rise to such Administrative Claims, without any further action by the holders of such Administrative Claims or further approval of the Bankruptcy Court.

f. **Bar Dates for Administrative Claims**

i. **General Bar Date Provisions**

Except as otherwise provided in Section III.A.1.f.ii.B, unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtors, pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order, no later than 30 days after the Effective Date. Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims and that do not File and serve such a request by the applicable Bar Date shall be forever barred from asserting such Administrative Claims against the Debtors, the Reorganized Debtors or their respective property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests must be Filed and served on the requesting party within 90 days after the Effective Date.

ii. **Bar Dates for Certain Administrative Claims**

A. **Professional Compensation**

Professionals or other Entities asserting a Fee Claim for services rendered before the Effective Date must File and serve on the Reorganized Debtors and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, the Fee Order or other order of the Bankruptcy Court a Final Fee Application no later than 45 days after the Effective Date; *provided, however*, that any Professional who may receive compensation or reimbursement of

expenses pursuant to the Ordinary Course Professionals Order may continue to receive such compensation and reimbursement of expenses for services rendered before the Effective Date, without further Bankruptcy Court review or approval, pursuant to the Ordinary Course Professionals Order. A Professional may include any outstanding, non-Filed monthly or interim request for payment of a Fee Claim pursuant to the Fee Order in its Final Fee Application. Objections to any Final Fee Application must be Filed and served on the Reorganized Debtors and the requesting party by 65 days after the Effective Date. To the extent necessary, the Confirmation Order shall amend and supersede any previously entered order of the Bankruptcy Court, including the Fee Order, regarding the payment of Fee Claims. Any pending, Filed interim requests for a Fee Claim pursuant to the Fee Order shall be resolved in the ordinary course in accordance with the Fee Order or, if sooner, in connection with the particular Professional's Final Fee Application.

### **B. Ordinary Course Liabilities**

Holders of Administrative Claims based on liabilities incurred by a Debtor in the ordinary course of its business, including Administrative Trade Claims, any Intercompany Ordinary Course Claims or Intercompany Loan Claims that are Administrative Claims, Administrative Claims of governmental units for Taxes, and Administrative Claims arising from those contracts and leases of the kind described in Section V.C shall not be required to File or serve any request for payment of such Administrative Claims. Such Administrative Claims shall be satisfied pursuant to Section III.A.1.e.

Holders of claims pursuant to section 503(b)(9) of the Bankruptcy Code against the Debtors and governmental units holding claims against the Debtors (whether secured, unsecured priority or unsecured nonpriority) that arose prior to the Petition Date, including governmental units with claims against a Debtor for unpaid taxes, whether such claims arise from prepetition tax years or periods or prepetition transactions to which the Debtor was a party, must file their respective claims by March 11, 2012 at 4:00 p.m. (ET).

#### **III.A.2. Payment of Priority Tax Claims**

##### **a. Priority Tax Claims**

Pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, unless otherwise agreed by the holder of a Priority Tax Claim and the applicable Debtor or Reorganized Debtor, each holder of an Allowed Priority Tax Claim shall receive, in full satisfaction of its Priority Tax Claim, payment in full of the allowed amount of the Priority Tax Claim, disbursed on the later of the Effective Date or as soon as practicable after the date when such Claim becomes an Allowed Claim.

##### **b. Other Provisions Concerning Treatment of Priority Tax Claims**

Notwithstanding the provisions of Section III.A.2.a, any Claim on account of any penalty arising with respect to or in connection with an Allowed Priority Tax Claim that does not compensate the holder for actual pecuniary loss shall be treated as a Class 4 Claim, and the holder (other than as the holder of a Class 4 Claim) may not assess or attempt to collect such penalty from the Reorganized Debtors or their respective property.

**III.A.3. Disallowance of Reclamation Claims**

All Reclamation Claims shall be disallowed on the Effective Date, any related adversary proceedings shall be dismissed on the Effective Date and any Allowed Claims relating to the provision of goods to the Debtors prior to the Petition Date shall be treated and paid as Class 4 Claims.

**III.B. Classified Claims**

**III.B.1. Class 1 Claims (Other Secured Claims) are unimpaired.** Each holder of an Allowed Claim in Class 1 shall receive, at the option of the Reorganized Debtors, in full and final satisfaction and discharge of such Claim, either: (a) cash in the full amount of the Allowed Class 1 Claim; (b) the return of the collateral securing such Allowed Class 1 Claim; or (c) such other treatment that satisfies section 1129 of the Bankruptcy Code.

**III.B.2. Class 2 Claims (Priority Claims) are unimpaired.** On the Effective Date, each holder of an Allowed Priority Claim against a Debtor will receive, in full and final satisfaction and discharge of such Claim, cash equal to the amount of such Allowed Claim, unless otherwise agreed by the holder of a Class 2 Claim.

**III.B.3. Class 3 Claims (Secured Lender Claims) are unimpaired.** Each holder of an Allowed Class 3 Claim shall receive, in full and final satisfaction and discharge of such Claim the following treatment:

**3A – Secured Lender Claims Against Qualteq, Inc.**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3A	Qualteq/TD Finance Secured Lender Claim	Each holder of an Allowed Claim in Class 3A shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder’s Claim Reinstated.

**3B – Secured Lender Claims Against 1400 Center Circle**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3B	1400 Center Circle/Inland Bank Secured Lender Claim	Each holder of an Allowed Claim in Class 3B shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder’s Claim Reinstated.

**3C – Secured Lender Claims Against 5200 Thatcher LLC**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
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3C	5200 Thatcher/Northern Trust Bank Secured Lender Claim	Each holder of an Allowed Claim in Class 3C shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
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**3D – Secured Lender Claims Against 5300 Katrinae LLC**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3D	5300 Katrinae/Burr Ridge Bank Secured Lender Claim	Each holder of an Allowed Claim in Class 3D shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3E – Secured Lender Claims Against Automated Presort, Inc.**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3E-1	API/BBH Financial Secured Lender Claim	Each holder of an Allowed Claim in Class 3E-1 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3E-2	API/GE Capital Secured Lender Claim	Each holder of an Allowed Claim in Class 3E-2 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3E-3	API/Oakbrook Financial Secured Lender Claim	Each holder of an Allowed Claim in Class 3E-3 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3F – Secured Lender Claims Against Avadamma LLC**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3F	Avadamma/MB Financial Secured Lender Claim	Each holder of an Allowed Claim in Class 3F shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3G – Secured Lender Claims Against Creative Automation Company**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3G	CAC/Oakbrook Financial Secured Lender Claim	Each holder of an Allowed Claim in Class 3G shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3H – Secured Lender Claims Against Creative Investments, a General Partnership**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3H	CI/Harris Bank Secured Lender Claim	Each holder of an Allowed Claim in Class 3H shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3I – Secured Lender Claims Against Fulfillment Xcellence, Inc.**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3I-1	FXI/ABOC Secured Lender Claim	Each holder of an Allowed Claim in Class 3I-1 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3I-2	FXI/Jules Secured Lender Claim	Each holder of an Allowed Claim in Class 3I-2 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3J – Secured Lender Claims Against Global Card Services, Inc.**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3J-1	GCS/Burr Ridge Secured Lender Claim	Each holder of an Allowed Claim in Class 3J-1 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim

		Reinstated.
3J-2	GCS/Jules Secured Lender Claim	Each holder of an Allowed Claim in Class 3J-2 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3J-3	GCS/Key Equipment Secured Lender Claim	Each holder of an Allowed Claim in Class 3J-3 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3J-4	GCS/Heartland Secured Lender Claim	Each holder of an Allowed Claim in Class 3J-4 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3K – Secured Lender Claims Against Unique Data Services, Inc.**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3K	UDS/Oakbrook Financial Secured Lender Claim	Each holder of an Allowed Claim in Class 3K shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3L – Secured Lender Claims Against Unique Mailing Services, Inc.**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3L-1	UMS/Inland Bank Secured Lender Claim	Each holder of an Allowed Claim in Class 3L-1 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3L-2	UMS/Alliance Leasing Secured Lender Claim	Each holder of an Allowed Claim in Class 3L-2 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

3L-3	UMS/Oakbrook Financial Secured Lender Claims	Each holder of an Allowed Claim in Class 3L-3 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3L-4	UMS/Pitney Bowes Secured Lender Claim	Each holder of an Allowed Claim in Class 3L-4 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3M – Secured Lender Claims Against Versatile Card Technology, Inc.**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3M-1	VCT/ABOC Secured Lender Claim	Each holder of an Allowed Claim in Class 3M-1 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3M-2	VCT/GE Secured Lender Claims	Each holder of an Allowed Claim in Class 3M-2 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3M-3	VCT/Jules Secured Lender Claim	Each holder of an Allowed Claim in Class 3M-3 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3M-4	VCT/Key Equipment Secured Lender Claim	Each holder of an Allowed Claim in Class 3M-4 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.
3M-5	VCT/TCF Secured Lender Claim	Each holder of an Allowed Claim in Class 3M-5 shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

**3N – Secured Lender Claims Against Veluchamy LLC**

<u>CLASS</u>	<u>CLAIM</u>	<u>TREATMENT</u>
3N	Veluchamy/Skylands Bank Secured Lender Claims	Each holder of an Allowed Claim in Class 3N shall either, at the option of the Reorganized Debtors (a) receive cash in the full amount of such Claim; or (b) have such holder's Claim Reinstated.

Any claims arising with respect to any guaranty, pledge or any other security provided by any party other than the primary obligor of a Satisfied Secured Lender Claim shall, as of the Effective Date, be deemed satisfied in all respects and extinguished under the terms hereof, and shall be entitled to no recovery hereunder on account of such guaranty, pledge or security. However, any and all guaranties, pledges or any other forms of security provided in connection with a Reinstated Secured Lender Claim shall be Reinstated on the Effective Date.

**III.B.4. Class 4 Claims (Current Vendor Claims) are impaired.** Each holder of an Allowed Class 4 Claim shall receive cash in an amount equal to the Allowed amount of their Class 4 Claim with distributions to such Holders to occur on or after the final Business Day of the sixth full calendar month following the Effective Date, or on the immediately following Quarterly Distribution Date following the date a Claim becomes an Allowed Class 4 Claim, whichever is later. Distributions made to Holders of Class 4 Claims shall not include interest.

**III.B.5. Class 5 Claims (Other Unsecured Claims) are impaired.** Each holder of a Class 5 Claim shall receive, at the option of the Reorganized Debtors, (i) cash in an amount equal to the Allowed amount of their Class 5 Claim payable on the Effective Date, or (ii) cash payments of principal and interest paid in equal monthly installments over ten years sufficient to provide such holders the value, as of the Effective Date, equal to the Allowed amount of such claim; *provided, however*, that no payments on account of Class 5 Claims shall be made prior to the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.

**III.B.6. Class 6 Claims (Intercompany Ordinary Course Claims) are unimpaired.** Class 6 Claims shall be Reinstated.

**III.B.7. Class 7 Claims (Intercompany Loan Claims) are unimpaired.** Class 7 Claims shall be Reinstated.

**III.B.8. Class 8 Interests (Debtor Equity Interests) are unimpaired.** On the Effective Date, Class 8 Interests shall be treated as follows:

<u>CLASS</u>	<u>INTEREST</u>	<u>TREATMENT</u>
8A	Qualteq Equity Interests	On the Effective Date, Class 8A Equity Interests shall be Reinstated subject to all existing rights remedies and limitations set forth under applicable

		law.
8B	1400 Center Circle Equity Interests	On the Effective Date, Class 8B Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8C	5200 Thatcher Equity Interests	On the Effective Date, Class 8C Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8D	5300 Katrina Equity Interests	On the Effective Date, Class 8D Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8E	API Equity Interests	On the Effective Date, Class 8E Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8F	Avadamma Equity Interests	On the Effective Date, Class 8F Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8G	CAC Equity Interests	On the Effective Date, Class 8G Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8H	CI Equity Interests	On the Effective Date, Class 8H Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8I	FXI Equity Interests	On the Effective Date, Class 8I Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8J	GCS Equity Interests	On the Effective Date, Class 8J Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.

8K	UDS Equity Interests	On the Effective Date, Class 8K Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8L	UES Equity Interests	On the Effective Date, Class 8L Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8M	UMS Equity Interests	On the Effective Date, Class 8M Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8N	VCT Equity Interests	On the Effective Date, Class 8N Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8O	Veluchamy Equity Interests	On the Effective Date, Class 8O Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8P	Vmark Equity Interests	On the Effective Date, Class 8P Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.
8Q	Anar Equity Interests	On the Effective Date, Class 8Q Equity Interests shall be Reinstated subject to all existing rights, remedies and limitations set forth under applicable law.

#### **ARTICLE IV.**

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

##### **IV.A. Debtor Equity Interests**

At the Confirmation Hearing, or at any time thereafter, the Debtors, or Reorganized Debtors shall have continuing authorization to redeem their Equity Interests from existing shareholders under applicable law, relevant agreements and this Plan, without further notice to or order of the Bankruptcy Court. Vmark's board of directors shall determine the amount, if any, of Equity Interests to redeem, and the value of such Equity Interests, which such value shall be

determined by reasonable means through a nationally recognized third-party appraiser of Reorganized Vmark's choosing.

Following the determination of value, whether by agreement or court order, the purchase of such Equity Interests shall be affected within 5 business days by the payment of the redemption amount in full, in cash to the applicable shareholder, unless otherwise agreed by the parties. Upon redemption, the affected Equity Interests shall be deemed cancelled.

Following the Effective Date of the Plan, the Debtor Equity Interests shall remain subject to all applicable law governing such Equity Interests, and any agreements existing as of the Petition Date.

#### **IV.B. Continued Corporate Existence and Vesting of Assets in the Reorganized Debtors**

Except as otherwise provided herein each Debtor will, as a Reorganized Debtor, continue to exist after the Effective Date as a separate legal Entity, with all the powers of a corporation or other applicable form of legal entity under applicable law and without prejudice to any right to alter or terminate such existence (whether by merger, dissolution or otherwise) under applicable state law. Except as otherwise provided herein as of the Effective Date, all property of the respective Estates of the Debtors, and any property acquired by a Debtor or Reorganized Debtor under the Plan, will vest in the applicable Reorganized Debtor, free and clear of all Claims, liens, charges, other encumbrances and Interests. On and after the Effective Date, each Reorganized Debtor may operate its businesses and may use, acquire and dispose of property and compromise or settle any Claims without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan or the Confirmation Order.

#### **IV.C. Restructuring Transactions**

##### **IV.C.1. Restructuring Transactions Generally**

On or after the Confirmation Date, the applicable Debtors or Reorganized Debtors may enter into such Restructuring Transactions and may take such actions as the Debtors (at any time on or prior to the Effective Date) or the Reorganized Debtors determine to be necessary or appropriate to effect a corporate restructuring of their respective businesses, to simplify the overall corporate structure of the Reorganized Debtors or to preserve the value of any available net operating losses and other favorable tax attributes and/or to maximize the value of the Reorganized Debtors, all to the extent not inconsistent with any other terms of the Plan or existing law. Such Restructuring Transactions may include one or more transfers, mergers, consolidations, conversions, restructurings (including the issuance or redemption of one or more series of Equity Interests in one or more of the Reorganized Debtors), dispositions, liquidations or dissolutions, as may be determined by the Debtors or the Reorganized Debtors (at any time on or prior to the Effective Date) to be necessary or appropriate.

The actions to effect these transactions may include: (a) the execution and delivery of appropriate agreements or other documents of transfer, merger, consolidation, conversion, restructuring, disposition, liquidation or dissolution containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable state law and such

other terms to which the applicable Entities may agree; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, duty or obligation on terms consistent with the terms of the Plan and having such other terms to which the applicable Entities may agree; (c) the filing of appropriate certificates or articles of merger, consolidation, conversion, dissolution or change in corporate form pursuant to applicable state law; and (d) the taking of all other actions that the applicable Entities determine to be necessary or appropriate, including the actions contemplated in Section IV.A hereof, or making filings or recordings that may be required by applicable state law in connection with such transactions.

#### **IV.C.2. Obligations of Any Successor Corporation in a Restructuring Transaction**

Without in any way limiting Section IV.C.1., the Restructuring Transactions may include one or more transfers, mergers, consolidations, conversions, restructurings, dispositions, liquidations or dissolutions, as may be determined by the Debtors (at any time on or prior to the Effective Date) or the Reorganized Debtors to be necessary or appropriate to result in substantially all of the respective assets, properties, rights, liabilities, duties and obligations of certain of the Reorganized Debtors vesting in one or more surviving, resulting or acquiring entities, provided that such entities shall be able to satisfy the liabilities, duties and obligations of the Reorganized Debtors under the Plan or existing law. In each case in which the surviving, resulting or acquiring entity in any such transaction is a successor to a Reorganized Debtor, such surviving, resulting or acquiring entity will perform the obligations of the applicable Reorganized Debtor pursuant to the Plan.

#### **IV.D. Corporate Governance, Directors and Officers, Employment-Related Agreements and Compensation Programs, Continuation of Certain Employee and Workers' Compensation Benefits, Special Provisions Regarding Insured Claims and Insurance Policies and Corporate Action**

##### **IV.D.1. Certificates of Incorporation and By-Laws of the Reorganized Debtors**

As of the Effective Date, the Certificates of Incorporation and the By-Laws (or comparable constituent documents) of the Debtors will be reaffirmed and restated for the Reorganized Debtors, and shall be amended to prohibit the issuance of nonvoting equity securities to the extent required by section 1123(a) of the Bankruptcy Code. After the Effective Date or the effective time of any applicable Restructuring Transaction, the Reorganized Debtors may further amend and/or restate their Certificates of Incorporation or By-Laws (or comparable constituent documents) as permitted by applicable state law, subject to the terms and conditions of such constituent documents.

##### **IV.D.2. Directors and Officers of the Reorganized Debtors**

Subject to any requirement of Bankruptcy Court approval pursuant to section 1129(a)(5) of the Bankruptcy Code, the initial board of directors and the officers of each of the Reorganized Debtors will be identified in the Plan Supplement. The compensation to be disbursed to the

directors, executives and officers serving for each of the Reorganized Debtors as of the Effective Date also will be disclosed in the Plan Supplement.

#### **IV.D.3. Employee Benefits**

From and after the Effective Date, the Reorganized Debtors intend to continue (or continue as modified or replaced) their existing employee benefit policies, plans and agreements, including but not limited to: (a) medical, dental, vision, prescription drug, accident, life and disability insurance; (b) sick pay, short-term disability pay and long-term disability insurance; and (c) vacation and holiday pay.

#### **IV.D.4. Retiree Benefits**

From and after the Effective Date, the Reorganized Debtors will be obligated to pay retiree benefits (as defined in section 1114(a) of the Bankruptcy Code), if any, and any similar health, disability, or death benefits, if any, in accordance with the terms of the retiree benefit plans or other agreements governing the payment of such benefits, subject to any rights to amend, modify or terminate such benefits under the terms of the applicable retiree benefits plan, other agreement or applicable nonbankruptcy law. Nothing herein shall be construed as a determination that any benefits offered by the Debtors are in fact retiree benefits as defined in Section 1114 of the Bankruptcy Code.

#### **IV.D.5. Workers' Compensation Benefits**

From and after the Effective Date, the Reorganized Debtors may continue to pay valid Claims arising before the Petition Date under the Debtors' workers' compensation programs.

#### **IV.D.6. New Employment, Retirement, Indemnification and Other Related Agreements and Compensation Programs**

As of the Effective Date, the Reorganized Debtors shall have authority, as determined by Reorganized Debtors' boards of directors, to: (a) maintain, amend or revise existing employment, retirement, welfare, incentive, severance, indemnification and other agreements with their active and retired directors, officers and employees, subject to the terms and conditions of any such agreement; (b) enter into new employment, retirement, welfare, incentive, severance, indemnification and other agreements for active and retired employees; and (c) enter into and implement any management incentive plan.

#### **IV.D.7. Limitations on Amounts to Be Distributed to Holders of Allowed Insured Claims**

Distributions under the Plan to each holder of an Allowed Insured Claim shall be in accordance with the treatment provided under the Plan for the Class in which such Allowed Insured Claim is classified, but solely to the extent that such Allowed Insured Claim is not satisfied from proceeds payable to the holder thereof under any pertinent insurance policies and applicable law. Nothing in this Section IV.D.7 shall in any way operate to, or have the effect of, impairing in any respect the legal, equitable or contractual rights and defenses of the insureds or insurers with respect to the Insurance Policies and Agreements. The rights and obligations of the

insureds and insurers under the Insurance Policies and Agreements shall be determined under such policies and related agreements, including the terms, conditions, limitations, exclusions and endorsements thereof, which shall remain in full force and effect under their terms and under any applicable non-bankruptcy law. Each of the non-Debtor counterparties to the Insurance Policies and Agreements reserves all its rights and defenses under the Insurance Policies and Agreements and applicable non-bankruptcy law, including any defenses to coverage.

#### **IV.D.8. Reinstatement and Continuation of Insurance Policies**

From and after the Effective Date, each of the Debtors' insurance policies in existence as of the Effective Date shall be reinstated and continued in accordance with its terms and, to the extent applicable, shall be deemed assumed by the applicable Reorganized Debtor pursuant to section 365 of the Bankruptcy Code and Section V.A.

#### **IV.D.9. Corporate Action**

Pursuant to section 1142 of the Bankruptcy Code and section 303 of the Delaware General Corporation Law and any comparable provisions of the business corporation law of any other state, the following (which will occur and be deemed effective as of the date specified in the documents effectuating the same or, if no date is so specified, the Effective Date) shall be authorized and approved in all respects and for all purposes without any requirement of further action by stockholders or directors of any of the Debtors or the Reorganized Debtors or any other person or entity: the Restructuring Transactions; the adoption of new or amended and restated certificates of incorporation or formation and by-laws or similar constituent documents for the Reorganized Debtors; the initial selection of directors and officers for the Reorganized Debtors; the Distribution of cash pursuant to the Plan; the transactions contemplated by the Plan including any redemption of Equity Interests; the adoption, execution, delivery and implementation of all contracts, leases, instruments, releases and other agreements or documents related to any of the foregoing; the adoption, execution and implementation of employment, retirement and indemnification agreements, incentive compensation programs, retirement income plans, welfare benefit plans and other employee plans and related agreements, including any management incentive plan; and other matters involving the corporate structure of any Debtor or Reorganized Debtor or corporate action to be taken by or required of any Debtor or Reorganized Debtor.

#### **IV.E. Obtaining Cash for Plan Distributions and Transfers of Funds Among the Debtors and the Reorganized Debtors**

The Debtors (at any time on or prior to the Effective Date) or Reorganized Debtors, as applicable, are authorized to execute and deliver any documents necessary or appropriate to obtain cash for funding the Plan. All cash necessary for the Reorganized Debtors to disburse cash payments pursuant to the Plan will be obtained through a combination of one or more of the following: (1) the Reorganized Debtors' cash balances; (2) the Exit Facility, (3) any additional means of financing or funding that the Debtors or the Reorganized Debtors determine is necessary or appropriate, and (4) the proceeds of any tax refunds. The terms of the Exit Financing, and any other source of Plan funding will be included as part of the Plan Supplement in advance of the Confirmation Hearing. As of the Effective Date, the Exit Financing Lenders shall succeed to the liens, claims and encumbrances of the existing holders of Satisfied Secured

Lender Claims. The Reorganized Debtors will be entitled to transfer funds between and among themselves as they determine to be necessary or appropriate to enable the Reorganized Debtors to satisfy their obligations under the Plan.

#### **IV.F. Preservation of Rights of Action; Settlement of Claims and Releases**

##### **IV.F.1. Preservation of Rights of Action by the Debtors and the Reorganized Debtors**

Except as provided in the Plan or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code and to the fullest extent possible under applicable law, the Reorganized Debtors shall retain and may enforce (and shall have the sole right to enforce) any claims, demands, rights and causes of action that any Debtor or Estate may hold against any Entity, other than the Recovery Actions. The Reorganized Debtors or their successors may pursue, or not pursue, such retained claims, demands, rights or causes of action, as they deem appropriate in their discretion.

##### **IV.F.2. Comprehensive Settlement of Claims and Controversies**

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided under the Plan, the provisions of the Plan, including the releases set forth in Section IV.F.3, shall constitute a good faith compromise and settlement of all Claims or controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Claim, Interest or any Distribution to be made pursuant to the Plan on account of any Allowed Claim or Interest, including the Fraudulent Transfer Liability Claims. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such Claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, the Reorganized Debtors and their respective property and Claim and Interest holders and is fair, equitable and reasonable.

##### **IV.F.3. Releases**

###### **a. Release by the Debtors and Reorganized Debtors**

**Upon the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date the Debtors and the Reorganized Debtors, on behalf of themselves and their affiliates, the Estates and their respective successors, assigns and any and all Entities who may purport to claim by, through, for or because of them shall forever release, waive and discharge all Liabilities that they have, may have or had (whether known or unknown) against any Released Party. Subject to the occurrence of the Effective Date, without limiting the generality or effect of the foregoing, the Debtors and the Reorganized Debtors release and waive all Recovery Actions as of the date of entry of the Confirmation Order.**

**b. General Releases by Holders of Claims or Interests**

**As of the Effective Date, in consideration for the obligations of the Debtors and the Reorganized Debtors under the Plan and the cash, contracts, instruments, releases, agreements or documents to be entered into or delivered in connection with the Plan, each holder of a Claim, whether directly held, or held indirectly through a third party, that votes in favor of the Plan shall be deemed to forever release, waive and discharge all Liabilities in any way relating to a Debtor, the Reorganization Cases, the Estates, the Disclosure Statement, or the Plan that such entity has, had or may have (whether known or unknown) against any Released Party, the Debtors, the Reorganized Debtors or any employees, agents or partners of the Debtors; *provided, however*, that this provision shall not be binding on holders of Claims in Class 4 until the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.**

**c. Injunction Related to Releases**

**As further provided in Section X.B, the Confirmation Order shall permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively or otherwise, of any Liabilities released pursuant to the Plan.**

**IV.G. Cancellation and Surrender of Instruments, Securities and Other Documentation**

Except as otherwise provided in the Plan or in any contract, instrument or other agreement or document entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article III, all Prepetition Loan Documents in respect of Satisfied Secured Lender Claims shall be cancelled and of no further force and effect without any further action on the part of any Debtor or Reorganized Debtor, and the obligations of any of the Debtors under such Prepetition Loan Documents shall be discharged; *provided, however*, that the Prepetition Loan Documents in respect of Satisfied Secured Lender Claims shall continue in effect solely for the purpose of allowing the relevant holders of Satisfied Secured Lender Claims to receive their Distributions hereunder; *provided further, however*, that the Exit Financing Lenders shall succeed to the liens, claims and encumbrances of the existing holders of Satisfied Secured Lender Claims. The holders of or parties to such cancelled instruments, securities and other documentation shall have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof, except the rights provided pursuant to the Plan. No Distribution under the Plan shall be made to or on behalf of any holder of an Allowed Claim evidenced by such cancelled instruments or securities unless and until such instruments or securities are received by the applicable Disbursing Agent to the extent required in Section VI.H. The Prepetition Loan Documents in respect of Reinstated Secured Lender Claims shall not be cancelled or otherwise discharged pursuant to this Section IV.G or any other provision of this Plan.

**IV.H. Release of Liens**

Except as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document assumed, entered into or delivered in connection with the Plan, on the Effective Date and concurrently with the applicable Distributions made pursuant to Article III,

all mortgages, deeds of trust, liens or other security interests against any property on account of a Satisfied Secured Lender Claim (including any instrument of guaranty, pledge or other third party collateral), other than those liens and security interests granted pursuant to the DIP Amendment, assigned to the Exit Financing Lenders or in respect of Reinstated Secured Lender Claims, shall be fully released and discharged, and all of the right, title and interest of any holder of such mortgages, deeds of trust, liens or other security interests, including any rights to any collateral thereunder, shall revert to the applicable Reorganized Debtor and its successors and assigns.

#### **IV.I. Effectuating the Debtor Equity Interest Redemption**

The Debtors or Reorganized Debtors may enter into and effectuate any necessary contracts, agreements or other documents and take any actions appropriate or necessary to consummate a redemption of the Equity Interests contemplated in Section IV.A hereof.

#### **IV.J. Effectuating Documents; Further Transactions; Exemption from Certain Transfer Taxes**

The chief executive officer, chief restructuring officer, chief financial officer, secretary and treasurer of each Debtor or Reorganized Debtor shall be authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and implement the provisions of the Plan. The chief executive officer, chief restructuring officer, chief financial officer, secretary and treasurer of each Debtor or Reorganized Debtor shall be authorized to certify or attest to any of the foregoing actions. Pursuant to section 1146(a) of the Bankruptcy Code, the following shall not be subject to any stamp, real estate transfer, mortgage recording, sales or use, or other similar tax: (1) the issuance, transfer or exchange of notes or equity securities under the Plan; (2) the creation of any mortgage, deed of trust, lien, pledge or other security interest; (3) the making or assignment of any lease or sublease; (4) any Restructuring Transaction; or (5) the making or delivery of any deed or other instrument of transfer, sale or assignment under, in furtherance of or in connection with the Plan, including any merger agreements, agreements or other documents of transfer, conversion, consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale or assignments executed in connection with any Restructuring Transaction pursuant to the Plan.

### **ARTICLE V.**

#### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

##### **V.A. Executory Contracts and Unexpired Leases to Be Assumed**

###### **V.A.1. Assumption Generally**

Except as otherwise provided in the Plan or the Schedule of Rejected Executory Contracts and Unexpired Leases, or in any contract, instrument, release or other agreement or document entered into in connection with the Plan, or in a motion pending before the Bankruptcy Court seeking authority to reject an Executory Contract or Unexpired Lease or in a Final Order of the

Bankruptcy Court, on the Effective Date, pursuant to section 365 of the Bankruptcy Code, the Debtors will be deemed to assume each Executory Contract or Unexpired Lease. Without limiting the foregoing, on the Effective Date, the Debtors shall assume all employment contracts without modification.

The Confirmation Order will constitute an order of the Bankruptcy Court approving the assumption by the Debtors of Executory Contracts and Unexpired Leases pursuant to this Section V.A.1 as of the Effective Date, except for Executory Contracts and Unexpired Leases that (a) have been rejected pursuant to a Final Order of the Bankruptcy Court, (b) are subject to a pending motion for reconsideration or appeal of an order authorizing the rejection of such Executory Contract or Unexpired Lease, (c) are subject to a motion to reject such Executory Contract or Unexpired Lease filed on or prior to the Effective Date, or (d) are listed on the Schedule of Rejected Executory Contracts and Unexpired Leases.

Nothing herein, including listing a contract or lease on the Schedule of Rejected Executory Contracts and Unexpired Leases, shall constitute an admission by a Debtor or Reorganized Debtor that any contract or lease is an Executory Contract or Unexpired Lease or that a Debtor or Reorganized Debtor has any liability thereunder. The Debtors shall be required to satisfy the applicable requirements of section 365 of the Bankruptcy Code with respect to the assumption and, if applicable, the assignment of each contract or lease included on the Schedules of Assumed Executory Contracts and Unexpired Leases.

#### **V.A.2. Payment of Cure Claims**

The amount of any Cure Amount Claim necessary to assume any Executory Contract or Unexpired Lease to be assumed pursuant to the Plan will be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, at the option of the applicable Debtor or Reorganized Debtor: (1) by payment of such Cure Amount Claim in cash on the later of the Effective Date, and the date on which a disputed Cure Amount Claim is resolved by agreement of the parties or by an order of the Bankruptcy Court; or (2) on such other terms as are agreed to by the parties to such Executory Contract or Unexpired Lease.

As of the Effective Date, and after payment of any necessary cure amounts owing to contract or lease counterparties pursuant to section 365 of the Bankruptcy Code, all contract and lease counterparties shall be forever barred and estopped from asserting or claiming against the Debtors or Reorganized Debtors that any additional amounts are due or other defaults exist, that conditions to assumption and/or assignment must be satisfied under such Executory Contracts or Unexpired Leases or that there is any objection or defense to assumption and/or assignment of such Executory Contracts and Unexpired Leases.

Any provision in any Executory Contract or Unexpired Lease to be assumed under the Plan that purports to declare a breach, default, or right to payment or modification as a result of an assignment or change of control in respect of the Debtors or Reorganized Debtors, or as a result of the Reorganizations Cases, is unenforceable, and all Executory Contracts and Unexpired Leases to be assumed under the Plan shall remain in full force and effect, subject only to payment of the appropriate cure amount, if any. No sections or provisions of any Executory Contract or Unexpired Lease that purport to provide for additional payments, penalties, charges,

rent acceleration or other financial accommodations in favor of the non-Debtor third party thereto shall have any force and effect with respect to the Reorganization Cases or the transactions contemplated by the Plan, and such provisions constitute unenforceable anti-assignment provisions under section 365(f) of the Bankruptcy Code and are otherwise unenforceable under section 365(e) of the Bankruptcy Code and/or applicable case law.

### **V.A.3. Assignments Related to the Restructuring Transactions**

As of the effective time of an applicable Restructuring Transaction, any Executory Contract or Unexpired Lease to be held by any Debtor or another surviving, resulting or acquiring corporation in an applicable Restructuring Transaction, shall be deemed assigned to the applicable Entity, pursuant to section 365 of the Bankruptcy Code. The Debtors shall satisfy the applicable requirements of section 365 of the Bankruptcy Code with respect to any contract or lease the Debtors assign as part of a Restructuring Transaction.

### **V.A.4. Rejection of Executory Contracts and Unexpired Leases**

The Confirmation Order will constitute an order of the Bankruptcy Court approving the rejection of each Executory Contract or Unexpired Lease listed on the Schedule of Rejected Executory Contracts and Unexpired Leases pursuant to section 365 of the Bankruptcy Code as of the Effective Date. Any Claim arising from the rejection of any Executory Contract or Unexpired Lease will be considered an Other Unsecured Claim pursuant to section 365 of the Bankruptcy Code, and, subject to allowance, paid in accordance with Section V.A.5, and III.B.5.

Rejection or repudiation of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors or Reorganized Debtors under such Executory Contracts or Unexpired Leases. Notwithstanding any applicable nonbankruptcy law to the contrary, the Debtors and Reorganized Debtors expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties, indemnifications or continued maintenance obligations on goods or services previously purchased by the contracting Debtors or Reorganized Debtors from counterparties to rejected or repudiated Executory Contracts or Unexpired Leases.

### **V.A.5. Rejection Damage Claims**

Except as otherwise provided in a Final Order approving the rejection of an Executory Contract or Unexpired Lease, Claims arising out of the rejection of an Executory Contract or Unexpired Lease must be filed with the Bankruptcy Court on or before 28 days after the Effective Date. Any Claims not Filed within such time period will be forever barred from receiving a distribution from the Debtors, the Reorganized Debtors or the Estates.

The Debtors reserve the right to object to, settle, compromise or otherwise resolve any Claim filed on account of a rejected Executory Contract or Unexpired Lease. Undisputed Claims for rejection damages filed in connection with a rejected Executory Contract or Unexpired Lease shall be paid in accordance with Section III.B.5 hereof.

**V.B. Obligations to Indemnify Directors, Officers and Employees**

Any and all directors and officers liability and fiduciary (including ERISA) insurance or tail policies in existence as of the Effective Date shall be reinstated and continued in accordance with their terms and, to the extent applicable, shall be deemed assumed or assumed and assigned by the applicable Debtor or Reorganized Debtor, pursuant to section 365 of the Bankruptcy Code and the Plan. Each insurance carrier under such policies shall continue to honor and administer the policies with respect to the Reorganized Debtors in the same manner and according to the same terms and practices applicable to the Debtors prior to the Effective Date.

The obligations of each Debtor or Reorganized Debtor to indemnify any Person who is serving or served as one of its directors, officers or employees as of the Petition Date by reason of such Person's prior or future service in such a capacity or as a director, officer or employee of another corporation, partnership or other legal entity, to the extent provided in the applicable certificates of incorporation, by-laws or similar constituent documents, by statutory law or by written agreement, policies or procedures of or with such Debtor, will be deemed and treated as executory contracts that are assumed by the applicable Debtor or Reorganized Debtor pursuant to the Plan and section 365 of the Bankruptcy Code as of the Effective Date. Accordingly, such indemnification obligations will survive and be unaffected by entry of the Confirmation Order, irrespective of whether such indemnification is owed for an act or event occurring before or after the Petition Date.

**V.C. Contracts and Leases Entered Into After the Petition Date**

Notwithstanding any other provisions of the Plan, contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor, any obligation to indemnify directors, officers and employees as set forth in Section V.B above and all directors and officers liability and fiduciary insurance or tail policies in existence as of the Effective Date, shall be performed by the Debtor or Reorganized Debtor liable thereunder in accordance with the terms and conditions of such contracts and leases in the ordinary course of its business. Accordingly, such contracts and leases and other obligations (including any assumed Executory Contracts and Unexpired Leases, any obligation to indemnify directors, officers and employees as set forth in Section V.B above and all directors and officers liability and fiduciary insurance or tail policies in existence as of the Effective Date) shall survive and remain unaffected by entry of the Confirmation Order.

**ARTICLE VI.**

**PROVISIONS GOVERNING DISTRIBUTIONS**

**VI.A. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan, Distributions to be made on the Effective Date to holders of Claims that are Allowed Claims as of the Effective Date shall be deemed made on the Effective Date if made on the Effective Date or as promptly thereafter as practicable, but in any event no later than: (1) 30 days after the Effective Date or (2) such later date when the

applicable conditions of Section VI.D.2.a (regarding undeliverable Distributions), Section VI.G.3 (regarding compliance with Tax requirements) or Section VI.H (regarding surrender of cancelled instruments or securities) are satisfied. Distributions on account of Claims that become Allowed Claims after the Effective Date shall be made pursuant to Sections VI.G.2, III.B.4, and III.B.5. Any Claim that is disallowed by order of the Bankruptcy Court (or any other court of competent jurisdiction) prior to the Effective Date shall be deemed expunged (to the extent not already expunged) as of the Effective Date without the necessity for further Bankruptcy Court approval and the holder of any such Claim shall not be entitled to any Distributions under the Plan.

#### **VI.B. Method of Distributions to Holders of Claims**

The Reorganized Debtor or such Third Party Disbursing Agents as the Reorganized Debtors may employ in their sole discretion shall make all Distributions of cash and other instruments or documents required under the Plan. Each Disbursing Agent shall serve without bond, and any Disbursing Agent may employ or contract with other Entities to assist in or make the Distributions required by the Plan.

#### **VI.C. Compensation and Reimbursement for Services Related to Distributions**

Each Third Party Disbursing Agent providing services related to Distributions pursuant to the Plan shall receive from the Reorganized Debtors, without further Bankruptcy Court approval, reasonable compensation for such services and reimbursement of reasonable out-of-pocket expenses incurred in connection with such services. These payments shall be disbursed on terms agreed to with the Reorganized Debtors and shall not be deducted from Distributions to be made pursuant to the Plan to holders of Allowed Claims receiving Distributions from a Third Party Disbursing Agent.

#### **VI.D. Delivery of Distributions and Undeliverable or Unclaimed Distributions**

##### **VI.D.1. Delivery of Distributions**

Distributions to holders of Allowed Claims shall be made by a Disbursing Agent (a) at the addresses set forth on the respective proofs of Claim Filed by holders of such Claims; (b) at the addresses set forth in any written certification of address change delivered to the Disbursing Agent (including pursuant to a letter of transmittal delivered to a Disbursing Agent) after the date of Filing of any related proof of Claim; or (c) at the addresses reflected in the applicable Debtor's Schedules if no proof of Claim has been Filed and the Disbursing Agent has not received a written notice of a change of address.

##### **VI.D.2. Undeliverable Distributions Held by Disbursing Agents**

###### **a. Holding and Investment of Undeliverable Distributions**

If any Distribution to a holder of an Allowed Claim is returned to a Disbursing Agent as undeliverable, no further Distributions shall be made to such holder unless and until the applicable Disbursing Agent is notified by written certification of such holder's then current address. Undeliverable Distributions shall remain in the possession of the applicable Disbursing

Agent pursuant to this Section VI.D.2.a until such time as a Distribution becomes deliverable. Undeliverable cash shall be held in segregated bank accounts in the name of the applicable Disbursing Agent for the benefit of the potential claimants of such funds. Any Disbursing Agent holding undeliverable cash shall invest such cash in a manner consistent with the Reorganized Debtors' investment and deposit guidelines.

**b. After Distributions Become Deliverable**

On each Quarterly Distribution Date, the applicable Disbursing Agents shall make all Distributions to holders of Allowed Class 4 Claims that become deliverable to holders of such Claims during the preceding calendar quarter, to the extent not distributed earlier pursuant to the terms set forth in Section III.B.4 or Section III.B.5.

**c. Failure to Claim Undeliverable Distributions**

Any holder of an Allowed Claim that does not assert a claim pursuant to the Plan for an undeliverable Distribution to be made by a Disbursing Agent within six months after the later of (i) the Effective Date and (ii) the last date on which a Distribution was attempted to be made to such holder shall have its claim for such undeliverable Distribution discharged and shall be forever barred from asserting any such claim against the Reorganized Debtors or their respective property. Unclaimed Distributions shall become property of the applicable Reorganized Debtor, free of any restrictions thereon, and any such Distributions held by a Third Party Disbursing Agent shall be returned to the applicable Reorganized Debtor. Nothing contained in the Plan shall require any Debtor, Reorganized Debtor or Disbursing Agent to attempt to locate any holder of an Allowed Claim.

**VI.E. Distribution Record Date**

A Disbursing Agent shall have no obligation to recognize the transfer of, or the sale of any participation in, any Claim that occurs after the close of business on the Distribution Record Date and shall be entitled for all purposes herein to recognize and make Distributions only to those holders of Allowed Claims that are holders of such Claims, or participants therein, as of the close of business on the Distribution Record Date.

Except as otherwise provided in a Final Order of the Bankruptcy Court, the transferees of Claims that are transferred pursuant to Bankruptcy Rule 3001 on or prior to the Distribution Record Date shall be treated as the holders of such Claims for all purposes, notwithstanding that any period provided by Bankruptcy Rule 3001 for objecting to such transfer has not expired by the Distribution Record Date.

**VI.F. Means of Cash Payments**

Except as otherwise specified herein, cash disbursements made pursuant to the Plan to holders of Claims shall be in U.S. currency by checks drawn on a domestic bank selected by the Reorganized Debtors or, at the option of Reorganized Debtors, by wire transfer from a domestic bank; *provided, however*, that cash disbursements to foreign holders of Allowed Claims may be made, at the option of the Reorganized Debtors, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

## **VI.G. Timing and Calculation of Amounts to Be Distributed**

### **VI.G.1. Timing of Distributions Under the Plan**

Any Distribution to be made by any Debtor or Reorganized Debtor pursuant to the Plan shall be deemed to have been timely made if made within 30 days after the time therefore specified in the Plan. Except as otherwise provided in the Plan, no interest shall accrue or be disbursed with respect to any Distribution as a consequence of such Distribution not having been made on the Effective Date.

### **VI.G.2. Allowed Claims**

On the Effective Date, subject to the treatment provided for in Sections III.B.4 and III.B.5, each holder of an Allowed Claim shall receive the full amount of the Distributions that the Plan provides for Allowed Claims in the applicable Class. On each Quarterly Distribution Date, Distributions also shall be made pursuant to Section VI.D to holders of Disputed Claims in any such Class that were allowed during the preceding calendar quarter. Such quarterly Distributions also shall be in the full amount that the Plan provides for Allowed Claims in the applicable Class.

### **VI.G.3. Compliance with Tax Requirements**

In connection with the Plan, to the extent applicable, each Disbursing Agent shall comply with all Tax withholding and reporting requirements imposed on it by any governmental unit, and all Distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, each Disbursing Agent shall be authorized to take any actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the Distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding Distributions pending receipt of information necessary to facilitate such Distribution, or establishing any other mechanisms it believes are reasonable and appropriate.

Notwithstanding any other provision of the Plan, each Entity receiving a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any Tax obligations imposed on it by any governmental unit on account of such Distribution, including income, withholding and other Tax obligations.

## **VI.H. Surrender of Cancelled Instruments or Securities**

As a condition precedent to receiving any Distribution pursuant to the Plan on account of an Allowed Claim evidenced by the notes, instruments, securities or other documentation cancelled pursuant to Section IV.G, the holder of such Claim may be required by the Disbursing Agent to tender, as specified in this Section VI.H, the applicable notes, instruments, securities or other documentation evidencing such Claim to the applicable Disbursing Agent, together with any letter of transmittal required by such Disbursing Agent, and/or execute any assignment documents for the benefit of the Exit Financing Lenders. Pending such surrender, any Distributions pursuant to the Plan on account of any such Claim may be treated as an undeliverable Distribution pursuant to Section VI.D.2.a.

#### **VI.I. Setoffs**

Except with respect to claims of a Debtor or Reorganized Debtor released pursuant to the Plan or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Reorganized Debtors or, as instructed by the applicable Reorganized Debtor, a Third Party Disbursing Agent may, pursuant to section 553 of the Bankruptcy Code or applicable nonbankruptcy law, set off against any Allowed Claim and the Distributions to be made pursuant to the Plan on account of such Claim (before any Distribution is made on account of such Claim) the claims and rights of any nature that the applicable Debtor or Reorganized Debtor may hold against the holder of such Allowed Claim; provided, however, that neither the failure to effect a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the applicable Debtor or Reorganized Debtor of any claims, rights or causes of action that the Debtor or Reorganized Debtor may possess against such a Claim holder. Nothing in this Plan shall preclude any person serving as one of the Debtors' or Reorganized Debtors' directors, officers or employees prior to or following the Petition Date from asserting a right of recoupment of any kind against any debt, obligation or liability, and any such right of recoupment is expressly preserved.

#### **VI.J. Allocation of Payments**

Amounts disbursed to holders of Claims in satisfaction thereof shall be allocated first to the principal amounts of such Claims, with any excess being allocated to interest that has accrued on such Claims but remains unpaid.

#### **VI.K. Postpetition Interest**

Except as otherwise provided herein or as required by applicable bankruptcy law, Postpetition Interest shall not be disbursed on account of any Claim.

## **ARTICLE VII.**

### **PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

#### **VII.A. Prosecution of Objections to Claims**

##### **VII.A.1. Objections to Claims**

Objections to Claims must be Filed and served on the holders of such Claims by the Claims Objection Bar Date, and, if Filed prior to the Effective Date, such objections shall be served on the parties on the then-applicable service list in the Reorganization Cases. If an objection has not been Filed to a proof of Claim or an amendment has not been made to the Schedules with respect to a scheduled Claim by the Claims Objection Bar Date, the Claim to which the proof of Claim or Schedules relates shall be treated as an Allowed Claim if such Claim has not been allowed earlier.

##### **VII.A.2. Authority to Prosecute Objections**

After the Effective Date, the Reorganized Debtors shall have the authority to File (if applicable), settle, compromise, withdraw or litigate to judgment objections to all Claims, including pursuant to any alternative dispute resolution or similar procedures approved by the Bankruptcy Court. After the Effective Date, the Reorganized Debtors may settle, compromise or otherwise resolve any Disputed Claim or any objection or controversy relating to any Claim without approval of the Bankruptcy Court.

##### **VII.A.3. Liquidation and Resolution of Fraudulent Transfer Liability Claims**

The Fraudulent Transfer Liability Claims, and any objections of the Debtors and other parties in interest to such Claims, shall be determined prior to, or in conjunction with the Confirmation Hearing. The Fraudulent Transfer Liability Claims shall be Allowed in the amount determined by the Bankruptcy Court in accordance with the Fraudulent Transfer Liability Claims Liquidation Proceedings and Distributions on account of such Fraudulent Transfer Liability Claims shall be made in the amounts so determined by the Bankruptcy Court, and in accordance with Section III.B.5 hereof. The Final Order allowing the Fraudulent Transfer Liability Claims shall be binding for all purposes with respect to the Reorganization Cases, and in any other forum in which such Claims may be asserted.

##### **VII.A.4. Liquidation and Resolution of Litigation Claims**

Any unliquidated or disputed Litigation Claim that is a Timely Claim shall be Allowed or Disallowed in accordance with applicable law, in the Bankruptcy Court. At all times prior to or after the Effective Date, the Bankruptcy Court shall retain jurisdiction relating to Litigation Claims, including the Debtors' right to have such Claims liquidated in the Bankruptcy Court pursuant to section 157(b)(2)(B) of title 28 of the United States Code, as may be applicable. Any Litigation Claim liquidated pursuant to a judgment obtained in accordance with this Section VII.A.4 and applicable nonbankruptcy law that is no longer appealable or subject to review shall be deemed an Allowed Claim in Class 5 against the applicable Debtor in such liquidated amount upon the agreement of the parties or order of the Bankruptcy Court. In the

event a Litigation Claim is resolved pursuant to a judgment or order that (a) is obtained in accordance with this Section VII.A.4, (b) is no longer appealable or subject to review and (c) provides for no recovery against the applicable Reorganized Debtor, such Litigation Claim shall be deemed expunged without the necessity for further Bankruptcy Court approval upon the applicable Reorganized Debtor's service of a copy of such judgment or order upon the holder of such Litigation Claim. Nothing contained in this Section VII.A.4 shall constitute or be deemed a waiver of any claim, right or cause of action that a Debtor or Reorganized Debtor may have against any person or entity in connection with or arising out of any Litigation Claim.

#### **VII.A.5. Authority to Amend Schedules**

The Debtors or the Reorganized Debtors shall have the authority to amend the Schedules with respect to any Claim and to make Distributions based on such amended Schedules without approval of the Bankruptcy Court. If any such amendment to the Schedules reduces the amount of a Claim or changes the nature or priority of a Claim, the Debtor or Reorganized Debtor shall provide the holder of such Claim with notice of such amendment and such holder shall have 20 days to File an objection to such amendment with the Bankruptcy Court. If no such objection is Filed, the Debtor or Reorganized Debtor may proceed with Distributions based on such amended Schedules without approval of the Bankruptcy Court.

#### **VII.B. Treatment of Disputed Claims**

Notwithstanding any other provisions of the Plan, no payments or Distributions shall be made on account of a Disputed Claim until such Claim becomes an Allowed Claim.

#### **VII.C. Enforcement of Bar Date**

In accordance with section 502(b)(9) of the Bankruptcy Code, any Entity that failed to File a proof of Claim by the applicable Bar Date and was not otherwise permitted to File a proof of Claim after the applicable Bar Date by a Final Order of the Bankruptcy Court is and shall be barred, estopped and enjoined from asserting any Claim against the Debtors (i) in an amount that exceeds the amount, if any, that is identified in the Schedules on behalf of such Entity as undisputed, noncontingent and liquidated; or (ii) of a different nature or a different classification than any Claim identified in the Schedules on behalf of such Entity. All Claims Filed after the applicable Bar Date and for which no Final Order has been entered by the Bankruptcy Court determining that such Claims were Timely Filed shall be disallowed and expunged. Any Distribution on account of such Claims shall be limited to the amount, if any, listed in the applicable Schedules as undisputed, noncontingent and liquidated.

## **ARTICLE VIII.**

### **CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

#### **VIII.A. Conditions to Confirmation**

The following shall be conditions to Confirmation unless such conditions shall have been duly waived pursuant to Section VIII.C:

1. All documents filed with the Plan Supplement shall be (a) in form and substance reasonably satisfactory to the Debtors, and (b) with respect to any document filed with the Plan Supplement that may have any impact or effect on the Exit Credit Facility, reasonably satisfactory to the Exit Facility Lenders; and

#### **VIII.B. Conditions to the Effective Date**

The Effective Date shall not occur and the Plan shall not be consummated unless and until each of the following conditions has been satisfied or duly waived pursuant to Section VIII.C:

1. Entry of the Confirmation Order, which shall be (i) in form and substance satisfactory to the Debtors, and (ii) with respect to any provision thereof that may have any impact or effect on the Exit Credit Facility, reasonably satisfactory to the Exit Facility Lenders, and such Confirmation Order shall have become a Final Order;

2. The Exit Facility, including all documentation related thereto, shall each be in form and substance reasonably satisfactory to the Debtors, the Exit Facility Lenders, and shall have been consummated;

3. All governmental and third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by this Plan shall have been obtained, not be subject to unfulfilled conditions and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose materially adverse conditions on such transactions; and

4. The Plan, the Plan Supplement, and all documents necessary to implement the Plan, shall be in form and substance reasonably satisfactory to the Debtors, and shall have been executed and delivered to the applicable parties.

#### **VIII.C. Waiver of Conditions to Confirmation or the Effective Date**

The conditions to Confirmation set forth in Section VIII.A and the conditions to the Effective Date set forth in Section VIII.B may be waived in whole or part in writing by the Debtors at any time without an order of the Bankruptcy Court.

**VIII.D. Effect of Nonoccurrence of Conditions to the Effective Date**

If each of the conditions to the Effective Date is not satisfied or duly waived in accordance with Section VIII.C, then upon motion by the Debtors upon notice to such parties in interest as the Bankruptcy Court may direct, the Confirmation Order shall be vacated by the Bankruptcy Court; *provided, however*, that, notwithstanding the Filing of such motion, the Confirmation Order may not be vacated if each of the conditions to the Effective Date is either satisfied or duly waived before the Bankruptcy Court enters an order granting such motion. If the Confirmation Order is vacated pursuant to this Section VIII.D, (1) the Plan shall be null and void in all respects, including with respect to the discharge of Claims; and (2) nothing contained in the Plan shall (a) constitute a waiver or release of any claims by or against, or any Interest in, the Debtors or (b) prejudice in any manner the rights of the Debtors or any other party in interest.

**ARTICLE IX.**

**CRAM DOWN**

The Debtors request Confirmation under section 1129(b) of the Bankruptcy Code with respect to any impaired Class that does not accept the Plan pursuant to section 1126 of the Bankruptcy Code. The Debtors reserve the right to modify the Plan to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification.

**ARTICLE X.**

**DISCHARGE, INJUNCTION  
AND SUBORDINATION RIGHTS**

**X.A. Discharge of Claims**

1. Except as provided in the Plan or in the Confirmation Order, the rights afforded under the Plan and the treatment of Claims and Interests under the Plan shall be in exchange for and in complete satisfaction, discharge and release of all Claims, whether directly held, or held indirectly through a third party, including any interest accrued on Claims from the Petition Date. Except as provided in the Plan or in the Confirmation Order, Confirmation shall, as of the Effective Date discharge the Debtors from all Claims or other Liabilities that arose on or before the Effective Date and all debts of the kind specified in sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (a) a proof of Claim based on such debt is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (b) a Claim based on such debt is allowed pursuant to section 502 of the Bankruptcy Code, (c) a Claim is held directly or indirectly against any Debtor, or (d) the holder of a Claim based on such debt has accepted the Plan.

2. In accordance with the foregoing, except as provided in the Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination, as of the Effective Date, of a discharge of all Claims, including any debts and Liabilities against the Debtors, pursuant to sections 524 and 1141 of the Bankruptcy Code, and such discharge shall void any judgment obtained against a Debtor at any time, to the extent that such judgment relates to a discharged Claim.

## **X.B. Injunctions**

1. Except as provided in the Plan or the Confirmation Order, as of the Effective Date, all Entities that have held, currently hold or may hold a Claim (directly or indirectly), or have asserted that they hold a Claim, or other debt or Liability that is discharged pursuant to the terms of the Plan shall be permanently enjoined from taking any of the following actions on account of any such discharged Claims, debts or Liabilities: (a) commencing or continuing in any manner any action or other proceeding against the Debtors, the Reorganized Debtors, or their respective property, other than to enforce any right pursuant to the Plan; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtors, the Reorganized Debtors, or their respective property, other than as permitted pursuant to (a) above; (c) creating, perfecting or enforcing any lien or encumbrance against the Debtors, the Reorganized Debtors, or their respective property; (d) asserting a setoff of any kind against any debt, liability or obligation due to the Debtors or the Reorganized Debtors; and (e) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan; *provided, however*, that this provision shall not be binding on holders of Claims in Class 4 until the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.

2. As of the Effective Date, all Entities that have held, currently hold or may hold any Claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or Liabilities that are released pursuant to the Plan shall be permanently enjoined from taking any of the following actions against any released Entities, including the Released Parties, or their property on account of such released claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities: (a) commencing or continuing in any manner any action or other proceeding; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (c) creating, perfecting or enforcing any lien or encumbrance; (d) asserting a setoff of any kind against any debt, liability or obligation due to any released Entity; and (e) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of the Plan; *provided, however*, that this provision shall not be binding on holders of Claims in Class 4 until the payment in full of all Class 4 Claims that are Allowed Claims as of the Effective Date.

3. By accepting Distributions pursuant to the Plan, each holder of an Allowed Claim receiving Distributions pursuant to the Plan shall be deemed to have specifically consented to the injunctions set forth in this Section X.B.

## **X.C. Subordination Rights**

The classification and manner of satisfying Claims and Interests under the Plan does not take into consideration subordination rights, and nothing in the Plan or Confirmation Order shall affect any subordination rights that a holder of a Claim may have with respect to any Distribution to be made pursuant to the Plan, whether arising under general principles of equitable subordination, contract, section 510(c) of the Bankruptcy Code or otherwise.

## ARTICLE XI.

### RETENTION OF JURISDICTION

#### **XI.A. Retention of Exclusive Jurisdiction by the Bankruptcy Court**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain such exclusive jurisdiction over the Reorganization Cases and any matter related to the Reorganization Cases after the Effective Date as is legally permissible, including exclusive jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim or the resolution of any objections to the allowance, priority or classification of Claims or Interests;

2. Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan for periods ending on or before the Effective Date;

3. Resolve any matters, related to the assumption, assumption and assignment or rejection of any Executory Contract or Unexpired Lease to which any Debtor is a party or with respect to which any Debtor or Reorganized Debtor may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom, including any Cure Amount Claims;

4. Ensure that Distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

5. Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters and grant or deny any applications involving the Debtors that may be pending on the Effective Date or brought thereafter;

6. Enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents entered into or delivered in connection with the Plan, the Disclosure Statement or the Confirmation Order;

7. Resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan or any contract, instrument, release or other agreement or document that is entered into or delivered pursuant to the Plan or any Entity's rights arising from or obligations incurred in connection with the Plan or such documents;

8. Modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code; modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Disclosure Statement or the Confirmation Order; or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure

Statement, the Confirmation Order or any contract, instrument, release or other agreement or document entered into, delivered or created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan;

9. Issue injunctions, enforce the injunctions contained in the Plan and the Confirmation Order, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;

10. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason or in any respect modified, stayed, reversed, revoked or vacated or Distributions pursuant to the Plan are enjoined or stayed;

11. Determine such other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan, the Disclosure Statement or the Confirmation Order;

12. Determine matters concerning state, local and federal Taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code, including any Disputed Claims for Taxes;

13. Resolve any dispute regarding the ownership, value or governance of the Equity Interests or the enforcement of any agreement relating thereto;

14. Resolve any disputes relating to or arising out of the Fraudulent Transfer Liability Claims; and

15. Enter a final decree closing the Reorganization Cases.

To the extent that it is not legally permissible for the Bankruptcy Court to have exclusive jurisdiction over any of the foregoing matters, the Bankruptcy Court shall have nonexclusive jurisdiction over such matters to the extent legally permissible.

## **ARTICLE XII.**

### **MISCELLANEOUS PROVISIONS**

#### **XII.A. Dissolution of the Committee**

On the Effective Date, the Creditors' Committee shall dissolve and the members of such committee shall be released and discharged from all duties and obligations arising from or related to the Reorganization Cases. The Professionals retained by such committee and the members thereof shall not be entitled to assert any Fee Claim for any services rendered or expenses incurred after the Effective Date, except for services rendered and expenses incurred in connection with any applications for allowance of compensation and reimbursement of expenses pending on the Effective Date or Filed and served after the Effective Date pursuant to Section III.A.1.f.ii.A.

## **XII.B. Limitation of Liability**

1. The Debtors and Released Parties and their respective Representatives, employees, predecessors, successors, members and agents, acting in such capacity, shall neither have nor incur any liability to any Entity for any act taken or omitted to be taken in connection with, related to or arising out of the Reorganization Cases or the consideration, formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement or any transaction proposed in connection with the Reorganization Cases or any contract, instrument, release or other agreement or document created or entered into, or any other act taken or omitted to be taken, in connection therewith; *provided, however*, that the foregoing provisions of this Section XII.B.1 shall have no effect on: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability expressly provided under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan or (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct (including fraud); it being understood that prospective or forward-looking guidance or projections prepared or released by such parties shall be deemed not to constitute gross negligence or willful misconduct (including fraud).

2. Notwithstanding any other provision of this Plan, no holder of a Claim or Interest, no other party in interest, none of their respective Representatives agents, employees or affiliates, and no successors or assigns of the foregoing, shall have any right of action against the Released Parties or their respective Representatives, employees, predecessors, successors, members and agents, acting in such capacity, for any act or omission in connection with, relating to or arising out of the Reorganization Cases or the consideration, formulation, preparation, dissemination, implementation, Confirmation or consummation of the Plan, the Disclosure Statement or any transaction or document created or entered into, or any other act taken or omitted to be taken, in connection therewith, except for: (a) the liability of any Entity that would otherwise result from the failure to perform or pay any obligation or liability expressly provided under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan or (b) the liability of any Entity that would otherwise result from any such act or omission to the extent that such act or omission is determined in a Final Order to have constituted gross negligence or willful misconduct (including fraud); it being understood that prospective or forward-looking guidance or projections prepared or released by such parties shall be deemed not to constitute gross negligence or willful misconduct (including fraud).

## **XII.C. Administrative Consolidation**

1. The classification and manner of satisfying all Claims and Interests under the Plan take into consideration the rights of holders of Claims and Interests, whether arising under contract, law or equity, that a holder of a Claim or Interest may have against each of the Debtors. Holders of Claims or Interests against more than one Debtor are classified in consolidated classes of Claims against and Interests in all Debtors in Article II above for administrative convenience

with respect to voting and the making of distributions on account of Claims and Interests. Each such holder shall recover only once on account of the Claims against or Interests in the Debtors regardless of whether such holder has a Claim against or Interest in one Debtor or more than one Debtor. The Confirmation Order shall approve this administrative consolidation.

2. Such administrative consolidation shall not affect: (a) the legal and corporate structures of the Debtors; (b) pre- and post-Effective Date guarantees, liens and security interests that are required to be maintained (i) in connection with the Reinstated Secured Lender Claims or contracts or leases that were entered into during the Reorganization Case or Executory Contracts and Unexpired Leases that have been or will be assumed or (ii) pursuant to the Plan; (c) Interests between and among the Debtors; (d) distributions from any insurance policies or proceeds of such policies; or (e) the revesting of assets in the separate Reorganized Debtors. In addition, such administrative consolidation shall not constitute a waiver of the mutuality requirement for setoff under section 553 of the Bankruptcy Code.

3. This Plan serves as a motion seeking entry of an order consolidating the Estates for administrative purposes only, as set forth above. Unless an objection to such consolidation is made in writing by any creditor affected by the Plan, filed with the Bankruptcy Court and served on the Debtors on or before the Plan objection deadline as established by the Bankruptcy Court, the consolidation (which may be the Confirmation Order) may be entered by the Bankruptcy Court. In the event any such objections are timely filed, a hearing with respect thereto shall occur at or before the hearing on confirmation of the Plan.

#### **XII.D. Modification of the Plan and Plan Supplement**

Subject to the restrictions on modifications set forth in section 1127 of the Bankruptcy Code, the Debtors or the Reorganized Debtors, as applicable, reserve the right to alter, amend or modify the Plan and the Plan Supplement at any time before its substantial consummation.

#### **XII.E. Revocation of the Plan**

The Debtors reserve the right to revoke or withdraw the Plan as to any or all of the Debtors prior to the Confirmation Date. If the Debtors revoke or withdraw the Plan as to any or all of the Debtors, or if Confirmation as to any or all of the Debtors does not occur, then, with respect to such Debtors, the Plan shall be null and void in all respects, and nothing contained in the Plan shall: (1) constitute a waiver or release of any claims by or against, or any Interests in, such Debtors or (2) prejudice in any manner the rights of any Debtors or any other party.

#### **XII.F. Headings**

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

#### **XII.G. Successors and Assigns**

The rights, benefits and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Entity.

## **XII.H. Service of Documents**

Any pleading, notice or other document required by the Plan or Confirmation Order to be served on or delivered to the Debtors, the Reorganized Debtors, the Creditors' Committee, or the U.S. Trustee must be sent by overnight delivery service, facsimile transmission, courier service or messenger to:

### **XII.H.1. The Debtors and the Reorganized Debtors**

Harley J. Goldstein  
Matthew E. McClintock  
David A. Hall  
GOLDSTEIN & McCLINTOCK LLLP  
208 S. LaSalle Street, Suite 1750  
Chicago, Illinois 60604  
Facsimile: (312) 277-2305

### **XII.H.2. The Creditors' Committee**

Jeffrey D. Prol  
Timothy R. Wheeler  
LOWENSTEIN SANDLER PC  
65 Livingston Avenue  
Roseland, New Jersey 07068  
Facsimile: (973) 597-2400

### **XII.H.3. The U.S. Trustee**

Office of the United States Trustee  
219 S. Dearborn Street, Room 873  
Chicago, Illinois 60604  
Facsimile: (312) 886-5794

Dated: March 2, 2012

Respectfully submitted,

Qualteq, Inc. (d/b/a VCT New Jersey, Inc.) (for  
itself and on behalf of the Debtors)

By: /s/ Dan Scouler  
DAN SCOULER  
CHIEF RESTRUCTURING OFFICER

COUNSEL:

HARLEY J. GOLDSTEIN  
MATTHEW E. MCCLINTOCK  
DAVID A. HALL  
GOLDSTEIN & MCCLINTOCK LLLP  
208 S. LaSalle Street, Suite 1750  
Chicago, Illinois 60604  
Telephone: (312) 337-7700  
Facsimile: (312) 277-2305

ATTORNEYS FOR DEBTORS

**EXHIBIT A**

**(Exit Facility Term Sheet)**

February 27, 2012

**PERSONAL & CONFIDENTIAL**

Vmark, Inc. and each other Debtor (defined below)  
c/o FocalPoint Partners, LLC  
11150 Santa Monica Blvd., Suite 1550  
Los Angeles, CA 90025  
(T) (310) 405-7000  
(F) (310) 405-7077  
(E) [tmills@focalpointllc.com](mailto:tmills@focalpointllc.com)  
Attention: Mr. Thomas Mills  
Managing Director

Vmark  
\$38,000,000 Senior Secured Credit Facility  
Commitment Letter

Ladies and Gentlemen:

We are pleased to present this letter which, together with the terms set forth in the Summary of Principal Terms and Conditions attached hereto as Annex I (the “*Term Sheet*”), outlines the essential terms under which Bayside Vmark Funding, LLC and/or one or more of its affiliates (“*Bayside*”) will provide exit financing to allow Vmark, Inc. (together with all subsidiary and affiliated entities constituting debtors under the pending Chapter 11 case styled as Qualteq, Inc., d/b/a VCT New Jersey, Inc., et al. (jointly administered under Case No. 12-05861) (the “*Bankruptcy Case*”) before the United States Bankruptcy Court (the “*Bankruptcy Court*”) for the Northern District of Illinois, collectively, the “*Company*” or the “*Debtors*”) to emerge from the Bankruptcy Case pursuant to a plan of reorganization (the “*Plan*”) on terms satisfactory to Bayside in its sole discretion (the “*Senior Credit Facility*”, and together with the Bankruptcy Case, the Plan and the transactions contemplated to be consummated in connection therewith, the “*Transaction*”).

**A. Commitment**

Bayside is pleased to commit to provide 100% of the principal amount of the Senior Credit Facility described and defined in the Term Sheet, subject to the terms and conditions set forth in this letter and the Term Sheet (collectively, this “*Commitment Letter*”). Capitalized terms used in this letter but not defined herein shall have the meanings given to them in the Term Sheet.

**B. Alternative Financing**

The Company agrees that in the event it, or any of its subsidiaries or its or their advisors or representatives, receives any offer or proposal, whether oral or written, with respect to the arrangement, sale, solicitation, syndication or issuance of any credit facilities, equity or debt security (including any

renewals thereof), it will promptly inform (and, to the extent available, provide a copy to) Bayside of the terms thereof.

**C. Information Requirements**

The Company represents and warrants to Bayside that all information that has been or will be made available to Bayside by the Company or any of its representatives (or on your or their behalf) in connection with any of the Transactions (the “*Information*”) is or will be complete and correct in all material respects and does not or will not contain any untrue statement of a material fact or omit to state a material fact necessary in order to make the statements contained therein not misleading. The Company agrees to supplement the Information from time to time prior to the execution of the definitive documentation for the Senior Credit Facility (the “*Financing Documentation*”) so that the representation and warranty contained in this paragraph remains correct. In issuing the commitments and undertakings hereunder Bayside is relying on the accuracy of the Information without independent verification thereof.

**D. Conditions**

The undertakings and obligations of Bayside under this Commitment Letter are subject to the satisfaction of the conditions set forth in the Term Sheet under the heading “Conditions to Closing and Borrowing”.

**E. Fees; Indemnification; Priority of Bayside Claims/Obligations**

1. Fees. Subject to approval by the Bankruptcy Court, the Company agrees to pay, or to reimburse Bayside on demand for, all reasonable and documented costs and expenses incurred by Bayside (whether incurred before or after the date hereof) (i) in connection with the Senior Credit Facility, the preparation of the Financing Documentation and the other Transactions, including, without limitation, any such costs and expenses incurred in connection with due diligence and travel, courier, reproduction, printing and delivery and any reasonable and documented fees and disbursements of Bayside’s counsel, regardless of whether any of the Financing Documentation has been executed and regardless of whether this Commitment Letter shall have expired or been terminated and (ii) in connection with the enforcement of any of its rights and remedies hereunder. Additionally, subject to approval by the Bankruptcy Court, the Company agrees to pay all amounts set forth in the Term Sheet, in immediately available funds, as and when indicated therein, including, without limitation, the Commitment Fee (as defined in the Term Sheet). Upon the execution of this Commitment Letter by each Debtor and Bayside Vmark Funding, LLC, and subject to approval by the Bankruptcy Court, the Company will provide Bayside \$100,000 towards a deposit (the “*Deposit*”) to fund the foregoing expenses. Subject to approval by the Bankruptcy Court, the Company will replenish the Deposit in increments of \$50,000 upon reasonable notice by Bayside, which shall maintain receipts and provide upon request summaries of expenses incurred and expected to be incurred. This paragraph is intended to be binding on the parties upon execution of this Commitment Letter, and subject to approval of the Bankruptcy Court approval.

2. Indemnification. The Company agrees to indemnify and hold harmless Bayside, its respective affiliates and its and their respective directors, officers, employees, agents, representatives, legal counsel, and consultants (each, an “Indemnified Person”) against, and to reimburse each Indemnified Person upon its demand for, any losses, claims, damages, liabilities or other expenses (“Losses”) incurred by such Indemnified Person or asserted against such Indemnified Person by any third party or by the Company, or any of their subsidiaries, arising out of or in connection with this

Commitment Letter, the Senior Credit Facility, the use of the proceeds thereof, the other Transactions or any related transaction, or any claim, litigation, investigation or proceeding relating to any of the foregoing, and to reimburse each Indemnified Person upon demand for any legal or other expenses incurred in connection with investigating or defending any of the foregoing, whether or not such Indemnified Person is a party to any such proceeding; provided that the Company shall not be liable pursuant to this indemnity for any Losses to the extent that a court having competent jurisdiction shall have determined by a final judgment (not subject to further appeal) that such Loss resulted from the gross negligence or willful misconduct of such Indemnified Person. The Company shall not, without the prior written consent of any Indemnified Person, effect any settlement of any pending or threatened proceeding in respect of which such Indemnified Person is a party and indemnity has been sought hereunder by such Indemnified Person, unless such settlement includes an unconditional release of such Indemnified Person from all liability on claims that are the subject matter of such indemnity. No Indemnified Person shall be responsible or liable for any damages arising from the use by others of the Information or other materials obtained through electronic, telecommunications or other information transmission systems, or for any special, indirect, punitive, exemplary or consequential damages that may be alleged as a result of this Commitment Letter, the Senior Credit Facility, the use of proceeds, the other Transactions or any related transaction. No Indemnified Person shall be liable for any indirect or consequential damages in connection with its activities related to the Senior Credit Facility.

3. Payments to Bayside. The order entered by the Bankruptcy Court authorizing the Company to enter into this Commitment Letter, to pay the Deposit and the Commitment Fee and to honor its other obligations hereunder (the “*Commitment Approval Order*”) shall provide that (i) no amounts paid to Bayside or any other Indemnified Person for any obligations under this Commitment Letter will be subject to disgorgement for any reason, and such provision shall be binding on all parties, including, without limitation, any chapter 7 or chapter 11 trustee appointed in any of the Bankruptcy Cases, (ii) all obligations to Bayside and any other Indemnified Person under this Commitment Letter will be administrative expense claims and (iii) no administrative claims against the Company, including, without limitation, any claims of the kinds specified in or ordered pursuant to sections 105, 326, 328, 330, 331, 503, 506, 507, 546, 726, 1113, 1114 or any other provision of the bankruptcy code, shall have or shall be deemed to have priority over any obligations to Bayside or any other Indemnified Party under this Commitment Letter.

**F. Miscellaneous**

1. Termination. This Commitment Letter and all commitments and undertakings of Bayside hereunder shall expire at (i) 11:59 p.m., Chicago, Illinois time, on February 27, 2012, unless by such time a copy of this Commitment Letter executed by Bayside Vmark Funding, LLC shall have been filed with the Bankruptcy Court in connection with a motion seeking the Bankruptcy Court’s issuance of the Commitment Approval Order and (ii) thereafter, at 5:00 p.m., Miami, Florida time, on March 9, 2012, unless by such time the Bankruptcy Court shall have entered the Commitment Approval Order and the Debtors shall have executed and delivered to Bayside this Commitment Letter and paid to Bayside the Deposit. The Company agrees to use its best efforts to obtain the Commitment Approval Order. Thereafter, all commitments and obligations of Bayside under this Commitment Letter will terminate at 5:00 p.m., Miami, Florida time, on May 31, 2012, unless at or prior to such time the Financing Documentation related to the Senior Credit Facility shall have been executed and delivered and the conditions to funding provided therein shall have been satisfied. In addition to the foregoing, this Commitment Letter may be terminated at any time by mutual agreement, and all commitments and undertakings of Bayside hereunder may be terminated by Bayside if the Company fails to perform its

obligations under this Commitment Letter on a timely basis. Furthermore, by acceptance of this Commitment Letter, any other commitments outstanding with respect to the Senior Credit Facility by Bayside will be terminated.

2. No Third-Party Beneficiaries. This Commitment Letter is solely for the benefit of the Company, Bayside and the Indemnified Persons; no provision hereof shall be deemed to confer rights on any other person or entity.

3. No Assignment; Amendment. This Commitment Letter may not be assigned by the Company to any other person or entity, but all of the obligations of the Company hereunder shall be binding upon the successors and assigns of the Company. This Commitment Letter may be not be amended or modified except in writing executed by each of the parties hereto.

4. Use of Name and Information. The Company agrees that any references to Bayside or any of its affiliates made in connection with the Senior Credit Facility are subject to the prior approval of Bayside, which approval shall not be unreasonably withheld. Bayside shall be permitted to use information related to the Senior Credit Facility in connection with marketing, press releases or other transactional announcements or updates provided to investor or trade publications, including, but not limited to, the placement of “tombstone” advertisements in publications of its choice at its own expense.

5. Governing Law. This Commitment Letter will be governed by and construed in accordance with the laws of the state of New York. Each of the Company and Bayside irrevocably waives all right to trial by jury in any action, proceeding or counterclaim (whether based on contract, tort or otherwise) arising out of or related to this Commitment Letter or any of the Transactions or the actions of Bayside in the negotiation, performance or enforcement hereof. The Company irrevocably and unconditionally submits to the exclusive jurisdiction of the Bankruptcy Court for the purpose of any suit, action or proceeding arising out of or relating to this Commitment Letter, the Transactions and the other transactions contemplated hereby and thereby and irrevocably agrees that all claims in respect of any such suit, action or proceeding may be heard and determined in any such court. Each of the Company and Bayside irrevocably and unconditionally waives any objection that it may now or hereafter have to the laying of venue of any such suit, action or proceeding brought in any such court and any claim that any such suit, action or proceeding has been brought in an inconvenient forum. A final judgment in any such suit, action or proceeding brought in any such court may be enforced in any other courts to whose jurisdiction the Company or Bayside are or may be subject, by suit upon judgment. Service of any process, summons, notice or document on the Company may be made by registered mail addressed to the Company at the address appearing at the beginning of this Commitment Letter for any suit, action or proceeding brought in any such court pursuant to this Commitment Letter.

6. Survival. The obligations of the Company under the fees, cost and expense reimbursement, indemnification, confidentiality, and governing law provisions of this Commitment Letter shall survive the expiration or termination of this Commitment Letter.

7. Confidentiality. The Company will not disclose or permit disclosure of this Commitment Letter nor the contents of the foregoing to any person or entity, either directly or indirectly, orally or in writing, except (i) to the Company’s officers, directors, agents and legal counsel, in each case to the extent directly involved in the transactions contemplated hereby and on a confidential basis and (ii) as required by law (in which case the Company agrees to inform Bayside promptly thereof). Notwithstanding the foregoing, the Company may (i) disclose the existence of this Commitment Letter,

(ii) file a copy of this Commitment Letter executed by Bayside Vmark Funding, LLC with the Bankruptcy Court in connection with any motion filed seeking the Bankruptcy Court's issuance of the Commitment Approval Order and/or (iii) disclose a copy of this Commitment Letter after it has been filed with the Bankruptcy Court in accordance with clause (ii) above.

8. Bayside Diligence. The Company agrees and the Commitment Approval Order shall provide that all due diligence by Bayside or at the direction of Bayside in connection with the Senior Credit Facility and the other Transactions and all Financing Documentation, whether in draft or final form, shall be and remain the exclusive property of Bayside without the Company having any rights to such information until the Closing Date, regardless of whether the costs and expenses incurred in connection with such due diligence and Financing Documentation are reimbursed by the Company. The Company agrees reasonably and in good faith to defend against any attempt by any entity to seek approval for the disclosure of any such due diligence or Financing Documentation.

9. No fiduciary duty. The Company acknowledges and agrees that (i) the commitment to the Senior Credit Facility pursuant to this Commitment Letter is an arm's-length commercial transaction between the Company, on the one hand, and Bayside, on the other, and the Company is capable of evaluating and understanding, and does understand and accept, the terms, risks and conditions of the transactions contemplated by this Commitment Letter, (ii) in connection with the transactions contemplated hereby and the process leading to such transactions, Bayside is and has been acting solely as a principal and is not the agent or fiduciary of the Company or its affiliates, stockholders, creditors, employees or any other party, (iii) Bayside has not assumed an advisory responsibility or fiduciary duty in favor of the Company with respect to the transactions contemplated hereby or the process leading thereto (irrespective of whether Bayside has advised or is currently advising the Company on other matters) and Bayside has no obligation to the Company except those expressly set forth in this Commitment Letter, (iv) Bayside and its affiliates may be engaged in a broad range of transactions that involve interests that differ from those of the Company and its affiliates, and Bayside has no obligation to disclose any of such interests by virtue of any fiduciary or advisory relationship as a consequence of this Commitment Letter and (v) Bayside has not provided any legal, accounting, regulatory or tax advice with respect to any of the transactions contemplated hereby and the Company has consulted its own legal, accounting, regulatory and tax advisors to the extent it deemed appropriate. The Company waives and releases, to the fullest extent permitted by law, any claims that it may have against Bayside with respect to any breach or alleged breach of fiduciary duty as a consequence of this Commitment Letter.

10. Counterparts. This Commitment Letter may be executed in multiple counterparts, and by different parties hereto in any number of separate counterparts, all of which taken together shall constitute one original. Delivery of an executed counterpart of a signature page to this Commitment Letter by telecopier or by electronic transmission (in pdf form) shall be as effective as delivery of a manually executed counterpart hereof.

11. Entire Agreement. This Commitment Letter embodies the entire agreement and understanding among Bayside, the Company and their affiliates with respect to the Senior Credit Facility and the other Transactions, and supersedes all prior understandings and agreements among the parties relating to the subject matter hereof. However, the terms and conditions of the commitments of Bayside hereunder are not limited to those set forth herein or in the Term Sheet; those matters not covered or made clear herein or in the Term Sheet are subject to mutual agreement of the parties.



12. Patriot Act. Bayside hereby notifies the Company that pursuant to the requirements of the USA Patriot Act, Title III of Pub. L. 107-56 (signed into law October 26, 2001) (the "***Patriot Act***"), it and its affiliates are required to obtain, verify and record information that identifies the Company, which information includes the name, address, tax identification number and other information regarding the Company that will allow Bayside to identify the Company in accordance with the Patriot Act. This notice is given in accordance with the requirements of the Patriot Act and is effective for Bayside and its affiliates.

*(Remainder of this page intentionally left blank.)*

We look forward to working with you on this important transaction.

Very truly yours,

**BAYSIDE VMARK FUNDING, LLC**

By:   
Name: Casey Esil  
Title: Authorized Signatory

ACCEPTED AND AGREED

this \_\_\_\_ day of \_\_\_\_\_, 2012:

**VMARK, INC.**

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

Name:

Title:

**VELUCHAMY LLC**

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

Name:

Title:

**VERSATILE CARD TECHNOLOGY, INC.**

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

Name:

Title:

**UNIQUE MAILING SERVICES, INC.**

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

Name:

Title:

**UNIQUE EMBOSSING SERVICES, INC.**

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

Name:

Title:

**UNIQUE DATA SERVICES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**GLOBAL CARD SERVICES, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**FULFILLMENT XCELLENCE, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**CREATIVE INVESTMENTS,  
A GENERAL PARTNERSHIP**

By: \_\_\_\_\_  
Name:  
Title:

**CREATIVE AUTOMATION COMPANY**

By: \_\_\_\_\_  
Name:  
Title:

**AVADAMMA LLC**

By: \_\_\_\_\_  
Name:  
Title:

**AUTOMATED PRESORT, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**5300 KATRINE, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**5200 THATCHER, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**1400 CENTRE CIRCLE, LLC**

By: \_\_\_\_\_  
Name:  
Title:

**QUALTEQ, INC., d/b/a VCT NEW JERSEY, INC.**

By: \_\_\_\_\_  
Name:  
Title:

**ANAR REAL ESTATE**

By: \_\_\_\_\_  
Name:  
Title:

Annex I - Summary of Principal Terms and Conditions

**ANNEX I**  
**SUMMARY OF PRINCIPAL TERMS AND CONDITIONS OF**  
**\$38,000,000 SENIOR SECURED CREDIT FACILITY**

Capitalized terms not otherwise defined herein have the meaning set forth in the letter to which this Summary of Principal Terms and Conditions is attached.

- Borrowers:** Vmark, Inc. and certain other Debtors (collectively, the “*Borrowers*”), as determined by Bayside and the Company.
- Guarantors:** All Debtors, other than the Borrowers, and all other existing and future direct and indirect domestic, and to the extent no material adverse tax consequences would result, foreign subsidiaries of the Debtors, other than University Subscription Service, Inc. (collectively, the “*Guarantors*”, and together with the Borrowers, the “*Credit Parties*”).
- Lender:** Bayside Vmark Funding, LLC or an affiliate or designee thereof (“*Lender*”).
- Senior Credit Facility:** Senior credit facility in an aggregate principal amount of up to \$38,000,000 comprised of a term loan (the “*Term Loan*” or “*Senior Credit Facility*”) advanced in one drawing on the Closing Date (defined below).
- Uses:** Proceeds of the Term Loan shall be used on the date that the Senior Credit Facility closes (the “*Closing Date*”) to (i) satisfy obligations of and claims against the Debtors in conjunction with their emergence from bankruptcy, including, without limitation, payment of (a) pre-petition bank debt; (b) pre-petition unsecured claims, bankruptcy administrative expenses and transaction expenses; and (c) claims of fraudulent conveyance involving the equity owners of the Borrowers; and (ii) have not less than \$7,500,000 of cash on the balance sheet of the Borrowers (after accounting for all amounts necessary to satisfy all claims with administrative and priority status under sections 330, 503, 507 or any other provision of the bankruptcy code, all non-ordinary course working capital adjustments that may be required to reduce post-emergence working capital to a level consistent with historical practices and sufficient to meet the future needs of the business, all pre-petition payables not paid prior to the Closing Date and, to the extent not included in the foregoing, all transaction costs and expenses not paid prior to the Closing Date) to fund the future ordinary course working capital needs of the business.
- Maturity Date:** All amounts outstanding under the Term Loan shall be due and payable in full on fifth anniversary of the Closing Date (the “*Maturity Date*”).

**Pricing/Fees/Expenses:** As set forth in Addendum I attached hereto.

**Optional Prepayments:** Upon the termination, retirement, refinancing or other prepayment of any portion of the Term Loan (a "**Prepayment Event**") (i) on or prior to the first anniversary of the Closing Date (the "**Make Whole Period**"), the Borrowers shall pay a premium to the Lender in the amount of (a) 10% of the amount of such portion plus (b) the amount that causes the Lender's return on such portion to equal the full amount of interest that would otherwise have been payable in respect of such amount of the Term Loan if such amount had remained outstanding during the entire Make Whole Period, in each case as calculated by the Lender in its discretion, (ii) after the first anniversary of the Closing Date but on or prior to the second anniversary of the Closing Date, the Borrowers shall pay a premium to the Lender in the amount of 6% of the amount of such portion, (iii) after the second anniversary of the Closing Date but on or prior to the third anniversary of the Closing Date, the Borrowers shall pay a premium to the Lender in the amount of 4% of the amount of such portion and (iv) after the third anniversary of the Closing Date but on or prior to the fourth anniversary of the Closing Date, the Borrowers shall pay a premium to the Lender in the amount of 2% of the amount of such portion. If a Prepayment Event occurs after the fourth anniversary of the Closing Date, then no such premium shall be due. In addition, all prepayments shall be subject to reimbursement of the Lender's breakage and redeployment costs in the case of prepayments of LIBOR borrowings.

Notwithstanding the foregoing, the Borrowers may, subject to compliance with any negative covenants restricting the incurrence of additional indebtedness, raise additional third party capital at any time to support the growth objectives of the business without a Prepayment Event occurring if (i) the uses of such new capital exclude payment under the Term Loan and (ii) the Lender agrees in its sole discretion to any required amendments of the Financing Documentation (e.g., the creation of subordinated liens).

**Mandatory Prepayments:** The Borrowers shall be required to prepay the Term Loan from (i) 100% of the net cash proceeds from the sale or disposition of assets (other than sales of inventory in the ordinary course of business and other exceptions to be mutually agreed), insurance and condemnation proceeds and other extraordinary payments, (ii) 100% of net cash proceeds from the issuance of any debt by the Credit Parties or any of their subsidiaries (other than debt permitted to be issued under the terms of the Financing Documentation) and (iii) 100% of excess cash flow (to be defined, but in any event to be subject to minimum liquidity and working capital reserves required to maintain ordinary course operations of the Credit Parties) of the Credit Parties and their subsidiaries. Mandatory prepayments in connection clauses (i) and (ii) of the preceding sentence

shall be considered Prepayment Events, but mandatory prepayments in connection with clause (iii) of the preceding sentence shall not.

**Collateral:**

The Senior Credit Facility shall be secured by (i) a pledge of the maximum amount of the equity interests of each of Vmark, Inc., Veluchamy LLC, Unique Mailing Services, Inc., Creative Investments, a General Partnership and Avadama LLC permitted to be pledged by the Bankruptcy Court, but in any event, not less than the following percentages of the total equity interests issued and outstanding for such entities: Vmark, Inc., 51%; Veluchamy LLC, 25%; Unique Mailing Services, Inc., 86%; Creative Investments, a General Partnership, 20%; and Avadama LLC, 44%, (ii) a pledge of all of the equity interests of each other Borrower and Guarantor and (iii) subject to existing equipment liens and real property mortgages, in each case, approved by the Lender, a first priority security interest in and lien on all personal and owned real property of the Borrowers and Guarantors, including without limitation, all accounts, inventory, equipment, general intangibles, goods, documents, contracts, trademarks, patents, copyrights, intercompany obligations, stock and other equity interests (other than any stock in University Subscription Service, Inc.), securities and notes of such Borrowers and Guarantors (collectively, the "*Collateral*").

**Conditions to Closing and Borrowing:**

The closing of the Senior Credit Facility (and the funding thereunder) shall be subject to conditions customary for transactions of this type, including, without limitation, the following, each to be in form and substance acceptable to the investment committee of the Lender in its sole discretion:

1. Entry of a final order of the Bankruptcy Court confirming the Plan.
2. Satisfaction of the Lender with all other orders of the Bankruptcy Court confirming, approving, implementing or affecting the Plan and the Senior Credit Facility, or otherwise affecting the rights, remedies, and obligations of the Lender.
3. The Plan becoming effective and the Senior Credit Facility closing, in each case, on or before May 31, 2012.
4. Establishment, to the Lender's satisfaction, of perfected first priority security interests in the Collateral, subject to existing equipment liens and real property mortgages, in each case, approved by the Lender.
5. Negotiation, execution and delivery of (i) the Financing Documentation, (ii) subordination documentation (not otherwise included in the Financing Documentation) that provides for the subordination of payments and release of liens on any assumed Affiliate debt under the Plan and (iii) landlord waivers, bailee letters and deposit account control agreements, each in form and substance satisfactory to the Lender.

6. Satisfaction of the Lender with the terms of any debt assumed or purchased under the Plan and any related liens and documentation.
7. Establishment or maintenance of lockboxes, as the Lender may require.
8. Delivery of customary closing and corporate documents, certificates and legal opinions and such other documents, certificates and information as the Lender shall have requested, each in form and substance satisfactory to the Lender.
9. Delivery of documentation and information required by regulatory authorities under applicable “know your customer” and anti-money laundering laws.
10. Evidence of termination of liens and satisfaction and/or release of any claims against the Credit Parties and their assets not otherwise discharged by the Bankruptcy Case, in each case, to the satisfaction of the Lender.
11. Satisfaction of the Lender that any claims in connection with the chapter 7 bankruptcy case(s) of Pethinaidu Veluchamy and Parameswari Veluchamy that are not satisfied, released and/or discharged on or prior to the Closing Date will not adversely affect the Collateral, business, condition (financial or otherwise), operations, liabilities (contingent or otherwise), properties or prospects of the Credit Parties.
12. Delivery of all governmental and third party consents and approvals to the Senior Credit Facility and any related transactions (all of which shall be final, with no waiting period to expire or ongoing governmental inquiry or investigation).
13. Independent confirmation of the Crowe Horwath LLP quality of earnings report dated September 30, 2011 (the “*CH Report*”), in form and substance satisfactory to the Lender.
14. Receipt and satisfactory review by the Lender of the consolidated and consolidating financial statements (including balance sheets, income and cash flow statements prepared in conformity with GAAP) of the Credit Parties and their subsidiaries for the fiscal years ended 2009, 2010, and 2011, and the consolidated financial statements (including balance sheets, income and cash flow statements prepared in conformity with GAAP) of Credit Parties and their subsidiaries for the fiscal quarters ending on December 31, 2011 and March 31, 2012, financial projections and such other financial information as the Lender may request.
15. Delivery of certificate of insurance issued on behalf of insurers of the Credit Parties, describing in reasonable detail the types and amounts of insurance (property and liability) maintained by the Credit Parties, naming the Lender as additional insured on liability policies and lender loss payee endorsements for property and casualty policies.
16. Payment in full of all fees, expenses and other amounts payable under this Commitment Letter or otherwise related to the Senior Credit Facility.

17. Completion of satisfactory field audit of all accounts and inventory (including customer interviews), and completion of satisfactory appraisals of all equipment and all owned real property, in form and substance satisfactory to the Lender and completed by auditors and appraisers selected by the Lender.
18. Delivery of lien searches, lease agreements, employment agreements, agreements with Affiliates (defined below), other material agreements and such other diligence as the Lender may require, each in form and substance satisfactory to the Lender.
19. Delivery of independent environmental assessments, in form and substance, and conducted by an assessor, satisfactory to the Lender.
20. Completion, and the Company's cooperation in connection with, the Lender's, its legal counsel's and its other advisors' due diligence investigation and review, and the Lender's satisfaction in all material respects with the results thereof, including, without limitation, with respect to the Credit Parties' lease agreements, employment agreements, agreements with Affiliates and other material agreements.
21. Completion of customary background checks with respect to certain key officers, directors and/or equity owners of the Credit Parties and satisfaction of the Lender with the results thereof.
22. After accounting for all amounts necessary to satisfy all claims with administrative and priority status under Sections 330, 503, 507 or any other provision of the bankruptcy code, all non-ordinary course working capital adjustments that may be required to reduce post-emergence working capital to a level consistent with historical practices and sufficient to meet the future needs of the business, all pre-petition payables not paid prior to the Closing Date and, to the extent not included in the foregoing, all transaction costs and expenses not paid prior to the Closing Date, the Borrowers shall have \$7,500,000 of cash on their balance sheet available for the purpose of funding the future ordinary course working capital needs of the business.
23. EBITDA (calculated in a manner consistent with the calculation of "Adjusted EBITDA" in the CH Report) of the Credit Parties for the twelve months ending on March 31, 2012 shall be not less than \$14,000,000.
24. Accuracy of all representations and warranties that the Company makes to the Lender and/or its affiliates (including those in Section E of the letter to which this Term Sheet is attached and any contained in the Financing Documentation) and of all information that the Company furnishes to the Lender and/or its affiliates, and the absence of any information or other matter being disclosed after the date of this Commitment Letter that is inconsistent in a material and adverse manner with any information or other material disclosed to the Lender and/or its affiliates.

25. Compliance by the Company with the terms of this Commitment Letter.
26. Absence of (i) any default or event of default, (ii) a material adverse change (or an event that could be expected to result in a material adverse change) in the business, condition (financial or otherwise), operations, liabilities (contingent or otherwise), properties or prospects of the Credit Parties, as reflected in its consolidated financial statements as of September 30, 2011, or otherwise occurring since such date and (iii) absence, during the period from the date of this Commitment Letter to the funding of the Senior Credit Facility, of any disruption of, or adverse change in, financial, banking or capital markets conditions.

**Representations and Warranties:**

Customary for transactions of this type, including, without limitation, representations and warranties as to: due organization, good standing, power and authority; due authorization, execution, delivery and enforceability; governmental and third party consents and approvals; no violation of law, regulation, judgments, organizational documents or agreements, and no creation of liens; accuracy of financial statements and no material adverse change; no litigation; environmental matters; compliance with laws and material agreements; not an investment company or subject to regulation restricting the transactions; tax matters; margin regulations; use of proceeds; ERISA; ownership of assets; insurance; intellectual property; accuracy of disclosure; absence of labor disputes; identification of subsidiaries; solvency; Patriot Act and OFAC compliance.

**Covenants:**

Customary for transactions of this type (with customary qualifications and mutually agreeable exceptions to negative covenants), including, without limitation, the following:

(a) Reporting Covenants - Delivery of annual unqualified audited financial statements (audited by a nationally or regionally recognized independent public accounting firm acceptable to the Lender), budgets and forecasts; monthly unaudited financial statements; accountant's certificate (from a nationally or regionally recognized independent public accounting firm acceptable to the Lender) with annual financials; compliance certificates; customary notifications, including, without limitation, notice of any default.

(b) Affirmative Covenants - maintenance of existence, property, insurance and material intellectual property; compliance with laws; payment of taxes and other obligations; books and records; inspection rights; use of proceeds; margin regulations; covenant to hire a chief financial officer reasonably acceptable to the Lender within a timeframe to be mutually determined; covenant to guarantee obligations; landlord, mortgagee and bailee agreements and waivers; cash management

systems (including, without limitation, deposit account control agreements and, as requested, lockboxes); further assurances.

(c) Negative Covenants - Restrictions on indebtedness (including, without limitation, restrictions requiring debt with Affiliates to be unsecured, to provide for PIK interest only and to mature no sooner than 6 months after the Maturity Date); liens (other than permitted liens to be negotiated); mergers, consolidations and acquisitions; sale of assets; engaging in business other than current business and those reasonably related thereto; investments; dividends, redemptions and other payments on junior capital; Affiliate transactions; covenants limiting dividends or loans made from subsidiaries to the Credit Parties or on the ability of the Credit Parties or any subsidiary to grant liens; sale/leaseback transactions; covenants limiting direct or indirect cash dividends, distributions or other payments to Affiliates of the Credit Parties; speculative hedging; amendments to organizational documents and material agreements; change in fiscal year or accounting practices; operating leases.

**“Affiliate”** means, with respect to any Person, any other Person that, directly or indirectly, is in control of, is controlled by, or is under common control with such Person, or that is a director, officer, manager or partner of such Person, or that is related (or that, directly or indirectly, is controlled by a Person that is related) by blood, marriage or other legal arrangement to any director, officer, manager or partner of such Person. For purposes of this definition, “control” means, when used with respect to any Person, the possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of a Person, whether through the ability to exercise voting power, by contract or otherwise of such Person or the direct or indirect beneficial ownership of ten percent (10%) or more of the outstanding equity interests of such Person.

**“Person”** shall mean an individual, corporation, partnership, trust, joint stock company, limited liability company, unincorporated organization, other legal entity or joint venture or a government or any agency or political subdivision thereof, whether foreign or domestic.

(d) Financial Covenants - Maintenance of the following financial covenants (with levels and definitions to be determined): (i) maximum total leverage ratio (total debt/EBITDA) with step-downs to be determined; (ii) maximum senior leverage ratio (total senior debt/EBITDA) with step-downs to be determined; (iii) minimum interest coverage ratio (EBITDA/cash interest expense) with step-ups to be determined and (iv) maximum capital expenditures.

**Events of Default:**

Customary for transactions of this type (with customary notice and cure periods), including, without limitation, the following: payment default;

breach of representations in any material respect; breach of covenants; cross-default to material indebtedness; bankruptcy; ERISA; material judgments; change in control; termination or invalidity of guaranty or intercreditor agreement; and defaults under other loan documents.

**Participations and  
Assignments:**

Assignments of the Senior Credit Facility to other banks, financial institutions and funds will be permitted subject to terms and restrictions customary for transactions of this type.

**Indemnification:**

The Borrower will indemnify and hold harmless the Lender and its respective affiliates and their partners, directors, officers, employees, agents and advisors from and against all losses, claims, damages, liabilities and expenses arising out of or relating to the Senior Credit Facility, the other Transactions, the Borrowers' use of loan proceeds, including, without limitation, reasonable attorney's fees (including the allocated cost of internal counsel), expenses and settlement costs. This indemnification shall survive and continue for the benefit of all such persons and entities.

**Governing Law:**

State of New York.

**Counsel to the Lender:**

Paul Hastings LLP

**Miscellaneous:**

Each party shall waive its right to a trial by jury and submit to jurisdiction in New York. The Financing Documentation will contain customary increased cost, withholding tax, capital adequacy and yield protection provisions.

ADDENDUM I

PRICING, FEES AND EXPENSES

*Capitalized terms not otherwise defined herein have the meaning set forth in the Summary of Principal Terms and Conditions to which this Addendum is attached.*

**Interest Rates:** The interest rate per annum applicable to the Senior Credit Facility will be (i) 3-month LIBOR (defined below) *plus* (ii) 13.0% payable in cash *plus* (iii) 3.0% payable in-kind (the “**PIK Interest Portion**”). The PIK Interest Portion shall be added to the outstanding principal balance of the Term Loan for purposes of calculating future interest payments.

**LIBOR** means, for an interest period of 3 months, the rate per annum appearing on Reuters Screen LIBOR03 (or similar service, as determined by the Lender) as the London interbank offered rate for deposits in Dollars at approximately 11:00 a.m. (London time) two business days prior to the first day of such interest period. If for any reason such rate is not available, LIBOR shall be, for any such interest period, the rate per annum reasonably determined by the Lender as the rate of interest at which Dollar deposits in the approximate amount of the LIBOR loan comprising part of such borrowing would be offered to the Lender as of 11:00 a.m. (London, England time) two (2) Business Days prior to such date of determination. LIBOR shall be adjusted for applicable reserve requirements.

Interest for LIBOR loans shall be payable at the end of the selected interest period but no less frequently than quarterly.

**Default Interest:** If any event of default has occurred and is continuing, then the otherwise applicable interest rate shall be increased by 4.0% per annum. Default interest shall be payable on demand.

**Commitment Fee:** The Borrowers shall pay to the Lender a fee equal to 1.0% of the amount of the Term Loan (the “**Commitment Fee**”), 100% of which shall be (i) earned on the date of the entry of the Commitment Approval Order and (ii) payable in full within one (1) business day after such date. All payments in respect of the Commitment Fee shall be non-refundable and shall be credited toward the Closing Fee (defined below) on the Closing Date.

**Closing Fee:** The Borrowers shall pay to the Lender on the Closing Date, a closing fee equal to 2.0% of the amount of the Term Loan (the “**Closing Fee**”).

**Collateral Management Fee:** The Borrowers shall pay to the Lender a collateral management fee in the amount of \$200,000 per year, which fee shall be payable in equal quarterly installments, commencing on the last day of the calendar quarter immediately following the Closing Date.

**Calculation of  
Interest and Fees:**

All calculations of interest and fees shall be made on the basis of actual number of days elapsed in a 360-day year.

**Cost and Yield  
Protection:**

Customary for transactions and facilities of this type, including, without limitation, in respect of payment of withholding tax “gross-up” amounts; suspension of LIBOR pricing option due to illegality or inability to ascertain funding costs; payment of reserve requirements, increased funding costs and capital adequacy compensation; and payment of breakage and redeployment costs in connection with fundings and repayments of LIBOR advances.

**Expenses:**

The Borrower will pay all reasonable and documented costs and expenses of the Lender associated with the preparation, due diligence, appraisals, field examinations, audits, third party consultants, administration and closing of the Financing Documentation, including, without limitation, the reasonable and documented fees and expenses of counsel to the Lender, regardless of whether or not this Commitment Letter has been terminated or expired or the Senior Credit Facility has closed. The Borrower will also pay the expenses of the Lender in connection with the enforcement of any of the Financing Documentation.