

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

Rustick, LLC,

Debtor.

) **Bankruptcy No. 10-10902 (TPA)**
)
) **Chapter 11**
)
) **The Honorable Thomas P. Agresti**
) **Related to Document Nos. ____**
)
)
)

DEBTOR'S CHAPTER 11 PLAN OF REORGANIZATION

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INTRODUCTION

This Chapter 11 Plan (as further amended or modified hereafter in accordance with its terms, the “Plan”) is proposed by Rustick, LLC (the “Debtor”). Reference is made to the Disclosure Statement accompanying this Plan for a discussion of the Debtor’s history, business, results of operations, historical financial information, properties, projections for future operations and risk factors, a summary and analysis of the Plan, and certain related matters.

The Plan generally provides for the sale of all of the Debtor’s assets and the distribution of the net proceeds therefrom to holders of Claims in accordance with the relative priorities set forth in the Bankruptcy Code.

ARTICLE I.

DEFINITIONS, RULES OF INTERPRETATION, COMPUTATION OF TIME AND EXHIBITS

1.1 **Scope of Definitions.** For purposes of this Plan, except as expressly provided otherwise or unless the context requires otherwise, all capitalized terms not otherwise defined shall have the meanings set forth in section 1.2 of this Plan. Any term used in this Plan that is not defined herein, but is defined in the Bankruptcy Code or in the Bankruptcy Rules, shall have the meaning set forth in the Bankruptcy Code or the Bankruptcy Rules.

1.2 **Definitions.**

1.2.1 “**Administrative Claim**” means a Claim for payment of an administrative expense of a kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to section 507(a)(2) of the Bankruptcy Code, including, but not limited to, the actual, necessary costs and expenses, incurred on or after the Petition Date, of preserving the Estate and operating the business of the Debtor, including wages, salaries, or commissions for services rendered after the Petition date, Professional Claims, all fees and charges assessed against the Estate under section 1930 of chapter 123 of title 28, United States Code, all Claims that are entitled to be treated as Administrative Claims pursuant to a Final Order of the Bankruptcy Court under section 546(c) of the Bankruptcy Code, provided, however, that this term shall not include any portion of the DIP Facility Claim or the Pre-petition Bond Claim, whether or not all or part of the DIP Facility Claim or the Pre-petition Bond Claim are entitled to priority under sections 503(b), 507, 363, or 364 of the Bankruptcy Code, or otherwise.

1.2.2 “**Administrative Claims Bar Date**” means the deadline for filing proofs of or requests for payment of Administrative Claims incurred through the Confirmation Date, which shall be 25 days after the Confirmation Date, unless otherwise established by an order of the Bankruptcy Court.

1.2.3 “**Affiliate**” has the meaning set forth in section 101(2) of the Bankruptcy Code.

1.2.4 **“Allowed”**

(a) means with respect to a Claim: (i) a Claim, proof of which is timely Filed by the applicable Bar Date (or that pursuant to the Bankruptcy Code or a Final Order is not or shall not be required to be Filed); (ii) any Claim for which no Proof of Claim has been timely Filed and that is listed in the Schedules as of the Effective Date, and is not listed as disputed, contingent, or unliquidated; or (iii) any Claim allowed pursuant to this Plan or a Final Order; provided, however, that with respect to any Claim described in clauses (i) or (ii) above, such Claim shall be considered Allowed only if and to the extent that no objection thereto has been interposed before the later of (y) the Claim Objection Deadline or (z) any other applicable deadline fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court.

(b) means with respect to an Interest: an Interest in the Debtor which has been or hereafter is listed by the Debtor in its books and records as liquidated in an amount and not disputed or contingent; provided, however, that proofs of Interest need not be Filed in the Bankruptcy Court with respect to any Interests; and provided further, however, that the Debtor, in its discretion, may bring an objection or motion with respect to a Disputed Interest before the Bankruptcy Court for resolution.

1.2.5 **“Allowed Amount”** means, with respect to an Allowed Claim, the amount of such Claim that is Allowed.

1.2.6 **“Allowed Claim”** means a Claim, or any portion thereof, that is Allowed. Except as otherwise specified in this Plan or any Final Order, the amount of an Allowed Claim shall not include interest on such Claim from and after the Petition Date.

1.2.7 **“Allowed Interest”** means an Interest in the Debtor that is Allowed.

1.2.8 **“Asset Purchase Agreement”** shall mean the Asset Purchase Agreement which provides for the sale of certain or substantially all of the Debtor’s assets subsequently determined by the Debtor, in consultation with the Secured Lenders, pursuant to the Sale and Bid Procedures to be the highest or otherwise best offer for such assets and approved by the Court.

1.2.9 **“Auction”** means the auction for the sale of the Debtor’s assets to be held in accordance with this Plan and the Sale and Bid Procedures.

1.2.10 **“Avoidance Actions”** means any an all Causes of Action or defenses which a trustee, debtor in possession, or the Estate may assert under sections 502, 510, 541, 542, 543, 544, 545, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code (other than those which are released or dismissed as part of and pursuant to the Plan or a Final Order) or under other similar or related state or federal statutes and common law, including fraudulent conveyance laws.

1.2.11 **“Ballot”** means the form that is distributed to each Holders of a Claim or Interest that is included in Classes that are Impaired under this Plan and entitled to vote under the terms of this Plan, on which is to be indicated acceptance or rejection of the Plan.

1.2.12 “**Bankruptcy Code**” means the Bankruptcy Reform Act of 1978, as amended and codified in title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, as in effect on the Petition Date.

1.2.13 “**Bankruptcy Court**” means the United States Bankruptcy Court for the Western District of Pennsylvania having jurisdiction of and over the Chapter 11 Case, or, if such court ceases to exercise jurisdiction over these proceedings, the court or adjunct thereof that exercises jurisdiction over the Chapter 11 Case.

1.2.14 “**Bankruptcy Rules**” means (a) the Federal Rules of Bankruptcy Procedure and the Official Bankruptcy Forms, as amended and promulgated under section 2075 of Title 28 of the United States Code; (b) the Federal Rules of Civil Procedure, as amended and promulgated under section 2072 of title 28 of the United States Code; (c) any Local Rules of the Bankruptcy Court, as applicable to the Chapter 11 Case or proceedings therein; and (d) any standing orders governing practice and procedure issued by the Bankruptcy Court, each as in effect on the Petition Date, together with all amendments and modifications thereto that were subsequently made applicable to the Chapter 11 Case or proceedings therein, as the case may be.

1.2.15 “**Bar Date**” means the applicable bar date by which a proof of Claim must be, or must have been, Filed, as established by an order of the Bankruptcy Court.

1.2.16 “**Business Day**” means any day which is not a Saturday, a Sunday, a “legal holiday” as defined in Bankruptcy Rule 9006(a), or a day on which banking institutions in the State of Pennsylvania are authorized or obligated by law, executive order or governmental decree to be closed.

1.2.17 “**Cash**” means legal tender of the United States of America and equivalents thereof.

1.2.18 “**Causes of Action**” means any and all actions, proceedings, causes of action, suits, accounts, demands, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment, and claims, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, non-contingent, matured, unmatured, disputed, undisputed, secured, or unsecured, and whether asserted or assertable directly or derivatively in law, equity, or otherwise, including Avoidance Actions, to the extent such Cause of Action is held by the Debtor.

1.2.19 “**Chapter 11 Case**” means the case under chapter 11 of the Bankruptcy Code commenced by the Debtor in the Bankruptcy Court on the Petition Date.

1.2.20 “**Claim**” has the meaning ascribed to such term in section 101(5) of the Bankruptcy Code.

1.2.21 “**Claims Objection Deadline**” means the applicable date by which an objection to a Claim must be Filed, as established by an order of the Bankruptcy Court.

1.2.22 “**Class**” means each class, subclass or category of Holders of Claims or Interests as set forth in Article III of the Plan.

1.2.23 “**Confirmation**” or “**Confirmed**” means the entry of a Confirmation Order on the docket of the Chapter 11 Case.

1.2.24 “**Confirmation Date**” means the date of entry of the Confirmation Order.

1.2.25 “**Confirmation Hearing**” means the hearing before the Bankruptcy Court held under section 1128 of the Bankruptcy Code, to consider Confirmation of this Plan and related matters, as such hearing may be adjourned or continued from time to time.

1.2.26 “**Confirmation Order**” means the order entered by the Bankruptcy Court confirming this Plan under section 1129 of the Bankruptcy Code.

1.2.27 “**Consummation**” means the occurrence of the Effective Date.

1.2.28 “**Creditor**” means any creditor of the Debtor, as defined in section 101(10) of the Bankruptcy Code.

1.2.29 “**Creditors’ Committee**” means the official committee of unsecured creditors, if appointed, pursuant to section 1102(a) of the Bankruptcy Code in the Chapter 11 Case.

1.2.30 “**Debtor**” means Rustick, LLC.

1.2.31 “**DIP Credit Agreement**” means that certain Senior Secured Superpriority Debtor-in-Possession Credit Agreement dated as of May __, 2010 by and among the Debtor and the DIP Lender, which was executed by the Debtor in connection with the DIP Facility, as amended, supplemented, or otherwise modified from time to time, and all documents executed in relation thereto or in connection therewith.

1.2.32 “**DIP Facility**” means the debtor in possession secured financing facility provided to the Debtor by the DIP Lender pursuant to the DIP Credit Agreement, as authorized by the Bankruptcy Court pursuant to the DIP Financing Order.

1.2.33 “**DIP Facility Claim**” means any Claim of the DIP Lender arising under or pursuant to the DIP Facility, including, without limitation, principal and interest thereon, plus all fees and expenses (including professional fees and expenses) payable by the Debtor thereunder.

1.2.34 “**DIP Financing Order**” means the interim or Final Order, in effect from time-to-time, entered by the Bankruptcy Court authorizing the Debtor to enter into the DIP Facility pursuant to section 364 of the Bankruptcy Code, and any and all orders entered by the Bankruptcy Court authorizing and approving the extensions, amendments, supplements or modifications to the DIP Financing Order or the DIP Credit Agreement and as to all of the above, all exhibits and schedules thereto or referenced therein.

1.2.35 “**DIP Lender**” means Merrill Lynch Portfolio Management, Inc.

1.2.36 “**Disallowed Claim**” means (a) a Claim, or any portion thereof, that has been disallowed by a Final Order or a settlement, (b) a Claim or any portion thereof that is Scheduled at zero or as contingent, disputed, or unliquidated and as to which a Bar Date has been established but no Proof of Claim has been timely Filed or deemed timely Filed with the Bankruptcy Court pursuant to any Final Order of the Bankruptcy Court, or (c) a Claim or any portion thereof that is not Scheduled and as to which a Bar Date has been established but no Proof of Claim has been timely Filed or deemed timely Filed with the Bankruptcy Court pursuant to any Final Order of the Bankruptcy Court.

1.2.37 “**Disallowed Interest**” means an Interest or any portion thereof that has been disallowed by a Final Order, a settlement, or otherwise.

1.2.38 “**Disclosure Statement**” means the written disclosure statement (including all schedules and exhibits thereto or referenced therein) that relates to this Plan, as such disclosure statement may be amended, modified, or supplemented from time to time, all as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017.

1.2.39 “**Disputed Claim**” or “**Disputed Interest**” means a Claim or any portion thereof, or an Interest or any portion thereof, that is neither an Allowed Claim nor a Disallowed Claim, nor an Allowed Interest nor a Disallowed Interest, as the case may be.

1.2.40 “**Effective Date**” means the Business Day on which all conditions to the Consummation of the Plan set forth in Article IX of this Plan have been either satisfied or waived as provided in section 9.3 of this Plan.

1.2.41 “**Entity**” has the meaning set forth at section 101(15) of the Bankruptcy Code.

1.2.42 “**ERISA**” means the Employee Retirement Income Security Act of 1974, as amended from time to time, and the regulations promulgated and rules issued thereunder.

1.2.43 “**Estate**” means the bankruptcy estate of the Debtor created pursuant to section 541 of the Bankruptcy Code upon commencement of the Chapter 11 Case.

1.2.44 “**Exculpated Party**” means (a) directors, officers and employees of the Debtor as of the Petition Date but prior to the Effective Date, (b) the DIP Lender, (c) the Pre-petition Bondholders, (c) the Indenture Trustee, (d) the Plan Administrator, and (e) with respect to each of the above-named Persons, such Person’s Affiliates, advisors, principals, employees, officers, directors, managers, members, representatives, financial advisors, attorneys, accountants, investment bankers, consultants, agents, and other representatives and professionals.

1.2.45 “**Evergreen**” means Evergreen National Indemnity Company.

1.2.46 “**File**” means to file with the Bankruptcy Court in the Chapter 11 Case and serve consistent with the Local Rules and the Bankruptcy Rules.

1.2.47 “**Final Decree**” means a decree contemplated under Bankruptcy Rule 3022 entered in this Chapter 11 Case.

1.2.48 “**Final Order**” means an order or judgment, the operation or effect of which has not been reversed, stayed, modified, or amended, and as to which order or judgment (or any reversal, stay, modification, or amendment thereof) (a) the time to appeal, seek certiorari, or request reargument or further review or rehearing has expired and no appeal, petition for certiorari, or request for reargument or further review or rehearing has been timely Filed, or (b) any appeal that has been or may be taken or any petition for certiorari or request for reargument or further review or rehearing that has been or may be Filed has been resolved by the highest court to which the order or judgment was appealed, from which certiorari was sought, or to which the request was made, and no further appeal or petition for certiorari or request for reargument or further review or rehearing has been or can be taken or granted.

1.2.49 “**General Unsecured Claim**” means any Claim, including the Pre-petition Bond Deficiency Claim, other than a Secured Claim, Administrative Claim, Priority Tax Claim, and Other Priority Claim.

1.2.50 “**Governmental Unit**” has the meaning set forth at section 101(27) of the Bankruptcy Code.

1.2.51 “**Holder**” means a Person or Entity holding a Claim, Interest, or Lien, as applicable.

1.2.52 “**Impaired**” refers to any Claim or Interest that is impaired within the meaning of section 1124 of the Bankruptcy Code.

1.2.53 “**Indenture**” means the Trust Indenture dated as of August 15, 2005 between the Pennsylvania Economic Development Financing Authority and the Indenture Trustee.

1.2.54 “**Indenture Trustee**” means The Bank of New York Trust Company, N.A., as successor to J.P. Morgan Trust Company, National Association, as indenture trustee, or any successor appointed under the Indenture.

1.2.55 “**Insider**” has the meaning set forth at section 101(31) of the Bankruptcy Code.

1.2.56 “**Insider Claims**” means any Claim of an Insider against the Debtor, other than any Claim of an Insider that is a Claim for indemnification under the Debtor’s organizational documents, employment agreements, internal policies or otherwise.

1.2.57 “**Interest**” means any and all equity interests, ownership interests or shares in the Debtor issued by the Debtors prior to the Petition Date (including, without limitation, all capital stock, stock certificates, common stock, preferred stock, partnership interests, membership and other interests in a limited liability company, rights, options, warrants, contingent warrants, convertible or exchangeable securities, investments securities, subscriptions or other agreements and contractual rights to acquire or obtain such an interest or share in the

Debtor, partnership interests in the Debtor's stock appreciation rights, conversion rights, repurchase rights, redemption rights, dividend rights, preemptive rights and liquidation preferences, puts, calls or commitments of any character whatsoever relating to any such equity, ownership interests or shares of capital stock of the Debtor or obligating the Debtor to issue, transfer or sell any shares of capital stock) whether or not certificated, transferable, voting or denominated "stock" or similar security, and any Claim or Cause of Action related to or arising from any of the foregoing.

1.2.58 "**Lien**" has the meaning set forth at section 101(37) of the Bankruptcy Code.

1.2.59 "**Local Rules**" means the local rules of the Bankruptcy Court.

1.2.60 "**McKean County Claim**" means any Claim of McKean County.

1.2.61 "**Other Priority Claim**" means any Claim, other than an Administrative Claim or a Priority Tax Claim, entitled to priority in right of payment under section 507() of the Bankruptcy Code, but only to the extent entitled to such priority.

1.2.62 "**Other Secured Claim**" means any Secured Claim, other than: (a) the DIP Facility Claim or (b) the Pre-petition Bond Secured Claims.

1.2.63 "**Pennsylvania Department of Environmental Protection Claim**" means any Claim of the Pennsylvania Department of Environmental Protection.

1.2.64 "**Person**" has the meaning set forth at section 101(41) of the Bankruptcy Code.

1.2.65 "**Petition Date**" means May 13, 2010, the date the Debtor Filed its petition for reorganization relief in the Bankruptcy Court commencing the Chapter 11 Case.

1.2.66 "**Plan**" means this plan of reorganization, including, without limitation, any and all exhibits, supplements, appendices, annexes, and schedules hereto, either in its present form or as the same may be altered, amended, supplemented or modified from time to time in accordance with the Bankruptcy Code and Bankruptcy Rules.

1.2.67 "**Plan Administrator**" means the person or entity referred to in Section 6.4 of the Plan who shall serve as representative of the Debtor and its estate commencing immediately after the Effective Date for purposes of administering and consummating the Plan, or any successor thereto.

1.2.68 "**Plan Cash**" means all of the Debtors' cash on hand as of the Effective Date, including such cash proceeds from the closing of a Sale under the Asset Purchase Agreement, prior to payment of claims and satisfaction of liens.

1.2.69 "**Plan Proponent**" means the Debtor.

1.2.70 "**Pre-petition Bondholders**" means the Holders of the Pre-petition Bonds.

1.2.71 “**Pre-petition Bonds**” means the bonds issued by Pennsylvania Economic Development Financing Authority in August 2005, pursuant to the Indenture.

1.2.72 “**Pre-petition Bond Secured Claim**” means the Claims of the Pre-petition Bondholders arising under or pursuant to the Pre-petition Bonds to the extent of the value of the collateral securing such Claim.

1.2.73 “**Pre-petition Bond Deficiency Claim**” means the Claims of the Pre-petition Bondholders arising under or pursuant to the Pre-petition Bonds to the extent the value of the collateral securing the Pre-petition Bond Secured Claim is insufficient to pay such Claim in full, which Pre-petition Bond Deficiency Claim shall be classified as a General Unsecured Claim.

1.2.74 “**Priority Tax Claim**” means any Claim entitled to priority pursuant to section 507(a)(8) of the Bankruptcy Code.

1.2.75 “**Proof of Claim**” means a proof of Claim Filed against the Debtor in the Chapter 11 Case.

1.2.76 “**Pro Rata Share**” means, with respect to any Claim, a proportionate share, so that the ratio of the consideration distributed on account of an Allowed Claim in a Class to the consideration distributed on account of all Allowed Claims in that Class is the same as the ratio such Claim bears to the total amount of all Allowed Claims in that Class.

1.2.77 “**Professional**” means any professional employed in this Chapter 11 Case pursuant to sections 327 or 1103 of the Bankruptcy Code or any Professional entitled to compensation pursuant to sections 327, 328, 330, 331, 503(b)(2) or (4), or 1103 of the Bankruptcy Code.

1.2.78 “**Professional Fee Claim**” means a claim for compensation and/or reimbursement of expenses pursuant to sections 327, 328, 330, 331 or 503(b) of the Bankruptcy Code relating to services incurred on and after the Petition Date and prior to and including the Effective Date in connection with an application made to the Bankruptcy Court by Professionals in the Chapter 11 Case.

1.2.79 “**Professional Fee Order**” means the order entered by the Bankruptcy Court addressing the payment of Professionals in this Case.

1.2.80 “**Property**” means all assets or property of the Debtor’s Estate of any nature whatsoever, real or personal, tangible or intangible, including contract rights, accounts and Causes of Action, previously or now owned by the Debtor, or acquired by the Debtor’s Estate, as defined in section 541 of the Bankruptcy Code.

1.2.81 “**Purchaser**” means the purchaser under the Asset Purchase Agreement as approved by the Bankruptcy Court.

1.2.82 “**Real Estate Tax Claim**” means any Claim for real estate taxes relating to the Debtor’s real property.

1.2.83 “**Reinstated**” means (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim entitles the Holder of such Claim so as to leave such Claim Unimpaired or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of a Claim to demand or receive accelerated payment of such Claim after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) expressly does not require to be cured; (ii) reinstating the maturity (to the extent such maturity has not otherwise accrued by the passage of time) of such Claim as such maturity existed before such default; (iii) compensating the Holder of such Claim 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 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) of the Bankruptcy Code, compensating the Holder of such Claim (other than the Debtor or an Insider, as defined in section 101(31) of the Bankruptcy Code) for any actual or pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable, or contractual rights to which such Claim entitles the Holder.

1.2.84 “**Rejection Damages Claim**” means any Claim on account of the rejection of an executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code.

1.2.85 “**Released Parties**” means, collectively, (a) the DIP Lender, (b) the Pre-petition Bondholders, (c) the Indenture Trustee, (d) the Purchaser, (e) all Professionals, and (f) with respect to each of the above-named Persons, such Person's Affiliates, advisors, principals, employees, officers, directors, representatives, financial advisors, attorneys, accountants, investment bankers, consultants, agents, and other representatives and professionals.

1.2.86 “**Sale**” means the sale of certain or substantially all of the Debtor’s assets under or in connection with the Plan and the Asset Purchase Agreement.

1.2.87 “**Sale and Bid Procedures**” means the sale, bid and auction procedures as will be set forth in the Sale and Bid Procedures Motion, and as approved by the Bankruptcy Court (as such Sale and Bid Procedures may be modified).

1.2.88 “**Sale and Bid Procedures Motion**” means the motion to be filed by the Debtors seeking entry of an order approving sale, bid and auction procedures, scheduling an auction, approving assumption and assignment procedures, approving form of notice and granting related relief.

1.2.89 “**Sale and Bid Procedures Order**” means the order entered by the Bankruptcy Court approving the Sale and Bid Procedures.

1.2.90 “**Sale Documents**” means the Asset Purchase Agreement, the Schedule of Assumed Contracts, and any schedules, exhibits or other documents attached thereto or contemplated thereby, in each case as amended from time to time in accordance with their terms.

1.2.91 “**Schedule of Assumed Contracts**” means the schedule listing certain executory contracts and unexpired leases to be assumed by the Debtor and assigned to the

Purchaser under or in connection with the Asset Purchase Agreement, which schedule shall be set forth in or as an attachment or exhibit to the Asset Purchase Agreement.

1.2.92 “**Schedules**” means the schedules of assets and liabilities and statements of financial affairs Filed by the Debtor in the Chapter 11 Case, as required by section 521 of the Bankruptcy Code, as the same may have been or may be amended, modified or supplemented.

1.2.93 “**Secured Claim**” means the aggregate amount of the Claim secured by a security interest in or a Lien on property in which a Debtor's Estate has an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value, as of the Effective Date or such other date as is established by the Bankruptcy Court, of such 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 by a Final Order of the Bankruptcy Court pursuant to section 506(a) of the Bankruptcy Code or, in the case of setoff, pursuant to section 553 of the Bankruptcy Code, or as otherwise agreed upon in writing by the Debtors and the Holder of such Claim.

1.2.94 “**Secured Lenders**” means, collectively, the DIP Lender and the Pre-petition Bondholders.

1.2.95 “**Securities Act**” means the Securities Act of 1933, as amended.

1.2.96 “**Tax**” means any tax, charge, fee, levy, impost or other assessment by any federal, state, local or foreign governmental authority, including, without limitation, income, excise, property, sales, transfer, employment, payroll, franchise, profits, license, use, ad valorem, estimated, severance, stamp, occupation and withholding tax, together with any interest, penalties, fines or additions attributable to, imposed on, or collected by any such federal, state, local or foreign governmental authority.

1.2.97 “**Unimpaired**” means, with respect to a Claim, any Claim that is not Impaired within the meaning of section 1124 of the Bankruptcy Code.

1.2.98 “**United States Trustee**” means the United States Trustee appointed under section 581(a)(3) of title 28 of the United States Code to serve in the Western District of Pennsylvania.

1.3 **Rules of Interpretation.** For purposes of this Plan, unless otherwise provided herein:

1.3.1 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.

1.3.2 Each pronoun stated in the masculine, feminine, or neuter includes the masculine, feminine, and neuter.

1.3.3 Any reference in this Plan to an existing document or schedule Filed or to be Filed means such document or schedule, as it may have been or may be amended, modified, or supplemented.

1.3.4 Any reference to a Person as a Holder of a Claim or Interest includes that Person's successors and assigns.

1.3.5 All references in this Plan to sections, Articles, and Exhibits are references to sections, Articles, and Exhibits of or to this Plan.

1.3.6 The words "herein," "hereunder," and "hereto" refer to this Plan in its entirety rather than to a particular portion of this Plan.

1.3.7 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 this Plan.

1.3.8 Subject to the provisions of any contract, certificates of incorporation, by-laws, instrument, release, or other agreement or document entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules.

1.3.9 The rules of construction set forth in section 102 of the Bankruptcy Code shall apply.

1.4 **Computation of Time.** In computing any period of time prescribed or allowed by this Plan, unless otherwise expressly provided, the provisions of Bankruptcy Rule 9006(a) shall apply.

1.5 **References to Monetary Figures.** All references in this Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

1.6 **Exhibits.** All Exhibits to the Plan are incorporated into and are a part of the Plan as if set forth in full herein, regardless of when Filed. The Exhibits are an integral part of this Plan, and entry of the Confirmation Order by the Bankruptcy Court shall constitute an approval of the Exhibits. To the extent any Exhibit is inconsistent with the terms of the Plan and unless otherwise provided for in the Confirmation Order, the terms of the Exhibit shall control as to the transactions contemplated thereby.

ARTICLE II.

ADMINISTRATIVE EXPENSES

2.1 **Administrative Expenses.** Subject to the provisions of Article VII of this Plan, on or as soon as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Administrative Claim becomes Allowed, or (iii) a date agreed to in writing by the Debtor or the Purchaser, as the case may be, and the Holder of such Administrative Claim, a Holder of an Allowed Administrative Claim shall receive, in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Administrative Claim, Cash equal to the unpaid portion of such Allowed Administrative Claim or such other less favorable treatment that the Debtor and the Holder of such Allowed Administrative Claim shall have agreed upon in writing (with the Consent of the Secured Lenders); provided, however, that Administrative

Claims incurred by the Debtor in the ordinary course of business during the Chapter 11 Case or arising under contracts assumed during the Chapter 11 Case prior to, on or as of the Effective Date shall be deemed Allowed Administrative Claims and paid by the Debtor in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto. Any portion of any Allowed Real Estate Tax Claim, McKean County Claim, and Pennsylvania Department of Environmental Protection Claim, to the extent such Claims or any portion thereof are entitled to administrative expense priority under the Bankruptcy Code, shall be paid in accordance with this Section 2.1.

2.2 **DIP Facility Claims.** On or as soon as reasonably practicable on the Effective Date, each Holder of a DIP Facility Claim, which Claim is deemed Allowed pursuant to the DIP Financing Order and this Plan, shall receive, in full satisfaction of such Claim, Cash in an amount equal to such Allowed DIP Facility Claim or such other treatment as otherwise agreed to in writing between the Debtor and the DIP Lender.

2.3 **Professional Claims.**

2.3.1 **Final Fee Applications.** All final requests for payment of Professional Claims and requests for reimbursement of expenses of members of any official committee must be Filed no later than the Administrative Claims Bar Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and orders of the Bankruptcy Court, the Allowed Amount of such Professional Claims and expenses shall be determined by the Bankruptcy Court.

2.3.2 **Payment of Interim Amounts.** Subject to the Professional Fee Order, on the Effective Date, the Debtor shall pay all amounts owing to Professionals for all then outstanding amounts payable.

2.3.3 **Payment of Professional Claims and Holdback Amount.** On the Effective Date, the Debtor shall fund an account with sufficient Cash to pay all Professionals for services rendered and costs incurred through the Effective Date, along with all applicable United States Trustee fees. Within ten (10) days of entry of an order allowing final requests for Professional Claims, the amounts funded above, along with the remaining amount of the Professional Claims owing to the Professionals, shall be paid to such Professionals.

2.4 **Substantial Contribution Compensation and Expenses Bar Date.** Any Person who requests compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Case pursuant to sections 503(b)(3), (4), and/or (5) of the Bankruptcy Code shall File an application with the clerk of the Bankruptcy Court on or before the Administrative Claims Bar Date, or be forever barred from seeking such compensation or expense reimbursement. The Bankruptcy Court shall determine any timely Filed request for compensation or expense reimbursement made under this section 2.4, and the Debtor shall pay any amount determined to be owed within thirty (30) days of entry of a Final Order approving such payment.

2.5 **Other Administrative Claims.** All other requests for payment of an Administrative Claim (other than as set forth in section 2.5 of this Plan) must be Filed with the

Bankruptcy Court on or before the Administrative Claims Bar Date. Any Administrative Claim that (i) was required to be Filed prior to the Administrative Claims Bar Date pursuant to the Plan, and (ii) was not so filed, shall be a Disallowed Claim. Any request for payment of an Administrative Claim pursuant to this section 2.5 that is not Filed before the Administrative Claims Bar Date shall be automatically deemed a Disallowed Claim without the need for any objection. The Debtor may settle an Administrative Claim without further Bankruptcy Court approval (with the Consent of the Secured Lenders). Unless an objection to an Administrative Claim is Filed within thirty (30) days of the Administrative Claims Bar Date (unless such objection period is extended by the Bankruptcy Court), such Administrative Claim shall be deemed Allowed in the amount requested. In the event that an objection to an Administrative Claim is filed, the Bankruptcy Court shall determine the Allowed Amount of such Administrative Claim. Notwithstanding the foregoing, no request for payment of an Administrative Claim need be Filed with respect to an Administrative Claim that is paid in the ordinary course of business.

ARTICLE III.

CLASSIFICATION OF CLAIMS AND EQUITY INTERESTS

Claims are classified for all purposes, including voting, confirmation and distribution pursuant to the Plan, as follows:

<u>Class</u>	<u>Status</u>	<u>Voting Rights</u>
Class 1 – Priority Tax Claims	Unimpaired	Not Entitled to Vote
Class 2 – Other Priority Claims	Unimpaired	Not Entitled to Vote
Class 3 – Other Secured Claims	Impaired	Entitled to Vote
Class 4 – Pre-petition Bond Secured Claims	Impaired	Entitled to Vote
Class 5 – General Unsecured Claims	Impaired	Entitled to Vote
Class 6 – Equity Interests	Impaired	Not Entitled to Vote

To the extent a Holder of a Claim or Interest holds Claim(s) or Interest(s) which are classified into more than one class, the claimant or interest holder shall be entitled to the treatment set forth below for each respective applicable class.

ARTICLE IV.

TREATMENT OF CLAIMS AND EQUITY INTERESTS

4.1 Class 1 -- Priority Tax Claims.

4.1.1 **Impairment and Voting.** Class 1 is Unimpaired under the Plan. Each Holder of a Priority Tax Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

4.1.2 **Distributions.** On or as soon as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Priority Tax Claim becomes Allowed, or (iii) a

date agreed to in writing by the Debtor or the Purchaser, as the case may be, and the Holder of such Priority Tax Claim, such Holder of an Allowed Priority Tax Claim shall be entitled to receive, on account of such Allowed Priority Tax Claim, in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Priority Tax Claim: (i) the Allowed Amount of such Claim as of the Effective Date, or (ii) such other treatment as is agreed to by the Holder of an Allowed Priority Tax Claim and the Debtor (with the Consent of the Secured Lenders), provided that such treatment is on more favorable terms to the Debtor than the treatment set forth in clause (i) of this section.

4.2 Class 2 – Other Priority Claims.

4.2.1 Impairment and Voting. Class 2 is Unimpaired under the Plan. Each Holder of a Other Priority Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

4.2.2 Distributions. On or as soon as reasonably practicable after the Effective Date, all Allowed Other Priority Claims, to the extent of the applicable priority under section 507(a) of the Bankruptcy Code, shall be paid, in full satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Other Priority Claim, the Allowed Amount of such Claim as of the Effective Date. Any portion of any Allowed Real Estate Tax Claim, the McKean County Claim, and the Pennsylvania Department of Environmental Protection Claim, to the extent such Claims or any portion thereof are entitled to priority under the Bankruptcy Code, shall be paid in accordance with this Section 4.2.

4.3 Class 3 – Other Secured Claims.

4.3.1 Impairment and Voting. Class 3 is Impaired under the Plan. Each Holder of an Allowed Other Secured Claim is entitled to vote to accept or reject the Plan.

4.3.2 Distributions. Each Holder of an Allowed Claim in Class 3 shall receive, in full satisfaction of such Claim, in the Debtor's full discretion, either (i) the value of the Holder's Allowed Other Secured Claim (as determined pursuant to section 506(a) of the Bankruptcy Code), (ii) return of the collateral securing the Holder's Other Secured Claim, (iii) or such other treatment as agreed to in writing between the Holder of an Allowed Other Secured Claim and the Debtor.

4.4 Class 4 – Pre-petition Bond Secured Claim.

4.4.1 Impairment and Voting. Class 4 is Impaired under the Plan. Each Holder of an Allowed Claim in Class 4 is entitled to vote to accept or reject the Plan.

4.4.2 Distributions. Each Pre-petition Bond Secured Claim is deemed Allowed pursuant to this Plan. After payment in full of all Allowed Administrative Claims, all DIP Facility Claims, all Allowed Priority Tax Claims, all Allowed Other Priority Claims, and all Other Secured Claims, each Holder of a Claim in Class 4 shall receive, in full satisfaction of such Claim, its Pro Rata Share of the Plan Cash or such other treatment as otherwise agreed to in writing between the Debtor and the Holder of a Pre-petition Bond Secured Claim.

4.5 **Class 5 – General Unsecured Claims.**

4.5.1 **Impairment and Voting.** Class 5 is Impaired under the Plan. Each Holder of an Allowed General Unsecured Claim is entitled to vote to accept or reject the Plan.

4.5.2 **Distributions.** Each Holder of an Allowed Claim in Class 5 shall receive, to the extent all Allowed Administrative Claims, DIP Facility Claims, Priority Tax Claims, Other Priority Claims, Pre-petition Bond Secured Claims and Other Secured Claims have been paid in full in accordance with the Plan, its Pro Rata Share of the remaining Plan Cash.

4.6 **Class 6 – Equity Interests.**

4.6.1 **Impairment and Voting.** Class 6 is Impaired under the Plan. Each Holder of Equity Interests in the Debtor is deemed to reject this Plan and is not entitled to vote to accept or reject this Plan.

4.6.2 **Distributions.** Each Holder of Equity Interests in the Debtor shall not receive or retain any interest or property under this Plan and all Equity Interests in the Debtor shall be cancelled and extinguished.

ARTICLE V.

ACCEPTANCE OR REJECTION OF THE PLAN; CRAMDOWN

5.1 **Acceptance by Impaired Classes of Claims and Interests.** Pursuant to section 1126(c) of the Bankruptcy Code, an Impaired Class of Claims shall have accepted the Plan if: (a) the Holders of at least two-thirds (2/3) in dollar amount of the Allowed Claims actually voting in such Class (other than Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code) have timely and properly voted to accept the Plan, and (b) more than one-half (1/2) in number of the Holders of such Allowed Claims actually voting in such Class (other than Claims held by any Holder designated pursuant to section 1126(e) of the Bankruptcy Code) have timely and properly voted to accept the Plan. No Class of Interests is entitled to vote on the Plan pursuant to section 1126 of the Bankruptcy Code.

5.2 **Voting Classes.** Except as otherwise required by the Bankruptcy Code or the Bankruptcy Rules or as otherwise provided in this Section 5.2, the Holders of Claims in Classes 3, 4, and 5 shall be entitled to vote to accept or reject the Plan in accordance with section 5.1 of the Plan. Classes of Claims Unimpaired under the Plan shall not be entitled to vote to accept or reject the Plan, and shall be conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. The Class of Interests and Class of Claims that are Impaired under the Plan and whose Holders neither receive nor retain any property on account of such Claims and Interests under the Plan shall not be entitled to vote to accept or reject the Plan and shall be conclusively presumed to have rejected the Plan. Administrative Claims are Unimpaired and not classified under the Plan and hence are not entitled to vote to accept or reject the Plan pursuant to section 1126(g) of the Bankruptcy Code.

5.3 **Voting of Claims.** Each Holder of an Allowed Claim in an impaired Class entitled to vote on the Plan shall be entitled to vote to accept or reject the Plan as provided in

such order as is entered by the Bankruptcy Court establishing procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan, or any other order(s) of the Bankruptcy Court.

5.4 **Cramdown.** If all applicable requirements for Confirmation of the Plan are met as set forth in section 1129(a)(1) through (13) of the Bankruptcy Code except subsection (8) thereof, the Plan Proponents may request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code, notwithstanding the requirements of section 1129(a)(8) thereof, on the basis that the Plan is fair and equitable, and does not discriminate unfairly, with respect to each Class of Claims or Interests that is Impaired under, and has not accepted, the Plan.

ARTICLE VI.

MEANS FOR IMPLEMENTATION OF THE PLAN

6.1 **Sale of the Debtor's Assets.** The Plan shall be funded through the proceeds generated by a Sale of the Debtor's assets in accordance with the Plan and the Sale and Bid Procedures. The process and timing of the Sale shall be established in the Sale and Bid Procedures Motion. The assets of the Debtor shall be sold in conjunction with the Plan, pursuant to sections 1123(a)(5)(D), 1123(b)(4), 365, and, to the extent applicable, section 363 of the Bankruptcy Code, and in accordance with the terms of the Sale and Bid Procedures Order, which Order shall be entered prior to entry of the Confirmation Order. Upon Confirmation, the Debtor shall be authorized to take any and all actions necessary to consummate the Sale. The Confirmation Order will contain such terms and provisions as are necessary or appropriate to consummate the Sale in accordance with the terms and conditions of the Asset Purchase Agreement and consistent with the Plan.

6.2 **Application of Sale Proceeds.** Proceeds of the Sale shall be applied to establish the Plan Cash to be distributed as follows: (i) First, all Allowed Administrative Claims; (ii) Second, all DIP Facility Claims; (iii) Third, all Allowed Priority Tax Claims; (iv) Fourth, all Allowed Other Priority Claims; (v) Fifth, to the extent applicable, all Allowed Other Secured Claims; (vi) Sixth, to the extent applicable, all Allowed Pre-petition Bond Secured Claims; and (v) Seventh, to the extent applicable, all Allowed General Unsecured Claims.

6.3 **Limited Continued Existence After the Effective Date.** From and after the Effective Date, the Debtor shall continue in existence for the purpose of (i) winding up its affairs; (ii) liquidating, by conversion to Cash or other methods, any remaining assets of its bankruptcy estate, as expeditiously as reasonably possible; (iii) enforcing and prosecuting claims, interests, rights and privileges of the Debtor and its bankruptcy estate, including, without limitation, the prosecution all Causes of Action except any Causes of Action transferred pursuant to the Asset Purchase Agreement or otherwise released pursuant to the Plan; (iv) resolving Disputed Claims; (v) administering the Plan and taking such actions as are necessary to effectuate the Plan; and (vi) filing appropriate tax returns. Upon the distribution of all of the Debtor's assets pursuant to the Plan and the filing by or on behalf of the Debtor of a certification to that effect with the Bankruptcy Court, the Debtor shall be dissolved in accordance with applicable law and the Plan Administrator shall file with the Office of the appropriate Secretary

of State a certificate of dissolution and/or an out of existence certificate and/or any other similar type document, to the extent necessary.

6.4 **Plan Administrator.**

6.4.1 **Appointment and Powers.** The initial Plan Administrator shall be selected by the Debtor and the Secured Lenders. The Plan Administrator shall act for the Debtor after the Effective Date in the same fiduciary capacity that applies to the Debtor's officers and directors. From and after the Effective Date, the Plan Administrator shall be the sole representative of, and shall act for, the Debtor. All distributions to be made under the Plan after the Effective Date will be made by the Plan Administrator. The duties and powers of the Plan Administrator will include, but are not limited to, the following: (i) to exercise all power and authority necessary to implement the Plan, commence and prosecute all Causes of Action except any Causes of Action transferred pursuant to the Asset Purchase Agreement, and initiate all actions that may be taken by any officer, director or shareholder of the Debtor with like effect as if authorized, exercised and taken by unanimous action of such officers, directors and shareholders, including consummating the Plan; (ii) to maintain all bank accounts, make distributions and take other actions consistent with the Plan; (iii) to take all steps reasonably necessary and practicable to terminate the corporate existence of the Debtor; (iv) to file appropriate tax returns; and (v) to exercise such other powers as may be vested in the Plan Administrator by order of the Bankruptcy Court.

6.4.2 **Resignation, Death or Removal of Plan Administrator.** The Plan Administrator may be removed at any time by any holder of a Claim for cause shown (including fraud or gross negligence) upon application to, and subject to the approval of, the Bankruptcy Court on at least twenty (20) days' prior written notice to the United States Trustee and the Plan Administrator and his counsel. In the event of the resignation or removal, death or incapacity of the Plan Administrator, any holder of a Claim may seek court approval of another Entity to serve as Plan Administrator and, upon court approval of same, the successor Plan Administrator, without any further act, shall become fully vested with all of the rights, powers, duties and obligations of the predecessor.

6.5 **Winding Up Affairs.** Following the Effective Date, Plan Administrator shall not engage in any business activities or take any actions, except those necessary or appropriate to consummate the Plan and wind up the affairs of the Debtor. On and after the Effective Date, the Plan Administrator may, in the name of the Debtor, take such actions without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than any restrictions expressly imposed by the Plan or the Confirmation Order.

6.6 **Corporate Action.** The entry of the Confirmation Order shall constitute authorization for the Debtor or Plan Administrator, as applicable, to take or to cause to be taken all limited liability company actions necessary or appropriate to consummate and implement the provisions of the Plan prior to, on and after the Effective Date, and all such actions taken or caused to be taken shall be deemed to have been authorized and approved by the Bankruptcy Court, including, without limitation, the execution and delivery of the Asset Purchase Agreement, all such actions shall be deemed to have occurred and shall be in effect pursuant to

applicable non-bankruptcy law and the Bankruptcy Code, without any requirement of further action by the members, stockholders or directors of the Debtor. On the Effective Date, the appropriate officers and managers of the Debtor are authorized and directed to execute and deliver the agreements, documents and instruments contemplated by the Plan and the Sale Documents in the name and on behalf of the Debtor.

6.7 **Post-Effective Date Fees and Expenses.** From and after the Effective Date, the Plan Administrator shall, in the ordinary course of business and without the necessity of any approval of the Bankruptcy Court, pay the reasonable fees and expenses of the Plan Administrator and those professional persons employed by the Plan Administrator incurred in connection with the implementation and consummation of the Plan, the reconciliation of Claims, the prosecution of Causes of Action, or any other matters as to which such professionals are employed. By the last Business Day of each month following the month for which compensation is sought, the Plan Administrator and those professionals retained by the Plan Administrator shall submit their respective monthly statements to the Plan Administrator. Such statements shall describe in detail the services performed, the fees for such services and the disbursements made in connection with the rendition of such services. The Plan Administrator will have twenty (20) Business Days from the date of receipt of such statements to review such statements and to object to such statements. At the expiration of such twenty (20) Business Days period, the Plan Administrator shall promptly pay such statement, except those fees and/or expenses as to which an objection has been timely made in writing. In the event of objection, the parties shall confer with one another and attempt to reach agreement regarding the correct payment to be made. If agreement cannot be reached within thirty (30) Business Days of receipt of the statement, the matter shall be submitted to the Bankruptcy Court within ten (10) Business Days thereafter in the form of a written objection setting forth the precise nature of the objection and the monetary amount at issue. Thereafter, the Bankruptcy Court will consider and dispose of the objection.

6.8 **Indemnification.** The members and officers of the Debtor, the Plan Administrator, and their respective advisors, professionals, representatives or agents, shall be indemnified and held harmless, including the costs of defending such claims, by the Debtor and its estate against any and all claims arising out of the performance of their duties in the Chapter 11 Case and/or under the Plan, except to the extent their actions constitute gross negligence or willful misconduct.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS UNDER THE PLAN

7.1 **Timing of Distributions.** Except as specifically set forth in the Plan, distributions of Property will be made to Holders of Allowed Claims in accordance with Articles II and IV of the Plan. If a Claims is not an Allowed Claim as of the applicable distribution date, distributions will be made only if and when the Claim is Allowed, and then in accordance with Articles II and IV of the Plan and, with respect to the cure of defaults for assumed executory contracts and unexpired leases, Section 11.2 of the Plan, and in each case, subject to Article VIII of the Plan. Distributions to be made as of the Effective Date on account of Claims that are Allowed as of the Effective Date and are entitled to receive distributions under the Plan shall be made on the Effective Date or as soon as reasonably practicable thereafter.

7.2 **Distributions to Holders of Allowed Claims.** Except as otherwise provided herein, the Debtor or the Plan Administrator as applicable shall make all distributions required under the Plan in a manner consistent with the Plan. Distributions to Holders of Allowed Claims will be made in accordance with Article III of the Plan. Payments and other distributions to be made pursuant to the Plan will be made by the Debtor or the Plan Administrator as applicable and will be made available from the proceeds of the Sale and assets and funds transferred to or otherwise held by the Debtor as of and after the Effective Date. If any dispute arises as to the identity of a Holder of an Allowed Claim who is to receive any distribution, the Debtor or the Plan Administrator as applicable shall, as appropriate and in lieu of making such distribution to such Holder, delay such distribution until the disposition thereof shall be determined by Final Order of the Bankruptcy Court or by written agreement among the interested parties to such dispute.

7.3 **Delivery of Distributions.** Distributions to a Holder of an Allowed Claim entitled to distribution under the Plan shall be made by the Debtor or the Plan Administrator as applicable (a) at the addresses for such Holder set forth in the schedules, or if a proof of claim is filed, at the address set forth in the proof of claim or (b) at the address set forth in any written notice of address change filed on the docket. If any Holder's distribution is returned as undeliverable, no further distributions to such Holder shall be made unless and until the Plan Administrator is notified in writing of such Holder's then current address, at which time, subject to the provisions of Section 7.5 of the Plan, all missed distributions shall be made to such Holder without interest.

7.4 **Distributions Subsequent to the Effective Date.** To the extent that there is available Cash subsequent to the Effective Date from, among other things, (i) the liquidation and conversion to Cash of the Debtor's remaining assets; (ii) the prosecution and enforcement of those Causes of Action not transferred under the Asset Purchase Agreement or otherwise released under the Plan; and/or (iii) the return of undeliverable, time-barred or unclaimed distributions to holders of Allowed Claims which are deemed waived under the Plan, the Plan Administrator shall, on a subsequent distribution date, and/or final distribution date, distribute to holders of Allowed Claims the amount of Plan Cash such holders would have received under the Plan in respect of such Allowed Claims on the Effective Date if (x) Plan Cash had been available for distribution on the Effective Date, (y) such Allowed Claims had been Allowed on the

Effective Date in the amounts in which they are Allowed on the subsequent distribution date or the final distribution date (as the case may be) and (z) Claims or portions thereof that have become disallowed subsequent to the Effective Date and on or before the subsequent distribution date or the final distribution date (as the case may be) had been disallowed on the Effective Date. Notwithstanding the foregoing, no distributions shall be made on a subsequent distribution date if the amount of Plan Cash is less than \$50,000, and such undistributed amount may be held over to the next subsequent distribution date (however this monetary threshold shall not apply in the case of the final distribution date); provided, however, that in no event shall the foregoing impair the right of the Debtor or the Plan Administrator to use excess funds to satisfy the costs of administering and consummating the Plan; and provided further, however, that on the final distribution date, the Plan Administrator shall not be obligated to make such a distribution to holders of Allowed Claims if there is less than \$2,500 of Plan Cash available and, in the sole discretion of the Plan Administrator, there is insufficient Plan Cash to make a cost-effective distribution, taking into account the size of the distribution to be made and the number of recipients of such a distribution, in which event such funds shall be distributed by the Debtor or the Plan Administrator to one or more reputable charitable organizations.

7.5 **Method of Cash Distributions.** Any Cash payment to be made pursuant to the Plan may be made by Cash, draft, check, wire transfer, or as otherwise required or provided in any relevant agreement or applicable law at the option of the Debtor or the Plan Administrator, as applicable.

7.6 **Late Filed Claims.** Any proof of Claim or Equity Interest which is filed subsequent to the Claims Bar Date (except amendments to Claims or Equity Interests which were filed on or before the Claims Bar Date) and any Administrative Expense Claim which is filed subsequent to the Administrative Expense Claims Bar Date shall automatically be deemed disallowed, and no distribution shall be made and no reserve established therefor, unless and until the claimant or interest holder obtains an order of the Bankruptcy Court allowing such claim or interest.

7.7 **No Distribution Pending Allowance.** Notwithstanding any other provision of the Plan, no Cash shall be distributed under the Plan on account of any Disputed Claim unless and until such Disputed Claim is and becomes an Allowed Claim.

7.8 **Failure to Negotiate Checks.** Checks issued in respect of distributions under the Plan shall be null and void if not negotiated within sixty (60) days after the date of issuance. Any amounts returned to the Debtor or the Plan Administrator in respect of such non-negotiated checks shall be forwarded to (if necessary) and held by the Debtor or the Plan Administrator. Requests for reissuance for any such check shall be made directly to the issuer of the check by the Holder of the Allowed Claim with respect to which such check originally was issued. All amounts represented by any voided check will be held until the earlier of (a) one (1) month after date on which the check is voided, or (b) the date on which the Bankruptcy Court enters the Final Decree, and all requests for reissuance by the Holder of the Allowed Claim in respect of a voided check are required to be made prior to such date. Thereafter, all such amounts shall be deemed to be Unclaimed Property, in accordance with Section 7.9 of the Plan, and all Holders of Claims in respect of void checks shall be forever barred, estopped and enjoined from asserting a claim to such funds in any manner against the Debtor or the Plan Administrator or their respective assets.

7.9 **Unclaimed Distributions.** All Property distributed on account of Claims must be claimed prior to the date on which the Bankruptcy Court enters the Final Decree, or, in the case of a distribution made in the form of a check, must be negotiated and a request for reissuance be made as provided for in Section 7.3 of the Plan. All Unclaimed Property will be redistributed in accordance with the priorities set forth in the Plan. All full or partial payments made by the Debtor and received by the Holder of a Claim prior to the Effective Date will be deemed to be payments under the Plan for purposes of satisfying the obligations of the Debtor pursuant to the Plan. Nothing contained in the Plan shall require the Plan Administrator to attempt to locate any Holder of an Allowed Claim other than by reviewing the Schedules, any Claims filed in the Chapter 11 Case, and any notice of change of address filed on the docket in the Bankruptcy Case. Pursuant to section 1143 of the Bankruptcy Code, all claims in respect of Unclaimed Property shall be deemed Disallowed and the Holder of any Claim Disallowed in accordance with this Section 7.9 will be forever barred, expunged, estopped and enjoined from asserting such Claim in any manner against the Debtor or its assets or the Purchaser.

7.10 **Limitation on Distribution Rights.** If a claimant holds more than one Claim in any one Class, all Claims of the claimant in that Class will be aggregated into one Claim and one distribution will be made with respect to the aggregated Claim.

7.11 **Compliance with Tax Requirements.** In connection with each distribution with respect to which the filing of an information return (such as an Internal Revenue Service Form 1099 or 1042) or withholding is required, the Debtor or Plan Administrator, as applicable, shall file such information return with the Internal Revenue Service and provide any required statements in connection therewith to the recipients of such distribution or effect any such withholding and deposit all moneys so withheld as required by law. With respect to any Person from whom a tax identification number, certified tax identification number or other tax information required by law to avoid withholding has not been received by the Debtor or Plan Administrator within thirty (30) days from the date of such request, the Debtor or Plan Administrator, as applicable, may, at its option, withhold the amount required and distribute the balance to such Person or decline to make such distribution until the information is received.

7.12 **Distributions for Tax Purposes.** For tax purposes, distributions in full or partial satisfaction of Allowed Claims shall be allocated first to the principal amount of Allowed Claims, with any excess allocated to unpaid interest that accrued on such Claims.

7.13 **De Minimis Distribution.** No Cash payments of less than twenty-five (\$25.00) dollars shall be made to any Holder of an Allowed Claim on account of such Allowed Claim.

ARTICLE VIII.

PRESERVATION OF CAUSES OF ACTION

8.1 **Preservation of Rights.** Except to the extent that any Claim is Allowed during the Chapter 11 Case or expressly by this Plan, the Asset Purchase Agreement, or the Confirmation Order, nothing, including but not limited to, the failure of the Debtor or the Purchaser to object to a Claim or Interest for any reason during the pendency of the Chapter 11 Case, shall affect, prejudice, diminish or impair the rights and legal and equitable defenses of the

Debtor or the Purchaser with respect to any Claim or Interest, including but not limited to, all rights of the Debtor or the Purchaser to contest or defend themselves against such Claims or Interests in any lawful manner or forum when and if such Claim or Interest is sought to be enforced by the Holder thereof.

8.2 **Setoffs.** Except to the extent that any Claim is Allowed, the Debtor or the Purchaser, as applicable, may, but shall not be required to, set off against any Claims and the payments or distributions to be made pursuant to the Plan in respect of such Claims, any and all debts, liabilities, Causes of Action and claims of every type and nature whatsoever which the Estate, the Debtor or the Purchaser may have against such Creditors, but neither the failure to do so nor the allowance of any such Claims, whether pursuant to the Plan or otherwise, shall constitute a waiver or release by the Debtor or the Purchaser of any such claims or Causes of Action the Debtor or the Purchaser may have against such Creditors.

8.3 **No Payment or Distribution Pending Allowance.** All references to Claims and amounts of Claims refer to the amount of the Claim Allowed by agreement of the Debtor or the Purchaser and the Holder of such Claim, by Final Order, or by this Plan. Notwithstanding any other provision in the Plan, no payment or distribution shall be made on account of or with respect to any Claim to the extent it is a Disputed Claim unless and until the Disputed Claim becomes an Allowed Claim.

8.4 **Resolution of Disputed Claims.** Any party in interest may file objections to Claims by the Claims Objection Deadline (except to those Claims specifically Allowed by this Plan or Final Order entered by the Bankruptcy Court) and shall serve a copy of each such objection upon the Holder of the Claim to which the objection is made as soon as practicable, but in no event later than the applicable Claims Objection Deadline. The foregoing deadlines may be extended by order of the Court. An objection to any Claim shall be deemed properly served on the Holder thereof if the objecting party effects service in any of the following manners: (a) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Federal Rule of Bankruptcy Procedure 7004; (b) by first class mail, postage prepaid, on the signatory on the proof of claim or other representative identified in the proof of claim or any attachment thereto; or (c) by first class mail, postage prepaid, on any counsel that has appeared on the Holder's behalf in the Chapter 11 Case.

ARTICLE IX.

CONDITIONS TO CONSUMMATION OF THE PLAN

9.1 **Confirmation Order.** The Confirmation Order shall not be entered unless and until all conditions to entry of the Confirmation Order set forth in the Asset Purchase Agreement have been met.

9.2 **Conditions Precedent to Effective Date.** The Plan shall not be consummated, and the Effective Date shall not occur, unless and until the following conditions have occurred or been duly waived (if waivable) in accordance with section 9.3 of this Plan:

9.2.1 The Bankruptcy Court shall have approved the information contained in the Disclosure Statement as adequate;

9.2.2 The Bankruptcy Court shall have entered the Confirmation Order which shall be in form and substance satisfactory to the Secured Lenders and shall not be stayed by order of a court of competent jurisdiction;

9.2.3 All conditions precedent to the obligations of the Debtor and Purchaser under the Asset Purchase Agreement have occurred;

9.2.4 The Transactions contemplated in the Asset Purchase Agreement have been consummated;

9.2.5 The Bankruptcy Court shall have entered an order (contemplated to be part of the Confirmation Order) authorizing and directing the Debtor to take all actions necessary or appropriate to enter into, implement, and consummate the documents created, amended, supplemented, modified or adopted in connection with the Plan;

9.2.6 All authorizations, consents and regulatory approvals required, if any, in connection with the Plan's effectiveness shall have been obtained; and

9.2.7 No order of a court shall have been entered and shall remain in effect restraining the Debtor from consummating the Plan.

9.3 **Waiver of Conditions Precedent to Consummation.** The conditions to consummation in Section 9.2 (other than Section 9.2.6) may be waived at any time by a writing signed by an authorized representative of each of the Debtor and the Secured Lenders without notice or order of the Bankruptcy Court or any further action other than proceeding to consummation of the Plan. The conditions to consummation in Section 9.2 and the Asset Purchase Agreement may only be waived in accordance with the terms of the Asset Purchase Agreement.

9.4 **Effect of Failure or Absence of Waiver of Conditions Precedent to the Effective Date of the Plan.** In the event that one or more of the conditions specified in Section 9.2 of the Plan have not occurred (or been waived), upon notification submitted by the Debtor to the Bankruptcy Court: (a) the Confirmation Order may be vacated by the Bankruptcy Court; (b) no distributions under the Plan shall be made; (c) all Property of the Estate shall revert in the Debtor's Estate; (d) the Debtor and all Holders of Claims and Interests shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date never occurred; (e) the Asset Purchase Agreement shall become null and void; and (f) the Debtor's obligations with respect to the Claims and Interests shall remain unchanged and nothing contained herein shall constitute or be deemed a waiver or release of any Claims or Interests by or against the Debtor or any other Person or Entity or to prejudice in any manner the rights of the Debtor or any Person or Entity in any further proceedings involving the Debtor.

ARTICLE X.

EFFECTS OF CONFIRMATION

10.1 **Term of Bankruptcy Injunction or Stays.** Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Case under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect through and including the Effective Date.

10.2 **Vesting of Assets.** As of the Effective Date, all of the Debtor's assets remaining after consummation of the Asset Purchase Agreement shall be transferred to and vest in the Plan Administrator and the Plan Administrator may, without Bankruptcy Court approval, use, sell, transfer, assign, abandon or otherwise dispose of any of the Debtor's remaining assets for the purpose of (i) liquidating and converting such assets to Cash; (ii) making distributions; and (iii) fully consummating the Plan.

10.3 **Preservation of Causes of Action.** Except (a) as otherwise provided in this Plan, and (b) as to any Causes of Action transferred pursuant to the Asset Purchase Agreement, the Causes of Action shall be transferred to and vest in the Debtor in accordance with section 1123(b)(3)(B) of the Bankruptcy Code, and only the Plan Administrator shall have the right to pursue or not pursue, or, subject to the terms of this Plan, compromise, settle or dismiss any such Causes of Action owned or held by the Debtor or its estate as of the Effective Date; provided, however, that notice of any compromise, settlement and/or dismissal of any such Causes of Action shall be served on all holders of Claims and Equity Interests, in addition to any other interested party. From and after the Effective Date, the Plan Administrator may commence, litigate and settle any Causes of Action or rights to payment or claims that belong to the Debtor that may be pending on the Effective Date or initiated by the Debtor after the Effective Date, except as otherwise expressly provided in the Plan. Other than as set forth in the Plan, no other Person or Entity may pursue such Causes of Action after the Effective Date. The Bankruptcy Court shall retain jurisdiction to adjudicate any and all Causes of Action and approve any such settlement, whether commenced before or after the Confirmation Date and/or the Effective Date. Further, to the fullest extent under applicable law (including, without limitation, section 105 of the Bankruptcy Code), as of the Effective Date, all entities, including without limitation, all Holders of Claims or Interests, shall be barred and enjoined from asserting against the Debtor or the Purchaser, their property or their successors or assigns any other or further Claims, debts, rights, Causes of Action, liabilities or Interests relating to the Debtor based upon any act, omission, transaction or other activity of any nature that occurred prior to the Effective Date, except for those obligations expressly created by, or reserved in, this Plan.

10.4 **Injunction.** As of the Effective Date, the Confirmation Order shall constitute an injunction permanently enjoining any Person or Entity that has held, currently holds or may hold a claim, demand, debt, right, cause of action or liability that is released pursuant to Section 10.6 of the Plan from enforcing or attempting to enforce any such claim, demand, debt, right, cause of action or liability against (i) any Released Party, or (ii) any Exculpated Party, or any of their respective property, based on, arising from or relating to, in whole or in part, any act, omission, or other occurrence taking place on or prior to the Effective Date with respect to or in any way relating to the Chapter 11 Case, all of which such claims, demands, debts, rights, causes of action

or liabilities shall be deemed released on and as of the Effective Date; provided, however, that with respect to the former directors, officers and employees of the Debtors, this injunction shall apply only to the enforcement of claims, demands, debts, rights, causes of action or liabilities with respect to which such former directors, officers and employees would be entitled to indemnification from the Debtor under contract or law.

10.5 **Exculpation.** None of the Debtor or any Exculpated Party shall have or incur any liability to any Person, including, without limitation, any Holder of a Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys or affiliates or any of their successors or assigns, for any act taken or omission made in connection with, relating to, or arising out of, the Debtor's in- or out-of-court restructuring, the Chapter 11 Case, filing, negotiating, prosecuting, administering, formulating, implementing, confirming or consummating this Plan, or the Property to be distributed under this Plan, including all activities leading to the promulgation and confirmation of the Plan, the Disclosure Statement (including any information provided or statement made in the Disclosure Statement or omitted therefrom), or any contract, instrument, release or other agreement or document created in connection with or related to the Plan or the administration of the Debtor or this Chapter 11 Case, provided however, that the foregoing exculpation shall not apply to any act of gross negligence or willful misconduct.

10.6 **Releases.**

10.6.1 **Releases by Debtor.** Effective as of the Effective Date, and except as otherwise provide in the Plan or the Confirmation Order, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtor, in its individual capacity and as debtor in possession for and behalf of the Estate, and each of the Debtor's current officers, directors, members, and employees, in each case in their respective capacities, automatically and without further notice, consent or order will be deemed to have, conclusively, absolutely, unconditionally, irrevocably, and forever released, waived and discharged the Released Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities, whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise that are based on, or relating to, in whole or in part, the Exculpated Claims, the Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in this Plan, the business or contractual arrangements between the Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Case, or any act, omission, transaction, event or other occurrence, in any manner relating to the Debtor, any such Claims, Interests, restructuring or the Chapter 11 Case existing from the beginning of time through the Effective Date. Notwithstanding the provisions of this section, there shall be no waiver, release, or discharge under the Plan of the obligations set forth in the Proceeds, Forbearance, and Settlement Agreement dated May 13, 2010.

10.6.2 **Releases by Holders of Claims and Interests.** Effective as of the Effective Date, and except as otherwise provided in the Plan or the Confirmation Order, to the fullest extent permitted under applicable law, in consideration for the obligations of the Persons set forth in the Plan and, if applicable, the Cash, securities, contracts, releases and other

agreements or documents to be delivered in connection with the Plan, each Holder of a Claim or Interest (a) voting to accept the Plan or (b) abstaining from voting on the Plan and electing not to opt out of the release contained in this section 10.7, and any Affiliate of any such Holder (as well as any trustee or agent on behalf of each such Holder) shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever waived, released and discharged (i) the Debtor, and (ii) each of the Released Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtor, whether for tort, contract, violations of federal or state securities laws, or otherwise, whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise that such Person would have been entitled to assert, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Debtor's restructuring, the Chapter 11 Case, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in this Plan, the business or contractual arrangements between the Debtor and any Released Party, the restructuring of Claims or Interests prior to or in the Chapter 11 Case, the negotiation, formulation, or preparation of this Plan and Disclosure Statement, or related agreements, instruments, or other documents, upon any other act, omission, transaction, event or other occurrence, including actions in connection with indebtedness for money borrowed by the Debtors, taking place from the beginning of time through the Effective Date in any way relating to the Debtor, the Chapter 11 Case, or the Plan; provided, however, that this Section 10.7 shall not release any Released Party from any cause of action held by a Governmental Unit existing as of the Effective Date based on (i) the IRC or other domestic state, city, or municipal tax code; (ii) any criminal laws of the United States or any domestic state, city or municipality; (iii) the Exchange Act, the Securities Act, or other securities laws of the United States or any domestic state, city or municipality; (iv) ERISA; or (v) the Pennsylvania Department of Environmental Protection.

10.7 No Successor Liability. Except as otherwise expressly provided in the Plan or the Asset Purchase Agreement, the Debtor and the Purchaser do not, pursuant to the Plan or otherwise, assume, agree to perform, pay, or indemnify or otherwise have any responsibilities for any liabilities or obligations of the Debtor or any other party relating to or arising out of the operations of or assets of the Debtor, whether arising prior to, on, or after the Effective Date. The Purchaser is not, and shall not be, a successor to the Debtor by reason of any theory of law or equity, and shall not have any successor or transferee liability of any kind or character, except that the Purchaser shall assume the obligations specified in the Asset Purchase Agreement.

ARTICLE XI.

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

11.1 Treatment of Executory Contracts and Unexpired Leases. All executory contracts and unexpired leases of the Debtor shall be deemed rejected by the Debtor as of the Effective Date, except for any executory contract or unexpired lease that: (a) has previously been assumed, assumed and assigned, or rejected pursuant to an order of the Bankruptcy Court on or prior to the Confirmation Date, (b) is the subject of a pending motion to assume, assume and assign, or reject as of the Confirmation Date, or (c) is listed on the Schedule of Assumed Contracts, provided, however, that the Debtor and the Purchaser shall have the right, at any time

prior to the Effective Date, to amend the Schedule of Assumed Contracts in any manner set forth in the Asset Purchase Agreement, the Sale and Bid Procedures Order, or by any other means approved by the Court or to delete any executory contract or unexpired lease listed therein, thus providing for its rejection pursuant to this Section 11.1 or to add any executory contract or unexpired lease thereto, thus providing for its assumption and assignment pursuant to this Section 11.1 and the terms of the Asset Purchase Agreement. The assumption, assumption and assignment, and rejection of executory contracts and unexpired leases under this Plan shall be governed by the terms of the Asset Purchase Agreement, the Sale Documents, the Sale and Bid Procedures, and other orders of the Court.

11.2 **Cure of Defaults for Assumed Contracts and Leases.** The cure of all defaults under executory contracts and unexpired leases to be assumed and assigned under the Asset Purchase Agreement, including the resolution of all objections to the adequacy of assurance of future performance under such contracts and leases and as to the adequacy of amounts proposed to cure defaults under such contracts and leases, shall be governed by the terms and conditions of the Sale and Bid Procedures, the Asset Purchase Agreement, the Sale Documents, any order approving the Asset Purchase Agreement or authorizing the Sale, and other orders of the Court. All such cure amounts shall be satisfied by the Purchaser.

11.3 **Bar Date for Claims for Rejection Damages.** Claims arising out of the rejection of any executory contract or unexpired lease pursuant to Article XI of the Plan must be filed with the Bankruptcy Court no later than the later of (a) the Administrative Claims Bar Date (b) thirty (30) days after the entry of an order rejecting such executory contract or unexpired lease. Any Claim not filed within such time period shall be forever barred. The Debtor, Plan Administrator and the Purchaser shall have the right to object to any Claim arising out of the rejection of an executory contract or unexpired lease pursuant to the terms of Section 8.4 of the Plan.

11.4 **Treatment of Rejection Claims.** The Bankruptcy Court shall determine any objections filed in accordance with Section 8.4 hereof at a hearing to be held on a date to be determined by the Bankruptcy Court. Subject to any statutory limitation, including, but not limited to the limitations contained in sections 502(b)(6) and 502(b)(7) of the Bankruptcy Code, any Claims arising out of the rejection of executory contracts and unexpired leases shall, pursuant to section 502(g) of the Bankruptcy Code, be Impaired and treated as Class 5 Claims in accordance with Section 4.5 of the Plan.

11.5 **Executory Contracts and Unexpired Leases Entered Into and Other Obligations Incurred After the Petition Date.** On the Effective Date, all contracts, leases, and other agreements entered into by the Debtor on or after the Petition Date, which agreements have not been terminated in accordance with their terms on or before the Effective date or conveyed to the Purchaser, shall be deemed assumed and assigned to the Purchaser.

11.6 **Benefit Programs.** Except and to the extent previously rejected by an order of the Bankruptcy Court on or before the Effective Date, all officer, director or employee compensation and benefit programs of the Debtor entered into before or after the Petition Date and not since terminated, shall be deemed to be, and shall be treated as though they are, executory contracts that are rejected under Section 11.1 of the Plan, except for any such program that is specifically assumed under Section 11.1 of the Plan.

ARTICLE XII.

RETENTION OF JURISDICTION

12.1 **Exclusive Jurisdiction of Bankruptcy Court.** Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases and this Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including without limitation, jurisdiction to:

12.1.1 Allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Interests;

12.1.2 Decide and resolve all matters related to the granting and denying, in whole or in part, of any applications for allowance of compensation or reimbursement of expenses incurred prior to the Effective Date to Professionals authorized pursuant to the Bankruptcy Code or this Plan;

12.1.3 Resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which the Debtor is party or with respect to which the Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Cure or Claims arising therefrom, including Cure or Claims pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any executory contract or unexpired lease that is assumed; (c) the Purchaser amending, modifying, or supplementing, after the Effective Date, pursuant to Article XI, any executory contracts or unexpired leases to the list of executory contracts and unexpired leases to be assumed or rejected or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory or expired;

12.1.4 Ensure that distributions to Holders of Allowed Claims and Interests are accomplished pursuant to the provisions of this Plan;

12.1.5 Adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving the Debtor that may be pending on the Effective Date;

12.1.6 Adjudicate, decide, or resolve any and all matters related to any Causes of Action;

12.1.7 Adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

12.1.8 Enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of this Plan and all contracts, instruments,

releases, indentures, and other agreements or documents created in connection with this Plan or the Disclosure Statement;

12.1.9 Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

12.1.10 Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of this Plan or any Person's obligations incurred in connection with this Plan;

12.1.11 Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Person with Consummation or enforcement of this Plan;

12.1.12 Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, injunctions, and other provisions contained in Article X, and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

12.1.13 Resolve any and all cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by a Holder of a Claim for amounts not timely repaid;

12.1.14 Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

12.1.15 Adjudicate any and all disputes arising from or relating to payments or distributions under this Plan;

12.1.16 Consider any and all modifications of this Plan, to cure any defect or omission, or to reconcile any inconsistency in any Final Order, including the Confirmation Order;

12.1.17 Hear and determine requests for the payment or distribution on account of Claims entitled to priority pursuant to section 507 of the Bankruptcy Code;

12.1.18 Hear and determine any and all disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Confirmation Order or the Asset Purchase Agreement, including disputes arising under agreements, documents, or instruments executed in connection with this Plan and Asset Purchase Agreement;

12.1.19 Hear and determine any and all disputes arising under sections 525 or 543 of the Bankruptcy Code;

12.1.20 Hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code with any tax incurred or alleged to be incurred by the Debtor as a result of Consummation of the Plan being considered to

be incurred or alleged to be incurred during the administration of this Chapter 11 case for purposes of Section 505(b) of the Bankruptcy Code;

12.1.21 Hear and determine any and all disputes involving the existence, nature, or scope of the Debtor's discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

12.1.22 Determine any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order, the Asset Purchase Agreement, or any contract, instrument, release, indenture, or other agreement or document created in connection with this Plan, the Disclosure Statement, the Asset Purchase Agreement or the Confirmation Order, except as otherwise provided in the Plan;

12.1.23 Enforce any orders previously entered by the Bankruptcy Court;

12.1.24 Hear any and all other matters not inconsistent with the Bankruptcy Code; and

12.1.25 Enter an order or Final Decree concluding or closing the Chapter 11 Cases.

Notwithstanding any other provision of the Plan or Confirmation Order, the Bankruptcy Court retains jurisdiction, but not exclusive jurisdiction, to determine whether environmental claims brought by Federal Governmental Units against the Debtor are barred by the discharge provided by section 1141 of the Bankruptcy Code and the Plan.

12.2 **Failure of Bankruptcy Court to Exercise Jurisdiction.** If the Bankruptcy Court abstains from exercising or declines to exercise jurisdiction over any matter arising under, arising in or related to the Debtor, including with respect to the matters set forth above in Section 12.1 hereof, this Article XII shall not prohibit or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such subject matter.

ARTICLE XIII.

MISCELLANEOUS PROVISIONS

13.1 **Immediate Binding Effect.** Subject to Article VIII and notwithstanding Bankruptcy Rules 3020(e), 6004(g), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of this Plan shall be immediately effective and enforceable and deemed binding upon the Debtor, the Estate, the Purchaser, and any and all Holders of Claims or Interests (irrespective of whether any such Holders of Claims or Interests failed to vote to accept or reject this Plan, voted to accept or reject this Plan, or are deemed to accept or reject this Plan), all Persons that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in this Plan or herein, each Person acquiring property under this Plan, and any and all non-Debtor parties to executory contracts and unexpired leases with the Debtor, and each of their respective heirs, executors, administrators, representatives, predecessors,

successors, assigns, agents, officers and directors, and, to the fullest extent permitted under the Bankruptcy Code and other applicable law, each other Person affected by the Plan.

13.2 **Withdrawal of Plan.** The Debtor reserves the right, at any time prior to Confirmation of the Plan, to withdraw the Plan. If the Plan is withdrawn, the Plan shall be null and void and have no force and effect. In such event, nothing contained herein shall be deemed to constitute a waiver or release of any claims by or against the Debtor or any other Person or to prejudice in any manner the rights of the Debtor or any Person in any further proceedings involving the Debtor.

13.3 **Modification of the Plan.** The Debtor, in consultation with the Secured Lenders, may alter, amend or modify the Plan in accordance with section 1127 of the Bankruptcy Code or as otherwise permitted at any time prior to the Confirmation Date. After the Confirmation Date and prior to the substantial consummation of the Plan, and in accordance with the provisions of section 1127(b) of the Bankruptcy Code and the Bankruptcy Rules, the Debtor may, so long as the treatment of Holders of Claims or Interests under the Plan is not adversely affected, institute proceedings in the Bankruptcy Court to remedy any defect or omission or to reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order and any other matters as may be necessary to carry out the purposes and effects of the Plan; provided, however, prior notice of such proceedings shall be served in accordance with Bankruptcy Rules 2002 and 9014.

13.4 **Payment of Statutory Fees.** All United States Trustee's Fees, as determined, if necessary, by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid on or before the Effective Date by the Debtor.

13.5 **Business Days.** If any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

13.6 **Reservation of Rights.** Except as expressly set forth in this Plan, this Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the Filing of this Plan, any statement or provision contained in this Plan, or the taking of any action by any Plan Proponent with respect to this Plan or the Disclosure Statement shall be or shall be deemed to be an admission or waiver of any rights of any Plan Proponent with respect to the Holders of Claims or Interests prior to the Effective Date.

13.7 **Successors and Assigns.** The rights, benefits, and obligations of any Person named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign, Affiliate, officer, director, agent, representative, attorney, beneficiary, or guardian, if any, of such Person.

13.8 **Entire Agreement.** Except as otherwise indicated, this Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan.

13.9 **Governing Law.** Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules) unless otherwise specifically stated, the laws of the Commonwealth of Pennsylvania, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of this Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with this Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control).

13.10 **Nonseverability of Plan Provisions.** If, prior to Confirmation, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to this Plan and may not be deleted or modified without the Debtor's consent; and (3) nonseverable and mutually dependent.

13.11 **Waiver or Estoppel.** Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, secured, or not subordinated by virtue of an agreement made with the Plan Proponents, or their counsel, or any other Person, if such agreement was not disclosed in this Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court prior to the Confirmation Date.

13.12 **Termination of Liens and Encumbrances.** The Debtor and all parties in interest, including without limitation any Creditor, shall be required to execute any document reasonably requested by the other to memorialize and effectuate the terms and conditions of this Plan. This shall include without limitation any execution by the Debtor of Uniform Commercial Code financing statements and the execution by Creditors of any Uniform Commercial Code termination and mortgage releases and termination. The Debtor is expressly authorized to file any termination statement to release a Lien which is either discharged or satisfied as a result of this Plan or any payments made in accordance with this Plan.

13.13 **Notices.** Any notice or other documents required or permitted to be provided under this Plan to the Debtor, or any request for information with respect to the Plan, shall be in writing and served by (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight delivery service, freight prepaid, to:

Rustick, LLC
308 Highland Avenue
Souderton, PA 18964

with a copy to:

Dilworth Paxson LLP
1500 Market Street 3500E
Philadelphia, PA 19102
Attn: Peter C. Hughes, Esq.
Jennifer L. Maleski, Esq.

and

Merrill Lynch, Pierce, Fenner & Smith Incorporated
335 Madison Avenue, 5th Floor
New York, New York 10017
Attn: Michael O'Brien

with a copy to:

Mayer Brown LLP
71 South Wacker Dr
Chicago, IL 60606
Attn: J. Robert Stoll, Esq.
Sajida Mahdi Ali, Esq.

13.14 **Filing of Additional Documents.** On or before the Effective Date, the Debtor may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan. The Debtor and all Holders of Claims or Interests receiving distributions pursuant to this Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan.

13.15 **Destruction of Documents.** The Debtor may, from and after the Effective Date and without further approval of the Bankruptcy Court, destroy, or arrange for the destruction of, those documents in its possession, custody or control that it reasonably determines are no longer necessary to the implementation and consummation of the Plan, the pursuit of Causes of Action and/or the Claims resolution process.

13.16 **Exemption from Transfer Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, shall not be subject to any stamp or similar tax.

Dated: May 13, 2010

RUSTICK, LLC, as a debtor and a debtor-in-possession.

By: 

Name: Randall M. Hendricks

Title: Chief Financial Officer