

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

| | |
|-------------------------------------|-----------------------------|
| In re: |) Chapter 11 |
| BLUE WATER AUTOMOTIVE SYSTEMS, INC. |) Case No. 08-43196 |
| |) |
| Debtor. |) Tax I.D. No. (38-1736036) |
| |) |
| In re: |) Chapter 11 |
| BWAS HOLDINGS, INC. |) Case No. 08-43200 |
| |) |
| Debtor. |) Tax I.D. No. (56-2533938) |
| |) |
| In re: |) Chapter 11 |
| BLUE WATER PLASTICS MEXICO, LTD. |) Case No. 08-43199 |
| |) |
| Debtor. |) Tax I.D. No. (38-3117300) |
| |) |
| In re: |) Chapter 11 |
| BWAS MEXICO, LLC |) Case No. 08-43201 |
| |) |
| Debtor. |) Tax I.D. No. (38-1736036) |
| |) |

| | | |
|--|---|---------------------------|
| In re: |) | |
| BLUE WATER AUTOMOTIVE SYSTEMS PROPERTIES, LLC |) | Chapter 11 |
| Debtor. |) | Case No. 08-43198 |
| |) | |
| |) | |
| |) | Tax I.D. No. (11-3778685) |
| |) | |

DEBTORS' JOINT PLAN OF LIQUIDATION

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TABLE OF CONTENTS

| | <u>PAGE</u> |
|--|-------------|
| INTRODUCTION TO PLAN..... | 1 |
| ARTICLE I. DEFINED TERMS AND RULES OF INTERPRETATION | 2 |
| A. Rules of Interpretation | 2 |
| B. Defined Terms | 2 |
| ARTICLE II. ADMINISTRATIVE AND PRIORITY CLAIMS..... | 9 |
| A. Administrative Claims | 9 |
| B. DIP Facility Claims and Cash Collateral Lien Claims | 10 |
| C. Cash Collateral Lien | 10 |
| D. Priority Tax Claim | 10 |
| E. Other Priority Claims..... | 10 |
| ARTICLE III. CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS | 11 |
| A. Classification and Treatment of Claims and Equity Interests..... | 11 |
| B. Subordination..... | 16 |
| C. Non-Consensual Confirmation | 16 |
| D. Interest, Penalties and Surcharges..... | 16 |
| E. Disallowance of Setoff and Recoupment Claims | 16 |
| ARTICLE IV. MEANS FOR IMPLEMENTATION OF THE PLAN..... | 16 |
| A. Implementation on the Effective Date | 16 |
| B. Means of Implementing the Plan | 16 |
| C. Preservation of Causes of Action; Settlement of Claims and Releases | 17 |
| D. Treatment of Intercompany Claims | 19 |
| E. Equity of Debtors..... | 20 |
| F. Corporate Action..... | 20 |
| ARTICLE V. TREATMENT OF EXECUTORY CONTRACTS, UNEXPIRED LEASES, AND 401(k) Plan | 20 |
| A. Assumption and Rejection of Executory Contracts and Unexpired Leases | 20 |
| B. Claims Based on Rejection of Executory Contracts or Unexpired Leases..... | 20 |
| C. Cure of Defaults for Executory Contracts and Unexpired Leases Assumed Pursuant to the Plan | 21 |
| D. Indemnification of Directors, Officers and Employees | 21 |
| E. Assumption of D&O Insurance Policies..... | 21 |
| F. Compensation and Benefit Programs | 22 |
| G. Collective Bargaining Agreements..... | 22 |
| ARTICLE VI. PROVISIONS GOVERNING DISTRIBUTIONS..... | 22 |
| A. Distributions for Claims Allowed as of the Effective Date | 22 |
| B. Pro Rata Distributions..... | 22 |
| C. Delivery of Distributions | 22 |

| | | |
|--|---|----|
| D. | Minimum Distribution | 24 |
| E. | Setoffs | 24 |
| ARTICLE VII. PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT AND UNLIQUIDATED CLAIMS OR EQUITY INTERESTS..... 24 | | |
| A. | Resolution of Disputed Claims | 24 |
| B. | Claims Allowance | 25 |
| C. | Allowed Claims | 25 |
| ARTICLE VIII. CONDITIONS PRECEDENT TO THE EFFECTIVE DATE 25 | | |
| A. | Conditions Precedent to the Effective Date | 25 |
| B. | Waiver of Conditions..... | 26 |
| C. | Non-Occurrence of Conditions | 26 |
| ARTICLE IX. INJUNCTIVE AND RELATED PROVISIONS..... 26 | | |
| A. | Release of Claims and Termination of Equity Interests | 26 |
| B. | Injunction | 27 |
| C. | No Discharge | 27 |
| ARTICLE X. RETENTION OF JURISDICTION 28 | | |
| ARTICLE XI. MISCELLANEOUS PROVISIONS 29 | | |
| A. | Dissolution of Creditors’ Committee..... | 29 |
| B. | Post-Effective Date Professionals’ Fees and Final Fee Applications..... | 29 |
| C. | Payment of Statutory Fees | 30 |
| D. | Modification of Plan | 30 |
| E. | Revocation of Plan..... | 30 |
| F. | Successors and Assigns..... | 30 |
| G. | Governing Law | 30 |
| H. | Reservation of Rights..... | 31 |
| I. | Section 1146 Exemption | 31 |
| J. | Section 1125(e) Good Faith Compliance..... | 31 |
| K. | Further Assurances..... | 31 |
| L. | Service of Documents..... | 31 |
| M. | Filing of Additional Documents | 32 |
| N. | No Stay of Confirmation Order | 32 |
| O. | Aid and Recognition | 32 |

INTRODUCTION TO PLAN

The above-captioned debtors and debtors-in-possession, Blue Water Automotive Systems, Inc., BWAS Holdings, Inc., Blue Water Plastics Mexico, Ltd., BWAS Mexico, LLC and Blue Water Automotive Systems Properties, LLC (each, a “Debtor” and collectively, the “Debtors”), jointly propose the following plans of liquidation, (each a separate plan for the applicable Debtor and collectively, the “Plan”) pursuant to Chapter 11 of the Bankruptcy Code.¹ These Chapter 11 Cases are jointly administered pursuant to an order of the Bankruptcy Court.

The Plan contemplates that substantially all of the assets of the Debtors will be sold on the Effective Date of the Plan (“Sales”). The distributions of the proceeds of the Sales shall be made to the DIP Lender and Holders of Allowed Claims in order of priority, as fully addressed in Article III of the Plan.

THE PLAN IS PROPOSED JOINTLY BY ALL OF THE DEBTORS BUT CONSTITUTES A SEPARATE PLAN FOR EACH DEBTOR. THE ESTATES OF THE DEBTORS HAVE NOT BEEN CONSOLIDATED, SUBSTANTIVELY OR OTHERWISE. ANY CLAIMS HELD AGAINST ONE OF THE DEBTORS WILL BE SATISFIED SOLELY FROM THE CASH AND ASSETS OF SUCH DEBTOR. EXCEPT AS SPECIFICALLY SET FORTH IN THE PLAN, NOTHING IN THE PLAN OR THE DISCLOSURE STATEMENT SHALL CONSTITUTE OR BE DEEMED TO CONSTITUTE AN ADMISSION THAT ONE OF THE DEBTORS IS SUBJECT TO OR LIABLE FOR ANY CLAIM AGAINST THE OTHER DEBTORS. THE CLAIMS OF CREDITORS THAT HOLD CLAIMS AGAINST MULTIPLE DEBTORS WILL BE TREATED AS SEPARATE CLAIMS WITH RESPECT TO EACH DEBTOR’S ESTATE FOR ALL PURPOSES (INCLUDING, BUT NOT LIMITED TO, DISTRIBUTIONS AND VOTING), AND SUCH CLAIMS WILL BE ADMINISTERED AS PROVIDED HEREIN. THEREFORE, EXCEPT AS EXPRESSLY SPECIFIED HEREIN, THE CLASSIFICATIONS OF CLAIMS AND EQUITY INTERESTS SET FORTH BELOW SHALL BE DEEMED TO APPLY SEPARATELY WITH RESPECT TO EACH PLAN PROPOSED BY EACH DEBTOR.

Pursuant to title 11 of the United States Code, 11 U.S.C. §§ 101 *et seq.*, the debtors and debtors-in-possession in the above-captioned cases respectfully propose the following joint plan of liquidation under chapter 11 of the Bankruptcy Code.

¹ Capitalized terms used herein shall have the meaning ascribed to them in Article I of this Plan.

ARTICLE I.

DEFINED TERMS AND RULES OF INTERPRETATION

A. *Rules of Interpretation*

1. For purposes herein: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (b) any reference herein to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (c) any reference herein to an existing document or exhibit having been filed or to be filed shall mean that document or exhibit, as it may thereafter be amended, modified or supplemented; (d) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (e) the words “herein,” “hereof” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

1. The provisions of Fed. R. Bankr. P. 9006(a) shall apply in computing any period of time prescribed or allowed hereby.

2. All references herein to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

B. *Defined Terms*

Unless the context otherwise requires, the following terms shall have the following meanings when used in capitalized form herein:

1. “*Accrued Professional Compensation*” means, at any given moment, all accrued and/or unpaid fees and expenses (including, but not limited to: (a) success fees; and (b) fees or expenses allowed or awarded by a Final Order of the Bankruptcy Court or any other court of competent jurisdiction) for legal, financial advisory, accounting and other services and reimbursement of expenses that are awardable and allowable under sections 328, 330(a) or 331 of the Bankruptcy Code or otherwise rendered prior to the Effective Date by all Retained Professionals in the Chapter 11 Cases that the Bankruptcy Court has not denied by a Final Order, to the extent that any such fees and expenses have not been previously paid regardless of whether a fee application has been filed for any such amount. To the extent that the Bankruptcy Court or any higher court denies by a Final Order any amount of a Retained Professional’s fees or expenses, then those amounts shall no longer be Accrued Professional Compensation.

2. “*Administrative Claims*” means Claims that have been timely filed, pursuant to the deadline and procedure set forth in the Plan (except as otherwise provided by a separate order of the Bankruptcy Court), for costs and expenses of administration under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including, but not limited to: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors (such as wages, salaries or commissions for services and payments for goods and other services and leased premises); (b) Accrued Professional Compensation; and (c) all fees and charges assessed against the Estates under chapter 123 of title 28 United States Code, 28 U.S.C. §§ 1911-1930.

3. “*Administrative Claims Bar Date*” shall mean the date which is 60 days after the Effective Date.

4. “*Allowed*” means, with respect to any Claim or Equity Interest, except as otherwise provided herein: (a) a Claim or Equity Interest that has been scheduled by the Debtors in their schedules of liabilities as other than disputed, contingent or unliquidated and as to which the Debtors or other party-in-interest has not filed an objection by the Claims Objection Bar Date; (b) a Claim or Equity Interest that either is not Disputed or has been allowed by a Final Order; (c) a Claim or Equity Interest that is allowed: (i) in any stipulation of amount and nature of Claim executed prior to the entry of the Confirmation Order and approved by the Bankruptcy Court; or (ii) in any stipulation with Debtors of amount and nature of Claim or Equity Interest executed on or after the entry of the Confirmation Order; (d) a Claim or Equity Interest that is allowed pursuant to the terms hereof; or (e) a Disputed Claim as to which a proof of claim has been timely filed and as to which no objection has been filed by the Claims Objection Bar Date.

5. “*Allowed Amount*” means the agreed upon or adjudicated amount of an Allowed Claim.

6. “*APA*” means the Asset Purchase Agreement executed by the Debtors and the Purchaser and approved by Final Order of the Bankruptcy Court pursuant to which the Purchaser will purchase substantially all of the assets of the Debtors.

7. “*Avoidance Actions*” means any and all avoidance, recovery, subordination or other actions or remedies that may be brought on behalf of the Debtors or their estates under the Bankruptcy Code or applicable non-bankruptcy law, including, without limitation, actions or remedies under sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, 552 and 553 of the Bankruptcy Code, including without limitation (a) all such claims arising from the payments made to creditors identified in response to questions 3(b) and 3(c) and 10(a) of the Statements of Financial Affairs filed by the Debtors which are incorporated herein by reference and (b) claims for non-payment of receivables.

8. “*Bankruptcy Code*” means title I of the Bankruptcy Reform Act of 1978, as amended from time to time, as set forth in sections 101 *et seq.* of title 11 of the United States Code, and applicable portions of titles 18 and 28 of the United States Code.

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

10. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, promulgated under 28 U.S.C. § 2075, the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Eastern District of Michigan, Southern Division, the Local Rules for the U.S. Bankruptcy Court for the Eastern District of Michigan, Southern Division, and general orders and chambers procedures of the Bankruptcy Court, each as applicable to the Chapter 11 Cases and as amended from time to time.

11. “*Business Day*” means any day, other than a Saturday, Sunday or “legal holiday” (as that term is defined in Fed.R.Bankr.P. 9006(a)).

12. “*BWASI*” means the debtor Blue Water Automotive Systems, Inc.

13. “*Cash*” means legal tender of the United States of America or the equivalent thereof.

14. “*Cash Collateral Lien Claims*” means the liens in favor of GM, Chrysler and Ford Motor Company provided in the Second Extended Interim Order (A) Authorizing Use of Operating Cash; (B) Granting Adequate Protection; and (C) Scheduling a Final Hearing on the Motion.

15. “*Causes of Action*” means all claims, actions, causes of action, chooses in action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, remedies, rights of set-off, third-party claims, subrogation claims, contribution claims, reimbursement claims, indemnity claims, counterclaims, and crossclaims (including, but not limited to, all claims and any avoidance, recovery, subordination or other actions against insiders and/or any other entities under the Bankruptcy Code, including Avoidance Actions and those actions set forth in the Plan Supplement and those actions that are or may be pending on the Effective Date or instituted by the Debtors or the Creditors’ Trust after the Effective Date against any entity, based in law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted as of the date of entry of the Confirmation Order).

16. “*Chapter 11 Cases*” means the cases commenced when the Debtors each filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code on the Petition Date, jointly administered under case number 08-43196, with the following case numbers: 08-43198, 08-43199, 08-43200 and 08-43201.

17. “*CIT Business Credit*” means CIT Group/Business Credit, Inc. and La Salle Business Credit, Inc.

18. “*CIT Equipment Financing*” means CIT Group/Equipment Financing, Inc.

19. “*CIT Capital*” means CIT Capital USA, Inc.

20. “*Claim*” means a “claim” (as that term is defined in section 101(5) of the Bankruptcy Code) against a Debtor.

21. “*Claims Objection Bar Date*” means the bar date for objecting to proofs of claim, which shall be 120 days after the Effective Date; *provided, however*, that the Creditors’ Trust may seek extensions of this date from the Bankruptcy Court.
22. “*Class*” means a category of holders of Claims or Equity Interests as set forth in Article III pursuant to section 1122(a) of the Bankruptcy Code.
23. “*Closing Date*” means the date on which the Sale is consummated.
24. “*Collateral Value*” means the value of the collateral securing a particular Secured Claim as determined by the Bankruptcy Court on or before the closing on the Sale, after satisfaction of all Allowed Secured Claims senior in priority and perfection to such Secured Claims, less (a) the amount of all payments made to the holder of such Secured Claim on or after the Petition Date to the extent such amount exceeds the amount of diminution in the value of such collateral, if any, since the Petition Date and (b) any surcharge allowed by the Bankruptcy Court.
25. “*Compensation and Benefits Programs*” means all employment and severance agreements and policies, and all compensation and benefit plans, policies, and programs of the Debtors applicable to their employees, former employees, retirees and employee directors and the employees, former employees and retirees of their subsidiaries, including, without limitation, all savings plans, retirement plans, health care plans, disability plans, severance benefit agreements and plans, incentive plans, deferred compensation plans and life, accidental death and dismemberment insurance plans.
26. “*Confirmation Hearing*” means the hearing on confirmation of this Plan.
27. “*Confirmation Order*” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.
28. “*Creditors’ Committee*” means the official committee of unsecured creditors for the Chapter 11 Cases appointed by the United States Trustee for the Eastern District of Michigan, pursuant to section 1102 of the Bankruptcy Code, on or about February 15, 2008.
29. “*Creditors Trust*” means the trust created pursuant to the Creditors’ Trust Agreement which will be part of the Plan Supplement.
30. “*Creditor’s Trustee*” means the Creditors’ Trustee under the Creditors’ Trusts who shall be identified in the Plan Supplement and appointed pursuant to this Plan.
31. “*Chrysler*” means Chrysler, LLC.
32. “*Debtors*” or “*Debtors-in-Possession*” means, collectively, Blue Water Automotive Systems, Inc., BWAS Holdings, Inc., Blue Water Plastics Mexico, Ltd., BWAS Mexico, LLC, and Blue Water Automotive Systems Properties, LLC.
33. “*DIP Facility*” means the Credit Facility as defined in the Final DIP Order.

34. “*DIP Facility Collateral*” means the collateral securing the DIP Facility Claim pursuant to the Final DIP Order.

35. “*DIP Lender*” means Citizens Bank as lender of the DIP facility pursuant to the Final DIP Order.

36. “*Disclosure Statement*” means the Disclosure Statement for the Debtors’ Joint Plan of Liquidation, dated May 9, 2008, prepared and distributed in accordance with the Bankruptcy Code, Bankruptcy Rules, and any other applicable law, and approved by the Bankruptcy Court in the Disclosure Statement Order, as it is amended, supplemented, or modified from time to time.

37. “*Disclosure Statement Approval Order*” means that certain order of the Bankruptcy Court approving the Disclosure Statement.

38. “*Disputed*” means, with respect to any Claim or Equity Interest, any Claim or Equity Interest: (a) listed on the Schedules as unliquidated, disputed or contingent, unless a proof of Claim has been timely filed; (b) as to which a Debtor or Reorganized Debtor has interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules; or (c) as otherwise disputed by a Debtor or Reorganized Debtor in accordance with applicable law, which objection, request for estimation or dispute has not been withdrawn or determined by a Final Order.

39. “*Effective Date*” means the first date that is a Business Day after the entry of the Confirmation Order on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions expressly specified in Article VIII have been (i) satisfied or (ii) waived pursuant to Article VIII.

40. “*Equity Interest*” means any equity interest in a Debtor other than BNAS Mexico, LLC and Blue Water Plastics Mexico, Ltd. that existed immediately prior to the Petition Date, including, but not limited to: (a) any common equity interest in a Debtor that existed immediately prior to the Petition Date, including, but not limited to, all issued, unissued, authorized or outstanding shares of common stock, together with any warrants, options or legal, contractual or equitable rights to purchase or acquire such interests at any time; and (b) any preferred equity interest in a Debtor that existed immediately prior to the Petition Date, including, but not limited to, all issued, unissued, authorized or outstanding shares of preferred stock, together with any warrants, options or legal, contractual or equitable rights to purchase or acquire such interests.

41. “*Estate*” means the estate of a Debtor created on the Petition Date by section 541 of the Bankruptcy Code.

42. “*Final DIP Order*” means that certain Final Order (I) Authorizing Debtors in Possession to (A) Obtain Postpetition Financing Pursuant to 11 U.S.C. §§ 105, 361, 362 and 364, (B) To utilize Cash Collateral Pursuant to Section 363 and, (II) Granting Adequate Protection to Prepetition Secured Lenders Pursuant to 11 U.S.C. §§ 361, 362, 363 and 364, dated April 1, 2008.

43. “*Final Order*” means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, which has not been reversed, stayed, modified or amended, and as to which the time to appeal, petition for certiorari or move for reargument or rehearing has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought or has otherwise been dismissed with prejudice.

44. “*Ford*” means Ford Motor Company and certain of its subsidiaries and affiliates.

45. “*Ford Guaranty*” means the guaranty issued by Ford of the Over Formula DIP Facility Claims.

46. “*General Equipment Secured Claims*” means all Allowed Claims secured by liens on equipment of the Debtors other than Specific Equipment Secured Claims.

47. “*General Unsecured Claims*” means Claims against the Debtors other than Priority Claims, Administrative Claims, Secured Claims and Claims in Classes 5, 6 and 7.

48. “*GM*” means General Motors Corporation.

49. “*Impaired*” means with respect to a Claim, Equity Interest, or Class of Claims or Equity Interests, “impaired” within the meaning of section 1124 of the Bankruptcy Code.

50. “*In-Formula DIP Facility Claims*” means, the claims arising from the In-Formula Loans as defined in the Final DIP Order.

51. “*Intercompany Claims*” means Claims held by a Debtor or Affiliate of the Debtors against another Debtor or Affiliate of the Debtors.

52. “*Mexico Equity Interests*” means the equity interests in BWAS Mexico, LLC and Blue Water Plastics Mexico, Ltd.

53. “*Other Priority Claims*” means Claims accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than Priority Tax Claims.

54. “*Over Formula DIP Facility Claims*” means the claims arising from the Over Formula Advances under the Final DIP Order.

55. “*Pension Plans*” means the Blue Water Automotive Systems, Inc. Employees 401k Profit Sharing Plan sponsored by the Debtors and governed by Title IV of the Employee Retirement Income Security Act of 1974 (as amended).

56. “*Petition Date*” means February 12, 2008.

57. “*Plan*” means this joint plan of liquidation, either in its present form or as it may be altered, amended, modified or supplemented from time to time in accordance with the

Bankruptcy Code, the Bankruptcy Rules or herewith, as the case may be, and the Plan Supplement, which is incorporated herein by reference.

58. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules and exhibits to be filed no later than ten (10) days prior to the hearing at which the Bankruptcy Court considers whether to confirm the Plan, comprising of, without limitation, the following documents: (a) the list of executory contracts and unexpired leases to be assumed (including associated cure amounts, if any); (b) the list of executory contracts and unexpired leases to be rejected; (c) the list of unexpired directors’ and officers’ liability insurance policies; (d) the list of Causes of Action; (e) the list of Benefits Programs to be rejected; (f) the Creditors’ Trust Agreement; and (g) the list of preserved causes of action.

59. “*Priority Tax Claims*” means Claims of governmental units of the kind specified in section 507(a)(8) of the Bankruptcy Code.

60. “*Pro Rata Share*” means the proportion that the Allowed Amount of a Claim in a Class bears to the aggregate Allowed amounts of all Allowed Claims in such Class: when expressed as a fraction, the numerator is the Allowed Amount of the single Allowed Claim and the denominator is the aggregate Allowed Amounts of all Allowed Claims in such Class.

61. “*Proceeds*” means the proceeds of the Sale net of expenses directly relating to the Sale, including the approved fees of Miller Buckfire & Co.

62. “*Properties*” means the debtor Blue Water Automotive Systems Properties, LLC.

63. “*Properties Secured Claims*” means the Allowed Claims in Class 1 of Article III of the Plan.

64. “*Purchaser*” means the Purchaser of substantially all of the assets of the Debtors pursuant to a Final Order of the Bankruptcy Court.

65. “*Real Estate Tax Claim*” means Claim arising from the nonpayment of real estate taxes assessed against real property of Properties, which taxes were, as of the Petition Date, secured by statutory liens on such real property.

66. “*Remaining Assets*” means those assets of the Estate that are not sold to the Purchaser and, thus, ownership of which shall be vested in the Creditors’ Trust on the Effective Date.

67. “*Representatives*” means with regard to an Entity, officers, directors, employees, advisors, attorneys, professionals, including Retained Professionals, accountants, investment bankers, financial advisors, consultants, agents and other representatives (including their respective officers, directors, employees, members and professionals).

68. “*Retained Professional*” means an Entity: (a) employed in the Chapter 11 Cases pursuant to a Final Order in accordance with sections 327 and 1103 of the Bankruptcy Code and to be compensated for services rendered prior to the Effective Date, pursuant to sections 327, 328, 329, 330 and 331 of the Bankruptcy Code.

69. “*Sale*” means the sale of substantially all of the assets of the Debtors and/or any specified stock of certain Debtors pursuant to the APA.

70. “*Sale Order*” means the orders of the Bankruptcy Court approving the sale.

71. “*Schedules*” means the schedules of assets and liabilities, schedules of executory contracts and statements of financial affairs filed by the Debtors pursuant to section 521 of the Bankruptcy Code as may be amended from time to time.

72. “*Secured Claims*” means: (a) Claims that are secured by a lien on property in which the Estates have an interest, to the extent of the value of the Claim holder’s interest in the Estates’ interest in such property, which liens are valid, perfected and enforceable under applicable law or by reason of a Final Order, as determined pursuant to section 506(a) of the Bankruptcy Code, including Allowed Setoff and Recoupment Claims and (b) Claims which are Allowed under the Plan as a Secured Claim.

73. “*Secured Lenders*” means the holders of Secured Claims other than the DIP Facility.

74. “*Setoff and Recoupment Claims*” means Allowed Claims that are (a) subject to setoff under section 553 of the Bankruptcy Code, and (b) recoupment claims arising under contracts with the Debtors arising before the Effective Date.

75. “*Specific Equipment Secured Claims*” means Claims in Class 3 of Article III of the Plan as identified in Exhibit A, which are subsequently Allowed.

ARTICLE II.

ADMINISTRATIVE AND PRIORITY CLAIMS

A. *Administrative Claims*

Subject to the provisions of sections 328, 330(a) and 331 of the Bankruptcy Code, each holder of an Allowed Administrative Claim will be paid the full unpaid amount of such Allowed Administrative Claim in Cash: (a) on the Effective Date or as soon as practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due or as soon as practicable thereafter); (b) if such Claim is Allowed after the Effective Date, on the date such Claim is Allowed or as soon as practicable thereafter (or, if not then due, when such Allowed Administrative Claim is due); (c) at such time and upon such terms as may be agreed upon by such holder and the Debtors or the Purchaser, as the case may be; or (d) at such time and upon such terms as set forth in an order of the Bankruptcy Court; *provided, however*, that Allowed Administrative Claims comprising obligations incurred in the ordinary course of business and assigned to the Purchaser will be paid when due in accordance with the terms and conditions of the particular agreements governing any such obligations. Notwithstanding anything herein to the contrary, no Administrative Claim will be an allowed Administrative Claim if filed after the Administrative Claim Bar Date.

B. *DIP Facility Claims and Cash Collateral Lien Claims*

Notwithstanding anything to the contrary herein, on or prior to the Effective Date the DIP Facility will be paid in full in Cash in accordance with the terms of the DIP Facility, in full and final satisfaction of the Allowed DIP Facility Claim from the Proceeds, to the extent of value of the DIP Facility Collateral and otherwise under the Ford Guaranty.

C. *Cash Collateral Lien*

To the extent of Collateral Value from the Proceeds in excess of the In-Formula DIP Facility Claims, such Proceeds shall be used to fund the escrow required by the Final DIP Order for the Cash Collateral Lien Claims. The Cash Collateral Lien Claims shall be paid in cash, in full and final satisfaction of such claims, from such escrow in accordance with the Final DIP Order.

D. *Priority Tax Claim*

1. *Satisfaction of Priority Tax Claims:* On the later of the Effective Date or the date on which a Priority Tax Claim becomes an Allowed Priority Tax Claim, or, in each such case, as soon as practicable thereafter, each holder of an Allowed Priority Tax Claim due and payable on or prior to the Effective Date will receive on account of such Claim, in accordance with section 1129(a)(9)(C) of the Bankruptcy Code, either (a) installment payments in Cash of a total value, as of the Effective Date, equal to the Allowed amount of such Claim, plus interest, commencing on the Effective Date, if such obligation is assumed by the Purchaser in the APA; or (b) Cash on the Effective Date of a total value equal to the Allowed Amount of such claim.

2. *Installment Payments:* Any installment payments made pursuant to section 1129(a)(9)(C) of the Bankruptcy Code shall be in equal quarterly Cash payments beginning on the first day of the calendar month following the Effective Date, and subsequently on the first day of each third calendar month thereafter, for a period ending five (5) years after the Effective Date. Interest shall accrue, and be payable quarterly, at the annual rate determined under applicable bankruptcy law pursuant to section 511 of the Bankruptcy Code.

E. *Other Priority Claims*

1. *Satisfaction of Other Priority Claims:* On or as soon as practicable after the Effective Date, each holder of an Allowed Other Priority Claim shall receive, in full and final satisfaction of such Claim, one of the following treatments: (a) full payment in Cash of its Allowed Other Priority Claim; or (b) installment payments as set forth below, to the extent deferred cash payments are permitted pursuant to section 1129(a)(9)(B), if such obligation is assumed by the Purchaser in the APA.

2. *Installment Payments:* Any installment payments made pursuant to section 1129(a)(9)(B) of the Bankruptcy Code shall be in equal quarterly Cash payments beginning on the first day of the calendar month following the Effective Date, and subsequently on the first day of each third calendar month thereafter, for a period ending five (5) years after the Effective Date. Interest shall accrue, and be payable quarterly, at the annual rate determined under applicable law.

ARTICLE III.

CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

The Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date.

A. *Classification and Treatment of Claims and Equity Interests*

1. *Class 1—Secured Claims of CIT Capital Against Properties*

(a) *Classification:* Class 1 consists of the Allowed Secured Claim of CIT Capital against Properties.

(b) *Treatment:* As of the Effective Date, the holder of the Allowed Secured Claim of CIT Capital in Class 1 shall receive, in full and final satisfaction of such Claim, except to the extent the holder of the Allowed Secured Claim in Class 1 agrees to a different treatment, at the election of Properties (after consulting with the Purchaser), either:

(i) Provided that CIT Capital does not credit bid at the Sale, Cash in an amount equal to the Collateral Value;

(ii) the retention of such holder's lien on its collateral and deferred equal monthly payments, the present value of which monthly payments shall equal the Collateral Value, commencing on the first Business Day of the month following the Effective Date and continuing for 10 years from the Effective Date, based on a 20-year amortization of the Allowed Amount, with such deferred payments calculated at the lowest market rate of interest, and further provided that the unpaid Allowed Amount of the Allowed Secured Claim may be prepaid at any time without penalty, or

(iii) transfer of title to all or a portion of the collateral securing such Allowed Claim to the holder thereof, subject to any preexisting leasehold rights as may be readjusted to account for any property (a) sold by Properties and for which the liens of CIT Capital were transferred to the proceeds of such sale or (b) not utilized by the Debtors or Purchaser after such transfer of such property back to the holder of such Allowed Claim.

(iv) At the Debtors' election, the Debtors' may combine subsections (i), (ii) and (iii), above. For example, Properties may transfer title to a portion of the collateral to such holder pursuant to paragraph (iii) above and also provide for the payments in paragraph (ii) above as to the remaining Collateral Value.

(c) *Voting:* Allowed Secured Claims in Class 1 may be Impaired and, thus, the holder of such an Allowed Secured Claim in Class 1 may be entitled to vote to accept or reject the Plan.

2. *Class 2—Real Estate Tax Claims Against Properties*

(a) *Classification:* Class 2 consists of all Allowed Real Estate Tax Claims against Properties.

(b) *Treatment:* On or as soon as practicable after the Effective Date, each holder of an Allowed Real Estate Tax Claim in Class 2 shall be paid, in full satisfaction of such claim, the full Allowed Amount of such claim, without interest.

(c) *Voting:* The Allowed Real Estate Tax Claims in Class 2 are Impaired and entitled to vote.

3. *Class 3—Specific Equipment Secured Claims*

(a) *Classification:* Class 3 consists of all Allowed Secured Claims that are secured by first priority liens that originally were created in connection with and limited to the purchase, financing or refinancing of equipment or parts thereof, other than General Equipment Secured Claims. Each holder of an Allowed Claim in Class 3 is deemed to be in a separate subclass of Class 3 and each subclass is treated as a separate class for all purposes in the Plan. The subclasses are identified in Exhibit A.

(b) *Treatment:* On or as soon as practicable after the Effective Date, each holder of an Allowed Claim in Class 3 shall receive, in full and final satisfaction of such claim, except to the extent such holder agrees to a different treatment of such claim, at the election of the Debtors (after consultation with the Purchaser), either:

(i) upon the sale of the collateral securing such Allowed Secured Claim, Cash in an amount equal to the Collateral Value; or

(ii) the transfer of title to the collateral securing such Allowed Claim to the holder thereof.

As to any particular subclass, treatment of the Allowed Secured Claim in such subclass may, at the Debtors' election, combine subsections (i) and (ii).

(c) *Voting:* Allowed Claims in Class 3 may be impaired and, if so, the holders of such Claims are entitled to vote to accept or reject the Plan.

4. *Class 4—All Other Secured Claims*

(a) *Classification:* Class 4 consists of all Allowed Secured Claims other than the Secured Claims in Classes 1 and 2 and Specific Equipment Secured Claims, including without limitation General Equipment Secured Claims and Setoff and Recoupment Claims. Each holder of an Allowed Secured Claim in Class 4 is deemed to be placed in a separate subclass of

Class 4 and each subclass is treated as a separate class for all purposes. The subclasses are identified in Exhibit B.

(b) *Treatment:* On or as soon as practicable after the Effective Date, each holder of an Allowed Secured Claim in Class 4 shall receive, in full and final satisfaction of such Claim, in the sole discretion of the Debtors, and except to the extent a holder of an Allowed Secured Claim in Class 4 agrees to a different treatment, at the election of the Debtors (after consultation with the Purchaser), either:

(i) upon the sale of the collateral securing such Allowed Secured Claim, Cash in an amount equal to the Collateral Value; or

(ii) the retention of such holder's lien on its collateral and deferred monthly payments, the present value of which monthly payments shall equal the Collateral Value commencing on the first Business Day of the month following the Effective Date and continuing for 5 years from the Effective Date, with such deferred payments calculated at the lowest market rate of interest, and further provided that the unpaid Allowed Amount of the Allowed Secured Claim may be prepaid at any time without penalty, or, to the extent the collateral is real property, the retention of such holder's lien on its collateral and deferred equal monthly payments, the present value of which monthly payments shall equal the Collateral Value, commencing on the first Business Day of the month following the Effective Date and continuing for 10 years from the Effective Date, based on a 20-year amortization of the Allowed Amount, with such deferred payments calculated at the lowest market rate of interest, and further provided that the unpaid Allowed Amount of the Allowed Secured Claim may be prepaid at any time without penalty, or

(iii) transfer of the title to the collateral securing such Allowed Secured Claim to the holder thereof; or

(iv) such other treatment as shall provide the holder with the indubitable equivalent of the holder's Allowed Secured Claim.

As to any particular subclass, treatment of the Allowed Secured Claim in such subclass may, at the Debtors' election, combine subsections (i), (ii), (iii) and (iv).

(c) *Voting:* Allowed Claims in Class 4 may be impaired and, thus, holders of such Claims may be entitled to vote to accept or reject the Plan.

5. *Class 5—General Unsecured Claims*

(a) *Classification:* Class 5 consists of General Unsecured Claims.

(b) *Treatment:* Each holder of an Allowed General Unsecured Claim shall receive, in full and final satisfaction of such Claim, its Pro Rata Share of the subtrust under the Creditors' Trust established for Allowed Claims against the Estate of the Debtor against which such holder has an Allowed General Unsecured Claim. Payments from the Creditors' Trust shall be made by the Creditors' Trustee as soon as practicable after the Effective Date as cash becomes available for substantial distributions, in accordance with the Creditors' Trust.

(i) If an Allowed General Unsecured Claim is against the Estate of more than one Debtor, the holder of such Allowed Claim shall be entitled to its Pro Rata Share of each of the subtrusts established for Allowed Claims against the Estates of the Debtors against which such holder has an Allowed General Unsecured Claim.

(c) *Voting:* Allowed Claims in Class 5 are Impaired, and thus, holders of such claims are entitled to vote to accept or reject the Plan.

6. *Class 6—Unsecured Deficiency Claims*

(a) *Classification:* Class 6 consists of all Allowed Claims that prior to the Petition Date were secured by liens on property of a Debtor but which are no longer secured, whether in whole or in part, because the Collateral Value is less than the total amount of the Allowed Claim. Such Claims are Claims in Class 6 to the extent of the difference between (A) the total Allowed Amount of such Claim, and (B) the Collateral Value.

(b) *Treatment:* Each holder of an Allowed Claim in Class 6 shall receive, in full and final satisfaction of such Claim, its Pro Rata Share of the subtrust under the Creditors' Trust established for Allowed Claims against the Estate of the Debtor against which such holder has an Allowed Claim. Payments from the Creditors' Trust shall be made by the Creditors' Trustee as soon as practicable after the Effective Date as cash becomes available for substantial distributions.

(i) If an Allowed Claim in Class 6 is against the Estate of more than one Debtor the holder of such Allowed Claim shall be entitled to its Pro Rata Share of each of the subtrusts established for Allowed Claims against the Estates of the Debtors against which the holder has an Allowed Claim in Class 6.

(c) Allowed Claims in Class 6 are Impaired, and thus, holders of Allowed Claims in Class 6 are entitled to vote to accept or reject the Plan.

7. *Class 7—Unsecured Construction Claims Against Properties*

(a) *Classification:* Class 7 consists of all Allowed Claims against Properties arising from the provision of services and/or materials to Properties prior to the petition date in relation to the real property of Properties that are not secured by senior liens on such real property.

(b) *Treatment:* Each holder of an Allowed Claim in Class 7 shall receive on or about the Effective Date, in full and final satisfaction of such Claim, ten percent (10%) of the Allowed Amount of such Claim, provided, however, that in no event shall the total amount payable to the holders of Allowed Claims in Class 7 exceed \$100,000 and if payment of ten percent (10%) to such holders would result in an aggregate total of payments in excess of \$100,000, then each holder of an Allowed Claim in Class 7 shall receive its Pro Rata Share of \$100,000.

(c) *Voting:* Allowed Claims in Class 7 are Impaired and thus, holders of such Claims are entitled to vote to accept or reject the Plan.

8. *Class 8—Convenience Claims*

(a) *Classification:* Class 8 consists of all Allowed Unsecured Claims of (a) an Allowed Amount of \$2,000 or less, or (b) an amount greater than \$2,000, provided that a holder of an Unsecured Claim in an amount greater than \$2,000 may elect to reduce the Allowed Amount of such claim to \$2,000 by election on its ballot and thereby elect treatment as an Allowed Claim in Class 8.

(b) *Treatment:* Each holder of an Allowed Claim in Class 8 shall receive on or about the Effective Date, fifty percent (50%) of the Allowed Amount of such Claim, provided, however, that in no event shall the total amount payable to the holders of Allowed Claims in Class 8 exceed \$400,000 and if payment of fifty percent (50%) to such holders would result in an aggregate of payments in excess of \$400,000, then each holder of an Allowed Claim in Class 8 shall receive its Pro Rata Share of \$400,000.

(c) *Voting:* Allowed Claims in Class 8 are Impaired and thus, the holders of such Claims are entitled to vote to accept or reject the Plan.

9. *Class 9—Equity Interests (Other than the Mexico Equity Interests)*

(a) *Classification:* Class 9 consists of the Equity Interests, which does not include the Mexico Equity Interests.

(b) *Treatment:* Holders of Equity Interests shall neither receive nor retain any property under the Plan.

(c) *Voting:* Holders of Equity Interests in Class 9 are conclusively deemed to reject the Plan.

10. *Class 10 – Mexico Equity Interests*

(a) *Classification:* Class 10 consists of the Mexico Equity Interests.

(b) *Treatment:* In the event that the Mexico Equity Interests are sold in the Sale, the Holders of Mexico Equity Interests shall receive the proceeds of the Mexico Equity Interests to the extent they exceed the Collateral Value. In the event the Mexico Equity Interests

are not sold in the Sale, the Holders of Mexico Equity Interests shall not receive anything on account of such interests.

(c) *Voting:* Holders of Mexico Equity Interests shall, depending upon the election by the Purchaser under subsection (b) above either be conclusively deemed to reject the Plan or are unimpaired in the event the Mexico Equity Interests are sold in the Sale.

B. *Subordination*

The treatment of Claims and Equity Interests shall conform to contractual, legal and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise.

C. *Non-Consensual Confirmation*

The Debtors reserve the right to seek confirmation of the Plan under section 1129(b) of the Bankruptcy Code. To the extent that any Class votes to reject the Plan, the Debtors further reserve the right to modify the Plan.

D. *Interest, Penalties and Surcharges*

Except as otherwise expressly provided in the Plan, the treatment under the Plan of all Allowed Claims shall not include interest, any form of penalties or any form of prepayment fees or charges. Nor, except as otherwise expressly provided in the Plan shall anything herein be deemed to waive or modify the rights of the Debtors and the Creditors' Trustee to seek to surcharge the collateral of one or more of the Secured Lenders.

E. *Disallowance of Setoff and Recoupment Claims*

Setoff and Recoupment Claims which are not allowed by order of the Bankruptcy Court prior to the date of the Confirmation Order shall be deemed disallowed.

ARTICLE IV.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. *Implementation on the Effective Date*

The Plan shall become effective on the Effective Date.

B. *Means of Implementing the Plan*

1. *Sale of Assets.* Substantially all of the assets of the Debtors shall be sold on or before the Effective Date, free and clear of all liens, claims, encumbrances and interests whatsoever, whether known or unknown, except as agreed to by the Purchaser and except that the Secured Claim of CIT Capital in Class 1 and certain Secured Claims secured by liens on equipment or real estate may be retained and assumed by the Purchaser in accordance with the

provisions of Article III of the Plan and the APA. Subject to the terms of this Plan, any and all liens, Claims and encumbrances are deemed to attach to the proceeds of the sale of the purchased assets with the same validity, priority, force and effect as such liens, Claims and encumbrances had on the purchased assets prior to the Petition Date

2. Transfer of Proceeds. On the Effective Date, any proceeds generated by the sale of the purchased assets, after satisfaction of all Allowed Secured Claims (and after payment of all Administrative Claims other than amounts required under this plan to be paid on the Effective Date) shall be transferred to the Creditors' Trustee, who shall deposit them into the Creditors' Trust.

C. Preservation of Causes of Action; Settlement of Claims and Releases

1. Preservation of Causes of Action. Except as expressly provided herein, and unless expressly waived, relinquished, exculpated, released, compromised or settled in the Plan, the Confirmation Order, any Final Order, or in any contract, instrument, release or other agreement entered into or delivered in connection with the Plan, the Creditors' Trust will exclusively retain and may enforce, as the representative of the Estates under section 1123(b)(3)(B), and the Debtors expressly reserve and preserve for these purposes, in accordance with sections 1123(a)(5)(B) and 1123(b)(3) of the Bankruptcy Code, any Claims, demands, rights and Causes of Action that the Debtors or the Estates may hold against any person or entity, including Avoidance Actions, which shall vest in the Creditors' Trustee, which Causes of Action will be further identified in the Plan Supplement. Accordingly, no preclusion doctrine, including, without limitation, the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches shall apply to such Causes of Action by virtue of, or in connection with, the confirmation, consummation of effectiveness of this Plan. The Creditors' Trustee or his or her respective successors or assigns exclusively may pursue such retained Claims, demands, rights or Causes of Action.

2. Execution of the Creditors' Trust Agreement. On or before the Effective Date, the Creditors' Trustee and the Debtors on behalf of themselves and the Estates, will execute the Creditors' Trust Agreement.

3. Vesting of Assets of Estate. Upon the Effective Date and subject only to the terms of this Plan, all Remaining Assets of the Debtors and the Estates, wherever situated, shall vest in the Creditors' Trust, free and clear of all liens, claims, encumbrances and interests.

4. Dissolution of the Debtors and Resignation of Officers and Directors. From and after the Effective Date, the Debtors other than, possibly, Blue Water Plastics Mexico, Ltd. and BWAS Mexico, LLC, shall be deemed dissolved for all purposes without the necessity for any other or further actions to be taken by or on behalf of the Debtors or payments to be made in connection therewith; provided, however, that the Creditors' Trustee on behalf of the Debtors shall file with the appropriate governmental authority or authorities a certificate or statement of dissolution referencing the Plan and any and all required tax returns or other documents required by this Plan or applicable law. Blue Water Plastics Mexico, Ltd. and BWAS Mexico, LLC may need to continue in existence to effect the transfer of that part of the operating business located in Mexico. The final structure of the transfer of the operating business in Mexico will be as

determined in the APA. From and after the Effective Date, the Debtors shall not be required to file any document, or take any other action, to withdraw their business operations from any states in which the Debtors were previously conducting business.

Upon the Effective Date, all of the Debtors' officers, directors, managing members, general partners or other governing authorities shall be deemed to have resigned without the necessity of any further action or writing, and they shall be released from any responsibilities, duties and obligations that arise after the Effective Date to the Debtors or their creditors under the Plan, the Creditors' Trust Agreement, or applicable law. Under no circumstances shall such parties be entitled to any compensation from the Debtors or the Creditors' Trustee for services provided after the Effective Date, unless such individuals are subsequently employed by the Creditors' Trustee to assist him in the consummation of the Plan or in his administration of the Creditors' Trust.

5. Appointment of Creditors' Trustee. The Creditors' Trustee, who shall be appointed by the Bankruptcy Court prior to the Effective Date, shall have the powers, duties, and obligations set forth in this Plan and in the Creditors' Trust Agreement. After the Effective Date, all actions required of the Debtors shall be taken by the Creditors' Trustee, or his or her designee, in the name of, and on behalf of, the Debtors and the Estates. The Creditors' Trustee shall be authorized to execute documents on behalf of the Debtors and the Estates.

6. Duties and Responsibilities of Creditors' Trustee. The Creditors' Trustee shall assume all of the fiduciary responsibilities, duties and obligations previously undertaken by the Debtors' board of directors, managers, general partners and officers that arise after the Effective Date under the Plan, the Creditors' Trust Agreement and applicable law, and is empowered and authorized to satisfy such responsibilities, duties and obligations without any further corporate authority (such as approval by any executive committee or members) as may have been required prior to the Effective Date. The Creditors' Trustee shall stand in the same position as the Debtors with respect to any claim the Debtors may have to an attorney-client privilege, the work product doctrine, or any other privilege against production, and the Creditors' Trustee shall succeed to all of the Debtors' rights to preserve, assert or waive any such privilege.

These duties, responsibilities and obligations include, but are not limited to, the following:

- (a) preparation and filing of tax returns on behalf of the Debtors, the Estates, and the Creditors' Trust, including the right to request a determination of tax liability as set forth in section 505 of the Bankruptcy Code;
- (b) requesting and receiving of W-9 federal tax forms for any party who is entitled to receive distributions on account of a Claim or Equity Interest;
- (c) final administration of employee benefits, if any, and effecting the final administration and termination of all Compensation and Benefit Plans;
- (d) prosecution and resolution of Causes of Action, if any;

- Trustee;
- (e) payment of post-confirmation fees due to the Office of the United States
 - (f) filing of status reports with the Bankruptcy Court or other parties-in-interest on a quarterly basis including a summary of any disbursements or receipts;
 - (g) any duty of care, loyalty or other duty imposed or imputed by law;
 - (h) responding to inquiries of creditors; and
 - (i) collecting and liquidating Remaining Assets.

7. Retention of Professionals. The Creditor's Trustee may retain such attorneys (including special counsel), accountants, advisors, expert witnesses, and other professionals as he shall consider advisable without necessity of approval of the Bankruptcy Court. Persons who served as Professionals to the Creditors' Committee or the Debtors prior to the Effective Date may serve the Creditors' Trustee and professionals retained by him or her shall be paid by him or her in the ordinary course from amounts held in the Creditors' Trust.

8. Exculpation and Indemnification: Neither the Creditors' Trustee nor the firms or corporations representing him, or any of his employees, Professionals or agents, shall in any way be liable for any acts of any of his employees, Professionals or agents, except for acts undertaken in bad faith, gross negligence or willful misconduct, in the performance of their respective duties. The Creditors' Trustee, and his employees, Professionals and agents shall be indemnified by the Creditors' Trust from and against any and all liabilities, expenses, claims, damages or losses incurred by them as a direct result of acts or omissions taken by them in good faith under this Plan and/or the Creditors' Trust Agreement, after application to the Bankruptcy Court and notice to the beneficiaries of the Creditors' Trust, in accordance with sections 327 and 330 of the Bankruptcy Code.

9. Removal of Creditors' Trustee. Pursuant to this Plan and the Creditors' Trust Agreement, the Creditors' Trustee may be removed for cause upon motion to the Bankruptcy Court by a party-in-interest. If the Creditors' Trustee is removed for cause, such Creditors' Trustee shall not be entitled to any accrued but unpaid fees, reimbursements or other compensation under this Agreement or otherwise. Under this Plan and the Creditors' Trust Agreement, the term "cause" shall mean (a) the Creditors' Trustee's negligence or failure to perform his duties under the Creditors' Trust Agreement, or (b) the Creditors' Trustee's misappropriation or embezzlement of any assets belonging to the Creditors' Trust or the proceeds thereof. If a Creditors' Trustee is unwilling or unable to serve by virtue of his inability to perform his duties under the Creditors' Trust Agreement, due to death, illness, or other physical or mental disability, subject to a final accounting, such Creditors' Trustee shall be entitled to all accrued and unpaid fees, reimbursement, and other compensation, to the extent incurred or arising or relating to events occurring before such removal, and to any out-of-pocket expenses reasonably incurred in connection with the transfer of all powers and duties and all rights to any successor Creditors' Trustee.

D. *Treatment of Intercompany Claims*

On the Effective Date, all Intercompany Claims shall be extinguished.

E. *Equity of Debtors*

As of the Effective Date, all issued and outstanding stock, options, warrants and any other rights to acquire stock of the Debtors other than, possibly, the Mexico Equity Interests, shall be deemed extinguished and, thus, void.

F. *Corporate Action*

(a) Prior to, on or after the Effective Date, as applicable, all matters provided for hereunder that would otherwise require approval of the shareholders, members or directors of the Debtors shall be deemed to have been so approved and shall be in effect prior to, on or after the Effective Date, as applicable, pursuant to applicable state law, without any requirement of further action by shareholders, members, directors, managers or partners of the Debtors.

(b) The Debtors and the Creditors' Trustee are authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions hereof.

ARTICLE V.

**TREATMENT OF EXECUTORY CONTRACTS, UNEXPIRED LEASES,
AND 401(k) PLAN**

A. *Assumption and Rejection of Executory Contracts and Unexpired Leases*

1. Any executory contracts and unexpired leases that are listed in the Plan Supplement as executory contracts or unexpired leases to be assumed, or are to be assumed pursuant to the terms hereof, shall be deemed assumed by the Debtors as of immediately prior to the Effective Date, and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of any such assumptions pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

2. Any executory contracts and unexpired leases that have not expired by their own terms on or prior to the Effective Date, which the Debtors have not assumed or rejected during the pendency of the Chapter 11 Cases, which are not listed in the Plan Supplement as executory contracts or unexpired leases to be assumed, which are not to be assumed pursuant to the terms hereof, and which are not the subject of a motion pending as of the Effective Date to assume the same, shall be deemed rejected by the Debtors as of the day immediately prior to the Petition Date, and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of any such rejections pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

B. *Claims Based on Rejection of Executory Contracts or Unexpired Leases*

All proofs of claim arising from the rejection of executory contracts or unexpired leases must be filed within thirty (30) days after the earlier of: (1) the date of entry of an order of the Bankruptcy Court approving any such rejection; and (2) the Effective Date. Any Claims arising from the rejection of an executory contract or unexpired lease for which proofs of claim are not timely filed within that time period will be forever barred from assertion against the Debtors, the Estates, their successors and assigns, and their assets and properties, unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. All such Claims shall, as of the Effective Date, be subject to the discharge and permanent injunction set forth in Article IX.

C. *Cure of Defaults for Executory Contracts and Unexpired Leases Assumed Pursuant to the Plan*

Any monetary amounts by which any executory contract and unexpired lease to be assumed pursuant to the Plan or otherwise is in default shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on or as soon as practicable after the Effective Date or on such other terms as the parties to each such executory contract or unexpired lease may otherwise agree, by the Purchaser. In the event of a dispute regarding the amount of a cure payment, “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code), or any other matter pertaining to assumption: (1) the Debtors or Creditors’ Trustee, as applicable, retain the right to reject the applicable executory contract or unexpired lease at any time prior to the resolution of the dispute; and (2) cure payments shall only be made following the entry of a Final Order resolving the dispute.

D. *Indemnification of Directors, Officers and Employees*

As of the Effective Date, all indemnification provisions currently in place (whether in the bylaws, certificates of incorporation, articles of limited partnership, operating agreements, board resolutions, contracts or otherwise) for the current and former directors, managers, members, officers, employees, attorneys, financial advisors, other professionals and agents of the Debtors and their respective Affiliates shall be deemed to have been assumed by the Creditors’ Trustee, be payable from the Creditors’ Trust, and shall survive effectiveness of the Plan.

E. *Assumption of D&O Insurance Policies*

As of the Effective Date, the Creditors’ Trust shall be deemed to have assumed all of the Debtors’ unexpired directors’ and officers’ liability insurance policies pursuant to section 365(a) of the Bankruptcy Code. Entry of the Confirmation Order will constitute the Bankruptcy Court’s approval of the foregoing assumption of each of the unexpired directors’ and officers’ liability insurance policies, which policies shall be listed in the Plan Supplement. Notwithstanding anything to the contrary contained in the Plan, confirmation of the Plan shall not discharge, impair or otherwise modify any indemnity obligations assumed by the foregoing assumption of the unexpired directors’ and officers’ liability insurance policies, and each such indemnity obligation will be deemed and treated as an executory contract that has been assumed by the Debtors under the Plan as to which no proof of claim need be filed.

On or before the Effective Date, the Debtors shall obtain sufficient tail coverage for a period of six (6) years and under a directors' and officers' insurance policy for current and former officers and directors of the Debtors.

F. *Compensation and Benefit Programs*

1. All Compensation and Benefits Programs shall be treated as executory contracts under the Plan and deemed rejected and terminated on the Effective Date pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code, except for:

(a) Compensation and Benefits Programs assigned to and assumed by the Purchaser on or before the Effective Date; and

(b) Compensation and Benefits Programs that have previously been rejected.

2. Any assumption of Compensation and Benefits Programs pursuant to this shall be deemed effected without regard to the occurrence of the assumption, Effective Date or consummation of any transaction contemplated hereby or during the Chapter 11 Cases, without triggering any applicable change of control, immediate vesting, termination, or similar provisions therein.

G. *Collective Bargaining Agreements*

All unexpired collective bargaining agreements shall be treated as executory contracts under the Plan and, to the extent such agreements are not assigned to and assumed by the Purchaser on or before the Effective Date, the Debtors reserve the right to reject such agreements in connection with confirmation of the Plan.

ARTICLE VI.

PROVISIONS GOVERNING DISTRIBUTIONS

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

Except as otherwise provided herein or as may be ordered by the Bankruptcy Court, the Creditors' Trustee shall make distributions as soon as reasonably practicable on account of all Allowed Claims that are entitled to receive distributions under the Plan, and shall make further distributions to holders of Claims that subsequently are determined to be Allowed Claims.

B. *Pro Rata Distributions*

Distributions allocated on a Pro Rata Share basis shall be calculated based solely on Allowed Claims.

C. *Delivery of Distributions*

1. *Delivery of Distributions.*

Distributions to holders of Allowed Claims shall be made to the Holder of such Claim as of the date of distribution.

2. Address of Record.

The address of the holder of a Claim shall be, for purposes of distributions made pursuant to the Plan, the address set forth in any proof of Claim filed by such holder, or, in the absence of such a proof of Claim, the address set forth in the Debtors' books and records.

3. Undeliverable Distributions.

(a) Holding of Certain Undeliverable Distributions: If any distribution to a holder of an Allowed Claim is returned to the Creditors' Trustee as undeliverable, no further distributions shall be made to such holder unless and until the Creditors' Trustee is notified in writing of such holder's then-current address. Undeliverable distributions shall remain in the possession of the Creditors' Trustee until such time as any such distributions become deliverable. Undeliverable cash shall not be entitled to any interest, dividends or other accruals of any kind. As soon as reasonably practicable, the Creditors' Trustee shall make all distributions that become deliverable.

(b) Failure to Claim Undeliverable Distributions: In an effort to ensure that all holders of Allowed Claims receive their allocated distributions, the Creditors' Trustee will file with the Bankruptcy Court sixty (60) days after each distribution a listing of the holders of undeliverable distributions. This list will be maintained for as long as the bankruptcy case stays open. Any holder of an Allowed Claim, irrespective of when a Claim became an Allowed Claim, that does not assert a Claim pursuant hereto for an undeliverable distribution (regardless of when not deliverable) within the later of (i) the time the case is closed, and (ii) thirty (30) days after the filing of such list of undeliverable distributions, shall have its Claim for such undeliverable distribution discharged and shall be forever barred from asserting any such Claim against the Creditors' Trustee or the property of the Creditors' Trust. In such cases any Cash held for distribution on account of such Claims shall be the property of the Creditors' Trust, free of any restrictions thereon. Nothing contained herein shall require the Creditors' Trustee to attempt to locate any holder of an Allowed Claim.

4. Distributions Withheld for Disputed Claims: Distribution Reserve.

The Creditors' Trustee shall reserve in the Distribution Reserve, Cash from distributions to those holders of Allowed Claims entitled to participate in the Creditors' Trust equal to the distributions to which holders of Disputed Claims would be entitled if such Disputed Claims became Allowed Claims. Within thirty (30) days thereafter or as soon thereafter as is reasonably practicable following resolution of a Disputed Claim, the Creditors' Trustee shall make a distribution to the holder of the resolved Disputed Claim out of the Distribution Reserve in an amount equal to the same amount that would have been distributed had the Disputed Claim been an Allowed Claim on the respective distribution date in the amount Allowed.

5. Compliance with Tax Requirements/Allocations.

In connection with the Plan, to the extent applicable, the Creditors' Trustee shall comply with all tax withholding and reporting requirements imposed on them by any governmental unit, and all distributions pursuant hereto shall be subject to such withholding and reporting requirements. For tax purposes, distributions received by holders in full or partial satisfaction of Allowed Claims will be allocated first to unpaid interest that accrued on such Claims, with any excess allocated to the principal amount of Allowed Claims.

D. *Minimum Distribution*

Any other provision of the Plan notwithstanding, the Creditors' Trustee, will not be required to make distributions of Cash less than \$50 in value, and each such Claim to which this limitation applies shall be deemed satisfied in full.

E. *Setoffs*

The Creditors' Trustee may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), the equity interests, rights and Causes of Action of any nature that the Estates and the Creditors' Trust may hold against the holder of any such Allowed Claim; *provided that* neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Creditors' Trustee of any such equity interests, rights and Causes of Action that the Debtors or the Creditors' Trustee may possess against any such holder, except as specifically provided herein.

ARTICLE VII.

**PROCEDURES FOR RESOLVING DISPUTED, CONTINGENT
AND UNLIQUIDATED CLAIMS OR EQUITY INTERESTS**

A. *Resolution of Disputed Claims*

1. Prosecution of Claims Objections and Required New Board Approvals

(a) As of the Effective Date, the Creditors' Trustee shall have the exclusive authority to file objections on or before the Claims Objection Bar Date, settle, compromise, withdraw or litigate to judgment, objections to any and all Claims, regardless of whether classified or otherwise, and to seek subordination of any Claim pursuant to section 510 of the Bankruptcy Code or any other authority. From and after the Effective Date, the Creditors' Trustee may settle or compromise any Cause of Action or Claim without any further notice to or approval of the Bankruptcy Court.

2. Claims Estimation

The Debtors or and the Creditors' Trustees may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the

Bankruptcy Code regardless of whether the Debtors or the Creditors' Trustee have previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the Debtors or the Creditors' Trustee may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims and objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

B. *Claims Allowance*

Except as expressly provided herein or in any order entered in the Chapter 11 Cases prior to the Effective Date (including the Confirmation Order), no Claim shall be deemed Allowed unless and until such Claim is deemed Allowed under the Plan or the Bankruptcy Code, or the Bankruptcy Court has entered a Final Order (including the Confirmation Order) in the Chapter 11 Cases allowing such Claim. Except as expressly provided in the Plan or any order entered in the Chapter 11 Cases prior to the Effective Date (including the Confirmation Order), the Creditors' Trustee will have and shall retain after the Effective Date any and all rights and defenses that the Debtors had with respect to any Claim as of the Petition Date. All Claims of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed disallowed as of the Effective Date unless and until such Entity pays in full the amount that it owes such Debtor or Reorganized Debtor, as the case may be.

C. *Allowed Claims*

Entry of the Confirmation Order shall deem, for all purposes in the Chapter 11 Cases, the DIP Facility Claim to be an Allowed DIP Facility Claim in the then-outstanding amount due and owing under the DIP Facility, including, without limitation, all Obligations as such term is defined in the DIP Facility, which shall include the principal of, interest on, fees and other charges owing in respect of such amounts (including without limitation, all reasonable attorneys', accountants', financial advisors' and other fees and expenses that are chargeable or reimbursable under the DIP Facility) and Obligations in respect of credit or charge cards or letters of credit, if any, pursuant to the Final DIP Order, as of the Effective Date.

ARTICLE VIII.

CONDITIONS PRECEDENT TO THE EFFECTIVE DATE

A. *Conditions Precedent to the Effective Date*

The following are conditions precedent to the Effective Date that must be satisfied or waived in accordance with Article VIII.B:

1. Approval of the Sale by the Bankruptcy Court;
2. Entry of the Confirmation Order;
3. Closing of the Sale by the Purchaser; and
4. Sufficient Proceeds, customer accommodations or surcharge proceeds exist to make the necessary payments of the Debtors under the Plan.

B. *Waiver of Conditions*

The Debtors may, at any time, with the consent of the Creditors' Committee, which consent shall not be unreasonably withheld, waive any of the conditions to the Effective Date set forth in Article VIII.A without notice to or order of the Bankruptcy Court.

C. *Non-Occurrence of Conditions*

If the Effective Date does not occur on or before the Closing Date, or such other later date as the Debtors, in consultation with the Creditors' Committee, may determine upon notice to the Bankruptcy Court, the Plan shall be null and void in all respects, and nothing contained in the Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any Cause of Action or Claim; (2) constitute an admission, acknowledgment, offer or undertaking in any respect by any party, including the Debtors; or (3) otherwise prejudice in any manner the rights of any party, including the Debtors.

ARTICLE IX.

INJUNCTIVE AND RELATED PROVISIONS

A. *Release of Claims and Termination of Equity Interests*

Except as otherwise provided in this Plan, the rights afforded in the Plan and the treatment of all Claims and Equity Interests in the Plan shall be in exchange for and in complete satisfaction, and release of Claims and Equity Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtor and the Estate, or any of their respective Assets. Except as otherwise provided in this Plan (i) on the Effective Date, all Claims against the Debtors will be deemed satisfied and released in full and (ii) all entities shall be precluded from asserting against the Creditors' Trustee or the Debtor and the Estate, their respective successors or assigns, or the Assets. The Confirmation Order shall be a judicial determination of release of all liabilities of the Debtors, subject to the occurrence of the Effective Date. Except as otherwise provided in the Plan, neither the Plan, nor entry of the Confirmation Order, nor any failure to object to a Claim shall have any res judicata, estoppel, or other preclusive effect as to the Debtors, the Creditors' Trustee, or their successors or assigns, with respect to any Cause of Action against any party; *provided, however*, that nothing in this

Plan shall discharge any liabilities of the Debtors, arising after the entry of the Confirmation Order; *provided, that*, nothing in the Plan shall discharge any liability to a governmental entity under applicable environmental laws that a Debtor or any other Entity may have as the owner or operator of real property on and after the entry of the Confirmation Order.

B. *Injunction*

(a) Except as provided in this Plan or the Confirmation Order, as of the Effective Date, all entities that have held, currently hold or may hold a Claim, Equity Interest, or other debt or liability that would be discharged upon Confirmation but for the provisions of section 1141(d)(3) of the Bankruptcy Code or an Equity Interest or other right of an equity security holder that is terminated pursuant to the terms of this Plan will be permanently enjoined from taking any of the following actions on account of any such Claims, debts or liabilities or terminated Equity Interests or rights: (i) commencing or continuing in any manner any action or other proceeding against the Creditors' Trust or the Purchaser other than to enforce any right to a distribution pursuant to this Plan; (ii) enforcing attaching, collecting or recovering in any manner any judgment, award, decree or order against the Debtors, Creditors' Trust or the Purchaser other than as permitted pursuant to clause (i) above; (iii) creating, perfecting or enforcing any lien or encumbrance against the Debtors, Creditors' Trust, or the Purchaser; (iv) asserting a setoff or right of subrogation of any kind against any debt, liability or obligation due to the Debtors or the Creditors' Trust; and (v) commencing or continuing any action, in any manner, in any place that does not comply with or is inconsistent with the provisions of this Plan.

(b) As of the Effective Date, all entities that have held currently hold or may hold any claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities that are released pursuant to this Plan will be permanently enjoined from taking any of the following actions against the Debtors, Creditors' Trust or the Purchaser on account of such released claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities: (i) commencing or continuing in any manner any action or other proceeding; (ii) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (iii) creating, perfecting or enforcing any lien or encumbrance; (iv) asserting a setoff or right of subrogation of any kind against any debt, liability or obligation due to any released entity; and (v) commencing or continuing any action, in any manner, in any place that does not comply with, or is inconsistent with, the provisions of this Plan.

(c) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim receiving distributions pursuant to this Plan will be deemed to have specifically consented to the injunctions set forth in this Article IX.B. The permanent injunction under this Article IX.B shall apply to and inure to the benefit of, without limitation, the Debtors, the Creditors' Trustee and the Purchaser.

C. *No Discharge*

Pursuant to section 1141(d)(3) of the Bankruptcy Code, Confirmation will not discharge the Debtors.

ARTICLE X.

RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, after the Effective Date, retain such jurisdiction over the Chapter 11 Cases and all Entities with respect to all matters related to the Chapter 11 Cases, the Debtors and the Plan as is legally permissible, including, but not limited to, jurisdiction to:

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

2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan, for periods ending on or before the Effective Date;

3. resolve any matters related to the assumption, assignment or rejection of any executory contract or unexpired lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom, including those matters related to any amendment to the Plan after the Effective Date pursuant to Article XI.F adding executory contracts or unexpired leases to the list of executory contracts and unexpired leases to be assumed;

4. ensure that distributions to holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

5. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date or instituted by the Creditors' Trustee after the Effective Date, *provided, however*, that the Creditors' Trustee shall reserve the right to commence actions in all appropriate jurisdictions;

6. enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all other contracts, instruments, releases, indentures and other agreements or documents adopted in connection with the Plan, Plan Supplement or the Disclosure Statement;

7. resolve any cases, controversies, suits or disputes that may arise in connection with the Effective Date, interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

8. issue injunctions, enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the Effective Date or enforcement of the Plan, except as otherwise provided in the Plan;

9. resolve any cases, controversies, suits or disputes with respect to the releases, injunction and other provisions contained herein, and enter such orders as may be necessary or appropriate to implement or enforce all such releases, injunctions and other provisions;
10. enter and implement such orders as necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
11. enforce in all respects the APA and the Sale Order;
12. supervise collection of all Remaining Assets;
13. resolve any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release, indenture or other agreement or document adopted in connection with the Plan or the Disclosure Statement;
14. enter an order and/or the decree contemplated in Fed.R.Bankr.P. 3022 concluding the Chapter 11 Cases; and
15. otherwise enforce the provisions of this Plan.

ARTICLE XI.

MISCELLANEOUS PROVISIONS

A. *Dissolution of Creditors' Committee*

1. The Creditors' Committee shall continue in existence until the Effective Date, shall continue to exercise those powers and perform those duties specified in section 1103 of the Bankruptcy Code, and shall perform such other duties as it may have been assigned by the Bankruptcy Court prior to the Effective Date.

2. On the Effective Date, the Creditors' Committee shall be dissolved and its members shall be deemed released of all of their duties, responsibilities and obligations in connection with the Chapter 11 Cases or the Plan and its implementation, and the retention or employment of the Creditors' Committee's attorneys, financial advisors, and other agents shall terminate except as provided in Article XI.A.3.

3. Notwithstanding anything in this Article XI.A, the Creditors' Committee shall continue to have standing and a right to be heard with respect to: (a) claims for Accrued Professional Compensation of all Retained Professionals; (b) any appeals of the Confirmation Order; and (c) any adversary proceedings or contested matters pending as of the Effective Date to which it is a party. All reasonable fees and expenses incurred therein shall be paid by the Creditors' Trustee to the extent of available assets, as applicable, without further order of the Bankruptcy Court.

B. *Post-Effective Date Professionals' Fees and Final Fee Applications*

1. The Creditors' Trustee may pay reasonable, documented fees of Retained Professionals incurred after the Effective Date, upon application pursuant to section 330 of the Bankruptcy Code and approval of the Bankruptcy Court.

2. The deadline for submission by Retained Professionals of applications for Bankruptcy Court approval of Accrued Professional Compensation shall be sixty (60) days after the Effective Date.

C. *Payment of Statutory Fees*

All fees payable pursuant to section 1930 of title 28 of the United States Code after the Effective Date, as determined by the Bankruptcy Court at a hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid prior to the closing of the Chapter 11 Cases on the earlier of when due or the Effective Date, or as soon thereafter as practicable by the Creditors' Trust.

D. *Modification of Plan*

Subject to the limitations contained in the Plan: (1) the Debtors reserve the right, in consultation with the Creditors' Committee, accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code; and (2) after the entry of the Confirmation Order, the Debtors may, in consultation with the Creditors' Committee, and upon order of the Bankruptcy Court, amend or modify the Plan in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan.

E. *Revocation of Plan*

The Debtors reserve the right, in consultation with the Creditors' Committee, to revoke or withdraw the Plan prior to the entry of the Confirmation Order and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if entry of the Confirmation Order or the Effective Date does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan, assumption or rejection of executory contracts or leases effected by the Plan, and any document or agreement executed pursuant hereto shall be deemed null and void; and (3) nothing contained in the Plan shall: (a) constitute a waiver or release of any claims by or against, or any Equity Interests in, such Debtor or any other Entity; (b) prejudice in any manner the rights of the Debtors or any other Entity; or (c) constitute an admission of any sort by the Debtors or any other Entity.

F. *Successors and Assigns*

The rights, benefits and obligations of any Entity named or referred to herein shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such Entity.

G. *Governing Law*

Except to the extent that the Bankruptcy Code or Bankruptcy Rules apply, and subject to the provisions of any contract, instrument, release, indenture or other agreement or document entered into in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State of Michigan, without giving effect to the principles of conflict of laws thereof.

H. *Reservation of Rights*

Except as expressly set forth herein, the Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order. Neither the filing of the Plan, any statement or provision contained herein, nor the taking of any action by a Debtor or any Entity with respect to the Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtor with respect to the holders of Claims or Equity Interests or other parties-in-interest; or (2) any holder of a Claim or other party-in-interest prior to the Effective Date.

I. *Section 1146 Exemption*

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation, instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Any transfer in connection with the Sale are deemed transfers pursuant to the Plan and subject to section 1146(a).

J. *Section 1125(e) Good Faith Compliance*

The Debtors, Creditors' Trustee and each of their respective Representatives, shall be deemed to have acted in "good faith" under section 1125(e) of the Bankruptcy Code.

K. *Further Assurances*

The Debtors, all holders of Claims receiving distributions hereunder 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 the Plan or the Confirmation Order.

L. *Service of Documents*

Any pleading, notice or other document required by the Plan to be served on or delivered to the Debtors shall be sent by first class U.S. mail, postage prepaid to:

Blue Water Automotive Systems, Inc.
151 Busha Highway
Marysville, MI 48040
Attn: Michael Lord, Chief Executive Officer

with a copy to:
Foley & Lardner LLP
One Detroit Center
500 Woodward Ave, Suite 2700
Detroit, MI 48226-3489
Attn: Judy A. O'Neill

M. *Filing of Additional Documents*

On or before the Effective Date, the Debtors may file with the Bankruptcy Court all agreements and other documents that may be necessary or appropriate to effectuate and further evidence the terms and conditions hereof.

N. *No Stay of Confirmation Order*

The Confirmation Order shall contain a waiver of any stay of enforcement otherwise applicable, including pursuant to Fed.R.Bankr.P. 3020(e) and 7062.

O. *Aid and Recognition*

The Debtors or Creditors' Trustee, as the case may be, shall, as needed to effect the terms hereof, request the aid and recognition of any court or judicial, regulatory or administrative body in any province or territory of Canada or any other nation or state.

{Signature Page Follows}

Respectfully submitted,

BLUE WATER AUTOMOTIVE SYSTEMS, INC.,
a Michigan corporation

By: _____

Its: _____

BWAS HOLDINGS, INC.,
a Delaware corporation

By: _____

Its: _____

BLUE WATER PLASTICS MEXICO, LTD.,
a Michigan corporation

By: _____

Its: _____

BWAS MEXICO, LLC,
a Michigan limited liability company

By: _____

Its: _____

BLUE WATER AUTOMOTIVE SYSTEMS PROPERTIES,
LLC,
a Delaware limited liability company

By: _____

Its: _____

EXHIBIT A

| Type of Contract | Party Name | Address | Description |
|-------------------------|---|--|---|
| Equipment Lease | Banc of America Leasing & Capital, LLC | 2059 Northlake Parkway, 4 South Tucker, GA 30084 | Lease Number: 15660-00400 Equipment: "Global FX 9158" and related items |
| Equipment Lease | Banc of America Leasing & Capital, LLC | P.O Box 7023 Troy, MI, 48007 | Lease Number: 2295554 Equipment: 13 Dell Computers |
| Equipment Lease | CIT Technology Financial Services, Inc. | 4600 Touchton Road East, Bldg. 100 Suite 300 Jacksonville, FL 32246 | Lease Number: 426195 Equipment: IT Catia, Server, Dell Computers, Hardware |
| TBD | CitiCapital Commercial Corporation | TBD | TBD |
| Equipment Lease | De Lage Landen Financial Services | 1111 Old Eagle School Road Wayne, PA 19087 | Lease No: 24680647 Equipment: 2 "Primemovers"- Model SMX45 |
| Equipment Lease | De Lage Landen Financial Services | 1111 Old Eagle School Road Wayne, PA 19087 | Equipment: Racks and Containers at Howell Plant |
| Equipment Lease | Dell Financial Services L.P. | 99355 Collections Center Drive Chicago, IL, 60693 | Lease Number: 001-008701749-001 Equipment: 15 Dell Computers |
| Equipment Lease | Ervin Leasing Corporation | 3893 Research Park Drive Ann Arbor, MI, 48108 | Lease Number: 157792-03 & 157792-02 Equipment: "Terra 5200B Sweeper, Advance Agressor 3820C Rider Scrubber" |
| Equipment Lease | GE Capital Corporation | GE Capital Corporation | Plant Equipment, 12 pages of leases coincide to the various plant equipment that are under GE leases. |
| Equipment Lease | GE Electric Capital Corporation | 4 North Park Drive, Suite 500 Hunt Valley, MD, 21030 | Lease Number: 58645057-001 Equipment: Sertapak Equipment |
| Equipment Lease | GE Electric Capital Corporation | 4 North Park Drive, Suite 500 Hunt Valley, MD, 21030 | Lease Number: 4489748-001 Equipment: C-Pillar Racking System (Liberty Leasing assignment) |
| Equipment Lease | General Electric Capital Corporation | 10 Riverview Drive, Danbury, CT, 06810 | Lease Number: 4491649-001 Equipment: Suntel Phone System |
| Equipment Lease | Greater Bay Bank N.A. | 100 Tri-State International Suite 140 Lincolnshire, IL, 60069 | Lease Number:0000000-001 Equipment: Hyster Forklift E100XL w/Battery & Charger |
| Equipment Lease | Leaf Funding Inc. | 1818 Market Street, 9th Floor Philadelphia, PA, 19103 | Lease Number: 10052597 Equipment: "48X45X39 Yellow KD with Grated Botom: Ropack Container" and related items |
| Equipment Lease | Marlin Leasing Corp. (Fidelity Lease) | 300 Fellowship Rd Mount Laurel, NJ 08054, US | Equipment: "610 Rear Door New Container" and related items |
| Equipment Lease | National City Commercial Capital Company LLC | 995 Dalton Avenue Cincinnati, OH, 45203, US | Lease Number: 91786000 Equipment: Metal Racking-1232 And Cowell Panel Containers -1420 Ft- Containers |
| Equipment Lease | National City Commercial Capital Company LLC | 995 Dalton Avenue Cincinnati, OH, 45203, US | Lease Number: 95766000 Equipment: 142 Large Bin Racks, 95 small bin racks, 342 KD Racks |
| Equipment Lease | NMHG Financial Services | 10 Riverview Drive Danbury, CT, 06810 | Lease Number: 4426162-004 Equipment: Forklift Port Huron |
| Equipment Lease | NMHG Financial Services | 10 Riverview Drive Danbury, CT, 06810 | Lease Number: 4322419-005 Equipment: Forklift Port Huron |

EXHIBIT A

| Type of Contract | Party Name | Address | Description |
|------------------|---|--|--|
| Equipment Lease | Sonitrol Security Services, Inc. | 815 Wood Ridge Center Drive Charlotte, NC | Lease Number: 59594 Equipment: Security System |
| Equipment Lease | Tennant Financial Services | 4333 Edgewood Road N.E Cedar Rapids, Iowa 52411 | Lease Number: 0000000-001 Equipment: Floor Scrubber Model 8200 |
| Equipment Lease | US Bancorp (Manifest Funding) | P.O Box 580337 Minneapolis, MN, 55458-0337 | Lease Number: 801654 Equipment: 1 Servo Robot RT-700S3, 1 Servo Robot RT-1000S3 |

EXHIBIT B

| <u>JURISDICTION</u> | <u>SECURED PARTY</u> | <u>NUMBER</u> | <u>DATE</u> | <u>COLLATERAL</u> |
|------------------------------------|-----------------------------|----------------------|--------------------|--------------------------------|
| Michigan Secretary of State | Active Mould & Design Ltd. | 2006123858-9 | 07/14/2006 | GM345 ductvent defroster molds |
| | Active Mould & Design, Inc. | 2007199951-9 | 12/21/2007 | Molds and equipment |
| | Active Mould & Design, Ltd. | 2006182722-3 | 10/31/2006 | Equipment |
| | Active Mould & Design, Ltd. | 2007110225-5 | 07/12/2007 | Tools |
| | Active Mould & Design, Ltd. | 2007110226-7 | 07/12/2007 | Tools |
| | Basic Tool Inc | 2007203116-6 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203117-8 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203118-0 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203119-2 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203120-5 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203121-7 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203129-3 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203130-6 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203131-8 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203133-2 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203134-4 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203135-6 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203136-8 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203137-0 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203138-2 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203165-9 | 12/28/2007 | Molds |

| <u>JURISDICTION</u> | <u>SECURED PARTY</u> | <u>NUMBER</u> | <u>DATE</u> | <u>COLLATERAL</u> |
|----------------------------|------------------------------------|----------------------|--------------------|---|
| | Basic Tool Inc | 2007203166-1 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203167-3 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203168-5 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203169-7 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203170-0 | 12/28/2007 | Molds |
| | Basic Tool Inc | 2007203171-2 | 12/28/2007 | Molds |
| | Basic Tool, Inc. | 2007203115-4 | 12/28/2007 | Molds |
| | Briadco Tool & Mould Inc. | 2006105010-1 | 06/12/2006 | Cavity molds |
| | Costello Enterprises LLC | 2007007717-2 | 01/15/2007 | GMT967 Front Door Sill fixture |
| | Costello Enterprises, LLC | 2007007719-6 | 01/15/2007 | GMT967 Front Door Sill fixture |
| | Costello Enterprises, LLC | 2007007726-1 | 01/15/2007 | GMT967 Rear Door Sill fixture |
| | Costello Enterprises, LLC | 2007007730-0 | 01/15/2007 | GMT967 Rear Door Sill fixture |
| | Costello Enterprises, LLC | 2008005799-4 | 01/10/2008 | Door trim fixture |
| | Costello Enterprises, LLC | 2008005800-9 | 01/10/2008 | Door trim fixture |
| | Costello Enterprises, LLC | 2008005801-1 | 01/10/2008 | Door trim fixture |
| | Costello Enterprises, LLC | 2008005802-3 | 01/10/2008 | Door trim fixture |
| | Epic Equipment & Engineering, Inc. | 2006189210-5 | 11/13/2006 | BEHR-CRM Mode Door BEHR-CRM Temp Door |
| | Hallmark Technologies Inc. | 2006185702-4 | 11/06/2006 | Listed molds |
| | Innovative Mold Inc. | 2007084026-0 | 05/24/2007 | Cavity Prototype tools |
| | Innovative Mold Inc. | 2007111586-0 | 07/16/2007 | Cavity Prototype tools |
| | Innovative Mold Inc. | 2007179073-3 | 11/15/2007 | Tooling |
| | J.R. Automation Technologies, LLC | 2007131669-0 | 08/21/2007 | Equipment manufactured/produced by secured party – MI Special Tools Lien |

| <u>JURISDICTION</u> | <u>SECURED PARTY</u> | <u>NUMBER</u> | <u>DATE</u> | <u>COLLATERAL</u> |
|----------------------------|-----------------------------------|----------------------|--------------------|--|
| | | | | Act |
| | J.R. Automation Technologies, LLC | 2007166259-2 | 10/24/2007 | Equipment manufactured/produced by secured party – MI Special Tools Lien Act |
| | Kimastle Corporation | 2007136719-2 | 08/29/2007 | MI Special Tools Lien Act – cavity clip drive machine |
| | Kimastle Corporation | 2007136720-5 | 08/29/2007 | MI Special Tools Lien Act – cavity clip drive and screw drive machine |
| | Kimastle Corporation | 2007192229-1 | 12/10/2007 | MI Special Tools Lien Act – machine, weld, heat stake |
| | Kimastle Corporation | 2007192230-4 | 12/10/2007 | MI Special Tools Lien Act – machine, weld |
| | Kimastle Corporation | 2007192231-6 | 12/10/2007 | MI Special Tools Lien Act – machine, weld |
| | Kimastle Corporation | 2007192232-8 | 12/10/2007 | MI Special Tools Lien Act – machine, weld |
| | Kimastle Corporation | 2007192233-0 | 12/10/2007 | MI Special Tools Lien Act – machine, weld |
| | Kimastle Corporation | 2007192234-2 | 12/10/2007 | MI Special Tools Lien Act – machine, weld |
| | Kimastle Corporation | 2007192235-4 | 12/10/2007 | MI Special Tools Lien Act – machine, weld |
| | Kimastle Corporation | 2007192236-6 | 12/10/2007 | MI Special Tools Lien Act – machine |
| | Kimastle Corporation | 2007192237-8 | 12/10/2007 | MI Special Tools Lien Act – machine |
| | Kimastle Corporation | 2007192238-0 | 12/10/2007 | MI Special Tools Lien Act – machine |
| | Kimastle Corporation | 2007192239-2 | 12/10/2007 | MI Special Tools Lien Act – machine |
| | Kimastle Corporation | 2007192240-5 | 12/10/2007 | MI Special Tools Lien Act – machine |

| <u>JURISDICTION</u> | <u>SECURED PARTY</u> | <u>NUMBER</u> | <u>DATE</u> | <u>COLLATERAL</u> |
|----------------------------|-------------------------------|----------------------|--------------------|---|
| | Kimastle Corporation | 2007192241-7 | 12/10/2007 | MI Special Tools Lien Act – machine |
| | Milacron Marketing Company | 2007172381-9 | 11/2/2007 | Injection Molding Machine |
| | Plastic Mold Technology, Inc. | 2005091334-8 | 05/18/2005 | Mold Nos. 5459, 5763, 5791 pursuant to Michigan Moldbuilder and Special Tools Lien Act |
| | PME Companies | 2007074942-0 | 05/09/2007 | Cavity Plastic Injection Molds |
| | PME Companies, Inc. | 2007006654-7 | 01/11/2007 | Cavity Plastic Injection Molds |
| | PME Companies, Inc. | 2007006655-9 | 01/11/2007 | Cavity Plastic Injection Molds |
| | PME Companies, Inc. | 2007111013-7 | 07/13/2007 | Single Cavity Cold Sprue Plastic Injection Mold |
| | Radiance Mold & Engineering | 2006078618-5 | 05/01/2006 | Molds and dies |
| | Radiance Mold & Engineering | 2006089642-9 | 05/17/2006 | Molds and dies |
| | Radiance Mold & Engineering | 2006089643-1 | 05/17/2006 | Molds and dies |
| | Radiance Mold & Engineering | 2006162478-0 | 09/25/2006 | Mold and Duct pursuant to MCLA 445-619, 570-563 |
| | Radiance Mold & Engineering | 2007141978-7 | 09/11/2007 | Mold, dies – MCLA 445-619, 570.563 |
| | Radiance Mold & Engineering | 2007141979-9 | 09/11/2007 | Mold, dies – MCLA 445-619, 570.563 |
| | Reko Tool & Mould (1987) Inc. | 2006062194-7 | 04/06/2006 | Pursuant to Michigan Moldbuilder - invoice list |
| | Reko Tool & Mould (1987) Inc. | 2006148823-5 | 08/28/2006 | Michigan Moldbuilders Lien Act – invoice list |
| | Reko Tool & Mould (1987) Inc. | 2006193089-2 | 11/17/2006 | Modify Wall Stock – in accordance with Mold Builders’ Lien Act. Purchase Money Security Interest. |
| | Romeo Mold Technologies | 2007077845-7 | 05/14/2007 | Cavity Injection Molds, Shot Production Molds |

| <u>JURISDICTION</u> | <u>SECURED PARTY</u> | <u>NUMBER</u> | <u>DATE</u> | <u>COLLATERAL</u> |
|----------------------------|---|----------------------|--------------------|--------------------------|
| | Superior Tool & Mold Inc | 2006083722-3 | 05/08/2006 | List of parts |
| | Tri-Way Manufacturing ,Inc., DBA Tri-Way Mold & Engineering | 2007199555-9 | 12/21/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007178869-9 | 11/15/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007189970-7 | 12/05/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007199556-1 | 12/21/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007200679-5 | 12/26/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Eng | 2008015943-3 | 01/30/2008 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007157243-8 | 10/05/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007168531-2 | 10/29/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2008008019-5 | 01/15/2008 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2008008096-7 | 01/15/2008 | Molds |

BLUE WATER AUTOMOTIVE SYSTEMS PROPERTIES LLC
LIEN SCHEDULE

| <u>JURISDICTION</u> | <u>SECURED PARTY</u> | <u>NUMBER</u> | <u>DATE</u> | <u>COLLATERAL</u> |
|------------------------------------|---|----------------------|--------------------|--------------------------|
| Michigan Secretary of State | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007178869-9 | 11/15/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007189970-7 | 12/05/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007199556-1 | 12/21/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2007200679-5 | 12/26/2007 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2008008019-5 | 01/15/2008 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2008008096-7 | 01/15/2008 | Molds |
| | Tri-Way Manufacturing, Inc., DBA Tri-Way Mold & Engineering | 2008015943-3 | 01/30/2008 | Molds |
| Delaware Secretary of State | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 74348438 | 11/15/07 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 74587597 | 12/5/07 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 74833215 | 12/21/07 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 74833389 | 12/21/07 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 74858212 | 12/26/07 | Molds |

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| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 80176964 | 1/15/08 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 80178291 | 1/15/08 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 80206290 | 1/17/08 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 80356939 | 1/30/08 | Molds |
| | Tri-Way Manufacturing, Inc. DBA Tri-Way Mold & Engineering | 80444032 | 2/6/08 | Molds |

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|------------------------------------|-----------------|
| CIT Group/Equipment Financing Inc. | \$14,460,230.00 |
| Duncan Parnell Inc | \$218.18 |
| Fidelity National Capital | \$9,864.03 |
| Francotyp-Postalia Inc | \$119.52 |
| GE Fleet Services | \$12,035.60 |
| Greater Bay Capital | \$1,001.74 |
| Hinkle Manufacturing | \$51,283.37 |
| Ikon Financial Services | \$12,631.60 |
| Industrial Technology Services LLC | \$29,437.75 |

| | |
|--|----------------|
| Key Equipment Finance | \$1,064.06 |
| KPS Special Situations Fund II L.P., KPS Special Situations Fund II(A) L.P | \$5,000,000.00 |
| KPS Special Situations I and II L.P. | |
| KPS/CIT Group Lenders (shared) | |
| Microsoft Financing C/O De Lage Landen Financial Services | \$216,048.89 |
| Sheldon Construction | \$5,934.00 |
| Sheldon Construction | \$20,042.50 |
| The CIT Group/Equipment Financing Inc | \$5,336.87 |
| The Huntington National | \$2,874.99 |
| Toyota Motor Credit | \$3,756.30 |
| Xerox Corporation | \$14,617.80 |

BLUE WATER AUTOMOTIVE SYSTEMS INC., ET AL., LEGAL STRUCTURE

