

**UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA**

In re:

RIVERSIDE MULCH, INC.

Debtor.

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CASE NO. 3:15-BK-01109

Chapter 11

DEBTOR'S AMENDED LIQUIDATING PLAN

AND EXHIBIT A TO THE DISCLOSURE STATEMENT

Debtor proposes the following Amended Plan of Reorganization pursuant to the provisions of Chapter 11 of Title 11, United States Code, to resolve the objection filed by David Bissett of the office of the Assistant United States Trustee. His objections have been remedied in the attached document, in order to provide:

1. A & G Realty Partners, and Mike Matlat, shall by year end, receive bids in form similar to Plan Exhibit A, and shall thereafter hold an auction on premises auctioned, or at such other place as he chooses in his sole discretion, provided that the high bid by which the real estate and remaining property must be sold shall be presented for Court approval and potential upset bid at the Court's Martinsburg docket on November 18th at 3:30, or failing bid closure or scheduling notice of such date, at the Court's December 29th or 30th docket. The Court may provide for conversion of the case or lift stay for upon the motion of a secured party if no offers are accepted to purchase the real estate. [See Plan Exhibit A]
2. A listing of outstanding claims against the estate is provided, together with an estimate of the value of the remaining assets, so creditors may see what the potential return will be. [Plan Exhibit B] Outstanding claim amounts are also shown to allow creditors to estimate possible payment amounts (or percentage of claims in the class) will be. [Plan Exhibit C]
3. A listing of expected administrative expenses of liquidating the estate is added to provide support for the conclusion that it will be more cost effective to liquidate in Chapter 11 rather than in Chapter 7. Details regarding expected attorney fees, auction fees and other administrative expenses are set forth. [Plan Exhibit D]
4. The Amended Disclosure ["Disclosure"] provides that officers and/or owners will continue to provide security and accounting services. This Amended Plan ["Plan"] provides that the Debtor will compensate them for these services in the sum of \$500 per week to Adam Stump Jr. for 24 hour security at the Romney mulch yard, \$500 per week to Melissa Stump for books and records upkeep, and monthly operating reports, and \$1000 per week to Adam Stump Sr. for living on and securing the mulch yard in Farquier County, Virginia, until all sales are completed.
5. The contrary language regarding the treatment of UST Fees. Article II, Section 2.06, of the Plan, provides for full payment of all outstanding U.S. Trustee fees on of the effective

date of the Plan but Article III of the Plan, Administrative Claims, requires that the UST to file an application with the Court for allowance of such fees. Debtor removed this second requirement from the Plan.

All other items are identical to the original Disclosure and Plan.

ARTICLE I

DEFINITIONS

For the purposes of this Plan of Reorganization, the following terms shall have the meanings set forth below:

1.01 Allowed Claim shall mean:

(a) a Claim, for which

(I) a Proof of Claim or application for allowance of a Claim is timely filed, is not disputed by the Debtor and is not indicated as disputed, contingent or unliquidated in Schedules or

(ii) a Proof of Claim or application for allowance of a Claim has been filed, if no objection has been interposed to the Schedule listed Claim or Proof of Claim, Plan or Disclosure Statement in the period established by the Plan or the Court for filing objections; or

(b) a Claim filed and asserted in a timely filed Proof of Claim to which an objection has been interposed to the Claim, in the amount determined by a Final Order of the Court allowing such Claim upon a ruling on the objection or an approval of a compromise of the same; and

(c) in the case of a Claim estimated pursuant to 11 U.S.C. Section 520(c), in the amount estimated by a Final Order; and

(d) in the case of an Expense of Administration, the amount specified by Final Order, other than Ordinary Maintenance Expense which shall be deemed allowed in the amount invoiced or due in the normal course of business.

1.02 Claimant shall mean the holder of a Claim.

1.03 Code shall mean the Bankruptcy Reform Act of 1978, Title 11, United States Code, as Debtor's and applicable to the Debtor's Bankruptcy case as of the Confirmation Date.

1.04 Confirmation shall mean the entry by the Court of a Confirmation Order.

1.05 Confirmation Date shall mean the date on which the Confirmation Order becomes a Final Order.

1.06 Confirmation Order shall mean the Order of the Court confirming the Plan pursuant to Section 1129 of the Code.

1.07 Consummation Date shall mean a date not more than sixty (60) days after the Effective Date.

1.08 Court shall mean the United States Bankruptcy Court for the Northern District of West Virginia and any other court having competent jurisdiction to hear appeals or certiorari proceedings therefrom, or any successor thereto that may be established by any act of Congress, or otherwise, and which has competent jurisdiction over the Debtor's Bankruptcy Case.

1.09 Debtor shall mean this Debtor and as Debtor-In-Possession as defined under the Code.

1.10 Disputed Claim shall mean a Claim against the Debtor or the Estate to which a timely objection has been filed and which has not been denied or allowed by Final Order, or which is a contingent and unliquidated Claim. To the extent a Claim is only subject to objection to a portion of the Claim or is only contingent or unliquidated as to a portion of the Claim, then any undisputed, liquidated balance of the Claim shall not be deemed a Disputed Claim in the event the undisputed portion is greater than \$100.00.

1.11 Distribution Fund shall mean the cash fund for payment of Allowed Claims described in Section 6.03 of the Plan.

1.12 Effective Date shall mean a date sixty (60) days after the Confirmation Date, upon which all provisions of the Plan shall take effect.

1.13 Estate shall mean the Bankruptcy Estate of the Debtor, which Estate shall include all real, personal or mixed property, tangible or intangible, of the Debtor including the property described in Section 541 of the Code and all property acquired or received by the Debtor or the Estate at any time after the Petition Date.

1.14 Expense of Administration shall mean an Allowed Claim for payment of administrative expense of the kind specified in Section 503(b) of the Code and referred to in Section 507(a)(1) of the Code, including, without limitation, the following:

an actual, necessary cost or expense in preserving the Debtor's Estate; compensation for legal, realtor, CPA, and other services and reimbursement of fees and expenses awarded under Section 330(a) of the Code; all fees and charges assessed against the Debtor's Estate under Title 28, United States Code, Section 1930; and all reasonable and necessary costs of the Debtor or its agents for performing the Plan.

1.15 Final Order shall mean an Order of the Court which shall not have been reversed, stayed, modified, and

- (I) for which the time to appeal or to seek review or reargument shall have expired,
- (ii) for which no appeal, review, certiorari or rehearing is pending, and
- (iii) which has become conclusive of all matters adjudicated and is in full force and effect.

1.16 Interest shall mean all equity or ownership rights of a principal arising by virtue of ownership or rights to the issued and outstanding stock of Debtor.

1.17 Late Claim shall mean any Claim for which a Proof of Claim or application or motion for approval of an Expense of Administration must be filed with the Court and no such filing has been made within any time period fixed for filing by the Court, or by a Rule, if a time period has been fixed by the Court.

1.18 Ordinary Maintenance Expense shall mean an Expense of Administration incurred in the ordinary course of business after the Petition Date for attorney, accountant, realtor and trustee fees, maintenance of property and costs thereof, regular business reporting functions, and any Allowed Claim of a Professional Person.

1.19 Penalty Claim shall mean an Allowed Claim for any fine, penalty or forfeiture, or for multiple, exemplary or punitive damages, arising prior to the Petition Date, to the extent that such fine, penalty or forfeiture is not in compensation for actual pecuniary loss suffered by the holder of such Allowed Claim, within the meaning of Section 726(a)(4) of the Code.

1.20 Person shall mean an individual, Debtor, partnership, corporation, joint venture, trust, estate, unincorporated association or organization, a government entity or any agency or political subdivision thereof, or any other entity.

1.21 Petition Date shall mean the date on which the Order for Relief was entered upon a voluntary petition filed with the Court by the Debtor in this case.

1.22 Plan shall mean this Plan of Reorganization and any and all amendments and modifications made hereto in accordance with the terms hereof or in accordance with the Code or by a Rule.

1.23 Priority Claim shall mean an Allowed Claim entitled to priority in payment pursuant to ' 507(a) of the Code, other than Allowed Claims falling within Subsection 507(a)(1)(2) and (8).

1.24 Pro Rata shall mean the ratio that an Allowed Claim in a particular Class under the Plan bears to the aggregate amount of all Allowed Claims in such Class.

1.25 Professional Persons shall mean the co-legal counsel for the Debtor and any other professionals and persons retained by the debtor, or hired pursuant to Order of the Court, to the extent of fees and expenses awarded by Final Order of the Court pursuant to Section 503(b)(4) of the Code.

1.26 Rule shall mean a Rule of Bankruptcy Procedure adopted pursuant to Title 28, United States Code, Section 2075.

1.27 Secured Claim shall mean an Allowed Claim secured by a perfected unavoidable lien, security interest or statutory or other interest in property of the Estate or other property in which the Debtor has an interest or control, to the extent of the value of such property, determined, either in accordance with Section 506(a) of the Code, or as provided in the Plan.

1.28 Schedules shall mean the statements of the Debtor's assets and liabilities filed with the Court, as such may be amended by Debtor's or other action from time to time in accordance with Rule 1009.

1.29 Small Unsecured Claim shall mean an Allowed Claim, other than Expenses of Administration, Priority Claims, Secured Claims, Tax Claims, Late Claims, Penalty Claims and Interests which is a Claim on Debtor EQUAL TO OR LESS THAN \$10,000.

1.30 Tax Claim shall mean an Allowed Claim that is an Allowed Claim within the meaning of Section 507(a)(8) of the Code, exclusive of any pre-petition or post-petition Penalty Claims.

1.31 Large Unsecured Claim shall mean an Allowed Claim, other than Expenses of Administration, Priority Claims, Secured Claims, Tax Claims, Late Claims, Penalty Claims and Interests which is a Claim OVER \$10,000.

ARTICLE II

EXPENSES OF ADMINISTRATION

2.01 All Expenses of Administration shall be paid by the Debtor in accordance with 11 USC § 507 Priorities for final distribution after all sales, operating and professional costs:.

2.02 Application for payment of administrative Claims other than administrative Claims of ordinary course of business creditors and professionals must be filed with the Clerk of the United States Bankruptcy Court for the Northern District of West Virginia within thirty (30) days of the entry of the Confirmation Order or forever be barred. The Debtor shall be entitled to file objections, if any, to such Claims filed within thirty (30) days after the filing of such Claim.

2.03 Ordinary Maintenance Expenses, Expenses of Administration and Professional Persons have or shall be paid by the Debtor as the same are incurred and due.

2.04 Any Orders to the Debtor to pay Professional Persons shall be paid in cash in full on the Effective Date, or upon thirty (30) days of the Order thereof, whichever is sooner.

2.05 The Claims of Professional Persons for fees and expenses shall be the subject of applications to the Court for allowance or awards in the manner prescribed by the Code and

Rule. Any Professional Person may apply to the Court for interim allowance of fees, costs and disbursements at any time, and from time to time, prior to payment in full of such fees, costs and disbursements. The Debtor may pay interim or final allowances either before or after the Confirmation Date, provided the same is approved by the entry of a Final Order allowing such payments. Post-confirmation fees may be filed and paid at any time, not subject to 2.02 above.

2.06 All fees payable to the Debtor to the Clerk of the Court or to the Office of the United States Trustee under Title 28, United States Code, Section 1930 shall be paid in cash in full on the Effective Date.

ARTICLE III

CLASSIFICATION OF CLAIMS

All Claimants and their Claims against the Debtor and the Estate, other than Expenses of Administration, are divided into the following Classes set forth below. A Claim will be placed into a particular Class only to the extent that the Claim qualifies within the description of such Class and may be in a different Class to the extent that the remainder of a Claim falls in a different Class. A Claim will be entitled to the treatment accorded to a particular Class only to the extent that such Claim is an Allowed Claim.

CLASS ONE: Administrative Claims - The Claims of Professional Persons (attorneys, accountants and appraisers) for fees and expenses shall be the subject of applications to the Court for allowance. The Debtor is aware of some estimated \$40,000.00 in escrow for administrative, attorney, and creditor claims, which have been held in escrow subject to later Court orders. Debtor counsel may pay interim or final allowances either before or at the Confirmation Date. **This Article of the Plan is amended to eliminate the requirement that the UST file an application with the Court for allowance of its fees.**

CLASS TWO: Secured Claims Classes - These classes consist of Allowed Secured Claims against or regarding Debtor's property set forth below (This Class does not include the IRS or judgments):

[**NOTE: Machinery and Equipment claims have already been paid** directly by Debtor on the noticed sale of the same, according to Court Order, and any remaining former equipment claim is now an unsecured claim treated below. In this regard, the sole remaining secured claim of Grant County Bank is to the cabin of Debtor.]

SECURED CLAIM OF GRAVETT: Class 2.1

Benjamin C. Gravett FLP

\$295,000.00

402 Culpeper St

Warrenton, VA 20186

First Mortgage on the bulk distribution mulch yard and 28.7183 acres located at 5024 Midland Rd, Midland, Fauquier County, VA, 22728 (\$5,000,000 was the 2014 appraised value)

SECURED CLAIM OF FIRST UNITED: Class 2.2

**First United Bank & Trust
PO Box 9
Oakland, MD 21550**

Mortgages (2) in Virginia on the bulk distribution mulch yard and 28.7183 acres described above, and a Deed of Trust in West Virginia on the 28.465 acre mulch yard and plant in Romney West Virginia. The 10/16/2007 credit facilities were for \$1.7 Million in credit, and the combined 6/16/2011 / 12/20/2012 credit facilities totaled some \$4.4 Million.

SECURED CLAIM OF GRANT COUNTY: Class 2.3

**Grant Co. Bank
PO Box 929
Petersburg, WV 26847**

A deed of trust of some \$65,000 exists upon a cabin and 21.6 acres located at Forest Road 75, Maysville (Dolly Sods), Grant County, WV 26833 (\$149,000 was the last listing price)

Secured Allowed Claims are to be paid directly by Debtor after Court approval upon bidding and sale of the lands conducted by Mike Matlat, Realtor, on behalf of GS Partners. The amounts of claims are *estimated claims* and the unobjected proofs of claim filed shall control. There may be deficiency (unsecured) claims with treatment listed below.

3.03 **CLASS THREE: Contract-Related Claims** - This class consists of Allowed Claims for past-due rentals, monthly contract payments, and claims regarding Debtor executory contracts ARE REJECTED and otherwise as more fully described below:

**American Insurance Center LLC/Erie
310 N Bolton St
Romney, WV 26757**

workers compensation

**Hale Trailer Brake & Wheel, Inc.
PO Box 1400**

Voorhees, NJ 08043

2002 Peerless trailer #2761 rental

**MountainTop Realty
6379 Appalachian Hwy
Davis, WV 26260**

realtor agreement

**State Auto Farm Auto Insurance Company
PO Box 182738
Columbus, OH 43218-2738**

auto insurance

**Toyota Financial Services
Commercial Finance
PO Box 3457
Torrance, CA 90510-3457**

60 month master lease agreements

**US Cellular
PO Box 371345
Pittsburgh, PA 15250-7395**

cell phone

**Wright Realty, Inc.
9009 Sudley Rd.
Manassas, VA 20110**

cabin listing contract

Any other contract is also REJECTED. REJECTED Contract-Related Allowed Claims consist of Classes 3.1 – 10 above, and shall receive no distribution. Any other contract is REJECTED. Any approved claims shall be paid from unencumbered proceeds in accordance with the priority due under a Chapter 7 Liquidation.

CLASS FOUR: Tax Claims - The Allowed Claims in these Classes consist of the Priority Claims of all taxing authorities not consisting of penalty claims. They include all claims upon which priority status is claimed. They shall be paid from unencumbered proceeds in accordance with the priority due under a Chapter 7 Liquidation.

CLASS FIVE: General Unsecured Claims - This class consists of Allowed Claims of common creditors. They shall be paid from unencumbered proceeds in accordance with the priority due under a Chapter 7 Liquidation.

CLASS SIX: Late and Penalty Claims - The Claims in this Class consist of all Unsecured Claims which are Late, (after the bar date), or are based on penalty provisions of state, federal or local law, or which have not been otherwise released. Claims known to be included in this Class include, without limitation, all unpaid Claims that are Allowed Claims either set forth in Schedule F of the Schedules and not listed elsewhere herein, or listed anywhere as disputed, unliquidated or contingent, or for which a Proof of Claim has been filed late or as a penalty, or as specifically set forth in Article V of Debtor's Disclosure Statement, incorporated by reference. They shall be paid from unencumbered proceeds in accordance with the priority due under a

Chapter 7 Liquidation.

CLASS SEVEN: Disputed Claims and Objections to Disputed Claims - The Claims of this Class consist of all Claims not elsewhere set forth, specifically disputed by Debtor in its Schedules, Disclosure Statement, the Plan, or elsewhere claimed as proposed to be paid hereunder. ANY CREDITOR DISAGREEING WITH ITS TREATMENT UNDER THE PLAN IS IN THIS CLASS OF CLAIMS, AND DEBTOR OBJECTS TO SUCH CLAIMS.

Adversary proceedings or other suit may additionally be brought regarding these or other claims, including executory contract matters, which potentially include:

1. To recover money or property, except a proceeding to compel the debtor to deliver property to the trustee or a proceeding under § 554(b), § 725, or FRBP 2017 or 6002;
2. To determine the validity, priority, and extent of a lien or other interest in property;
3. To approve of the sale of the interest of both the estate and a co-owner in property;
4. To obtain an injunction or other equitable relief;
5. To subordinate any allowed claim or interest;
6. To obtain a declaratory judgment, or
7. To determine a claim or cause of action removed to a bankruptcy court.

The claims of this class shall be treated as set forth herein unless timely response to this objection be made in writing to the Clerk of the Court.

ARTICLE IV

TREATMENT OF CLASSES OF CLAIMS AND INTERESTS

Holders of Allowed Claims and Interests in the following Classes shall receive the treatment specified.

4.01 **Class One - Administrative claims** of attorneys, US Trustee, accountants, and other professional payees. The holders of the Allowed Claims in this Class shall be paid from unencumbered proceeds in accordance with the priority due under a Chapter 7 Liquidation. The class may be impaired.

4.02 **Class Two sub-Classes: ALL SUB CLASSES MAY BE IMPAIRED.** Equipment claims which are secured have already been paid directly by Debtor. Remaining Real Estate Claims are to be paid through the Solicitation and Bid process described below.

4.03 **Class Three:** These claims consist of Allowed Claims for past-due rents, monthly contract payments, and claims regarding Debtors' executory contracts. No such claims have currently been made.

4.04 **Class Four – Tax Claims.** All holders of the Allowed Claims in this Class shall be paid from unencumbered proceeds in accordance with the priority due under a Chapter 7 Liquidation.

They may be impaired.

4.05 **Class Five – General Unsecured Claims.** A distribution shall be paid from unencumbered proceeds in accordance with the priority due under a Chapter 7 Liquidation..

4.06 **Class Six - Late and Penalty Claims.** These Claims consists of all Claims of Debtor not elsewhere listed, filed late or as a penalty. They shall receive **NO DISTRIBUTION**. Section 1129 "cramdown" is invoked.

4.08 **Class Seven - Disputed Claims.** Any Debtor-disputed claims shall receive **NO DISTRIBUTION** unless permitted by the Court pursuant to notice, hearing and order. Section 1129 "cramdown" is invoked.

4.09 **ANALYSIS OF CLAIMS AND PAYMENTS:** The listing of outstanding claims against the estate provided in Plan Exhibit B, with and including an estimate of the value of the remaining assets is provided so that creditors may see what the potential return will be. Outstanding claim amounts are also shown in Plan Exhibit C to allow creditors to estimate possible payment amounts (or percentage of claims in the class) will be. A listing of expected administrative expenses (including expected attorney fees, auction fees and other liquidating expenses) of liquidating the estate is further added at Plan Exhibit D to provide support for the conclusion that it will be more cost effective to liquidate in Chapter 11 rather than in Chapter 7.

ARTICLE V

VOTING REQUIREMENTS

Classes shall NOT BE PAID IN FULL but shall be paid in the order and priority due under a Chapter 7 Liquidation. Thus creditors generally are deemed NOT to have accepted the Plan, and shall be entitled to vote. Debtor intends to invoke the provisions of Section 1129(b) of the Code to confirm the Plan, notwithstanding such Classes statutorily defined rejection of the Plan by such Classes and to demonstrate that the Plan satisfies the requirements for Confirmation set forth in Section 1129(b) of the Code.

ARTICLE VI

MEANS TO PERFORM PLAN

6.01 The Debtor shall not continue management operations which shall be as set forth under the Plan and for all times after the Confirmation Date.

6.02 Confirmation shall authorize the Realtor to act in connection with sale of the property and litigation assets of the Estate and otherwise as may be necessary to perform the Plan and with the

same authorities, duties and procedural requirements as imposed under the Code. The Debtor shall be authorized to continue employment of and remunerate, or to employ new or existing Professional Persons and pay them, as are necessary for performance of the Plan, to prepare necessary tax returns or to otherwise comply with applicable law. **Realtor shall, by year end, provide for private auction of the real estate and remaining property to be sold, with final upset bidding provided for at or before the final hearing approving these sales, to be held on Thursday November 17th, or Friday November 18th, as the Court may schedule, at the W. Craig Broadwater Federal Building and United States Courthouse. 217 W. King Street, Martinsburg, WV 25401. It is hereby provided that, in the event no sale may be then confirmed, the Court may schedule a subsequent date for sale confirmation at the Martinsburg Courthouse on Thursday December 29th or Friday December 30th, 2016. If no sale may be then confirmed, the Court may then provide alternatively that Secured Creditors may foreclosure on remaining assets, or the case converted to one under Chapter 7 depending upon the best interest of creditors. Offers for property of the Debtor shall be non-contingent, and in written form similar to that set forth in Plan Exhibit A.**

6.03 The Debtor may not utilize any cash or funds of sales, operating funds, cash reserved, sale proceeds, liquidated accounts receivable and otherwise for cash payments for Expenses of Administration or Classes of Claims without Court order, as provided by the Plan.

6.04 The performance on the Consummation Date of the Plan may be extended for such period of time as may be necessary to resolve such Disputed Claims which are asserted, and whose resolution may affect the ability to pay other Classes. Debtor may, on or before Confirmation, request the Court to fix a deadline for filing all applications or motions for Expenses of Administration which accrued at any time prior to and including Confirmation.

6.05 Unless a different date is set by Order of the Court, all objections to Claims shall be filed and served on the later of thirty (30) days after the Effective Date or sixty (60) days after a particular Proof of Claim is filed.

6.06 Upon the Effective Date all real estate, personalty, and otherwise set forth in Debtor's schedules and otherwise of the Estate shall be subject to the right of distribution of the proceeds to creditors and parties in interest under the Plan. After the Consummation Date, all funds received by the Debtor, shall be held to vest in creditors and parties in interest as determined by Court order.

6.07 In the event any Disputed Claim exists in any Class on the Consummation Date, in a sum in excess of \$5,000.00, by reason of an appeal, failure or inability of the Court to determine such Claims, or other circumstances, the Debtor may, for or by reason of any such circumstance:

(1) extend the Consummation Date for a particular Class of Claims until the Claims are decided by a Final Order; or

(2) obtain from the Court a Final Order which estimates a Disputed Claim under ' 502 of the

Code, and make distribution upon such estimated Claim; or

(3) escrow cash in an interest bearing account in the amount of all Disputed Claims and upon their reduction or liquidation to Allowed Claims, make payment of the same to the extent allowed by Final Order of the Court.

6.08 During the time period after Consummation and prior to resolution of all Claims and payment, the Debtor shall file all necessary tax returns and otherwise fulfill all requirements for continuance of its business.

6.09 The Debtor's Bankruptcy Case may be closed after and as upon payment of all of the Plan's proposed distributions, but not prior to the resolution of all objecting claims.

6.10 Upon completion of all initial payments under the Plan, and all distributions, the Debtor may file a final report and accounting with the Clerk of the Court and provide copies to parties in interest so requesting a copy of such report. Upon the filing of such report the Debtor's case may be discharged and forever closed.

ARTICLE VII

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

7.01 Confirmation shall, without further order, constitute the Debtor's rejection of any and all executory contracts and unexpired leases of the Estate, not prior assigned or assumed by Debtor in its Disclosure filed on or about 6 May 2014 and included herein by reference, or by Court Order, including without limitation the Order confirming the Plan.

7.02 Claims resulting from the rejection of executory contracts and unexpired leases must be filed with the Clerk of the United States Bankruptcy Court for the Northern District of West Virginia within thirty (30) days of entry of the Order of Confirmation or forever be barred. The Debtor shall be entitled to file objections, if any, to Claims filed within thirty (30) days after the filing of the Claim. The Allowed Claims resulting from any rejections pursuant to Section 7.02 are considered to be Unsecured Claims under this Plan and treated accordingly.

ARTICLE VIII

LIMITATION OF LIABILITY

8.01 The Debtor's agents, including, without limitation, their counsel, accountants, realtors, sales consultants or employees, shall not be liable to either the Debtor, nor any holder of a Claim against or successor interest in the Debtor or any other entity for any action taken or committed to be taken in connection with their duties in the Chapter 11 Case of under this Plan, except that such liability may be imposed for willful misconduct. The Court shall have exclusive

jurisdiction to resolve any question concerning such liability.

8.02 The obligations of the Debtor to indemnify its attorneys, and their agents, employees, representatives and others in respect to all actions, suits and proceedings against such agents, employees, representatives and others, based upon any act or omission or related service with or on behalf of the Debtor, shall not be discharged or impaired by confirmation or consummation of this Plan, but shall survive unaffected by the reorganization contemplated by this Plan, and shall be performed or honored by the Debtor regardless of such confirmation, consummation and reorganization.

ARTICLE IX

DEBTOR ESTOPPED

9.01 All real estate and equipment assets of the Debtor are to be protected and preserved and shall not be sold, transferred, encumbered and/or disposed of absent further order of this Court.

9.02 The Debtor agrees to provide copies of monthly statements that reflect balances and activity in all bank and investment accounts held by the Debtor, individually or jointly, in any monthly operating reports that are required to be filed with the Court.

9.03 The Debtor, as well as any other co-owners of assets which constitute property of their Bankruptcy Estate, are hereby enjoined from transferring, selling, encumbering and/or disposing of any of the assets of the Bankruptcy Estate.

9.04 Debtor and its agents, counsel, and employees shall have all powers normally granted to natural persons except as specifically limited herein.

ARTICLE X

AMENDMENTS

The Debtor reserves the right, in accordance with the Code, to amend or modify this Plan prior to Confirmation Date. After the Confirmation Date, the Debtor may modify this Plan upon Order of the Court in accordance with 1127(b) of the Code.

ARTICLE XI

RETENTION OF JURISDICTION

11.01 The Court shall retain jurisdiction over the Debtor's case pursuant to and for the purpose set forth in Section 1127(b) of the Code to insure that the intent and purposes of this Plan are carried out and given effect.

11.02 In addition, and without limitation by reason of specification, the Court shall retain jurisdiction for the following purposes:

(a) consideration of any modification or amendment to the Plan; and

(b) to hear and determine:

(I) the classification, allowance or disallowance of claims and interest and any objection to any Claim or Interest;

(ii) all controversies, suits and disputes, if any, as may arise in connection with Debtors Bankruptcy case or interpretation or enforcement of the Plan;

(iii) applications for the allowance of compensation to Professional Persons;

(iv) the validity and/or priority of any liens, or ownership or other interest in, property of the Debtor or the Estate;

(v) any and all applications, adversary proceedings, contested and/or litigated matters pending on the Consummation Date;

(vi) proceedings to estimate Claims for purposes of allowance;

(vii) all proceedings allowed pursuant to the Code for the Debtor to recover all assets and properties of their Bankruptcy estate;

(viii) all proceedings to enforce performance of the Plan against any person; and

(ix) all proceedings for the sale of any property of the Estate pursuant to ' 3653 of the Code or otherwise.

10.03 If the Court abstains from exercising or declines to exercise jurisdiction, or is otherwise without jurisdiction over any matter set forth in this Article, or if the Debtor elects to bring an action or proceeding in any other forum, this Article shall have no affect upon and shall not control, prohibit or limit the exercise of the jurisdiction by any other Court, public authority or commission having jurisdiction over such matter. The Debtor's Bankruptcy case may be subject to closure after Debtor completes the distribution to creditors due before and upon the Consummation Date. The Court may reopen the Debtor's Bankruptcy case at any time for any purpose related to its jurisdiction retained over the Debtor and the Plan.

ARTICLE XII

MANAGEMENT, SOLICITATION OF BIDS AND REAL ESTATE SALES

10.04 The Debtor's administration of and its performance under the Plan shall be made by the President, his authorized officers, accounting agents and the Debtors' bankruptcy counsel.

10.05 Duties of the Realtor for bid and sale of real estate are set forth as follows:

1. A bid sheet setting forth the style of the case, the full name and contact information of Buyer, the price, and a general description of the property to be purchased shall be *executed* by any and all interested parties for submission to other bidders and the Court by Realtor.
2. Counsel for Debtor shall MOVE the sale and set and NOTICE a date for a final hearing or telephonic hearing at which any and all other bids, including any new or upset bids may be heard, upon shortened notice to all creditors and parties in interest, that such sale BE and it IS FREE and CLEAR of all LIENS and ENCUMBRANCES, with such liens and encumbrances attaching to proceeds ONLY. This is the ORDER of this Court by confirmation hereof.
3. Upon such hearing, the highest bid shall be accepted by the Court and an Order requiring closure of the sale – within 60 days - FREE and CLEAR of all LIENS and ENCUMBRANCES, with such liens and encumbrances attaching to proceeds ONLY.
4. A deed for the real estate sold and conveyed BE and it IS FREE and CLEAR of all LIENS and ENCUMBRANCES, with such liens and encumbrances attaching to proceeds ONLY shall be prepared by BKR Counsel and a closing statement prepared, with all forwarded to the Court for filing and review.
5. At closing a Special Warranty Deed shall issue from Debtor's President or Vice President, and net monies of sale shall be deposited to the BKR Counsel Trust account pending an Order of Distribution by the Court, unless it be prior set forth in the prior MOTION for sale and be then unopposed.
6. Proceeds shall be deemed to be net of prorated real estate taxes, monies due Realtor, recording expenses, taxes and all matters commonly reduced from Seller's net in commercial closings, as set forth in the prior filed Closing Statement.
7. Upon final order from the Court, the authorized proceeds shall be distributed as in

its Order.

8. Should the sale close timely for any reason, sale may then proceed to the second highest bidder named in the order of the Court

10.06 The Debtor shall continue to be held liable to indemnify its officers, attorneys, realtor, and employees and agents in accordance with the Plan, and such indemnification shall apply to acts or omissions of such persons in connection with the implementation of this Plan.

10.07 In connection with and for the purposes of implementing and assuring completion of this Plan, the Debtor may, in the absolute discretion of the Debtor and the Trust, pay brokerage, agency, professional and other fees and expenses of persons rendering services in connection with the collection, sale, exchange or other disposition of the Debtor's property and assets and otherwise in connection with the implementation of this Plan. Adoption of this Plan by the Court shall constitute the approval by the Debtor of the payment of any such compensation.

10.08 The Debtor and its agents and counsel are authorized to approve changes to the terms of any of the transactions referred to herein, to interpret any of the provisions of this Plan, and to make, execute and deliver such other agreements, conveyances, assignments, transfers, certificates and other documents and take such other action as the Debtor or agents of the Trust deem necessary or desirable in order to carry out the provisions of this Plan in accordance with the Code, Plan and Bankruptcy Act.

10.09 The Plan may provide for payment of closing expenses to Debtor, realtor, counsel, pro rata taxes, transfer taxes and anything set forth in the Plan. Any liens due at sale shall not maintain the status as lien, but only to the extent of any remaining proceeds.

ARTICLE XIII

DISCHARGE/INJUNCTION

13.01 Confirmation of the Plan shall not constitute a discharge of Claims under Section 1141(d) of the Code.

13.02 From and after the Confirmation Date, all holders of Claims against, and interest in, the Debtor or the Estate, are permanently restrained and enjoined:

(I) from commencing any action or other proceeding of any kind, with respect to a Claim or

Interest against the Debtor or Estate,

(ii) from enforcing, attaching, collecting or recovering from the Debtor or the Estate by any manner or means, any judgment award, decree or other order against the Debtor obtained either prior to or after Confirmation,

(iii) from creating, perfecting or enforcing any encumbrance of any kind against the Debtor or assets of the Estate,

(iv) asserting any setoff, right of subrogation, or recoupment of any kind against any obligation due the Debtor or the Estate, except as otherwise provided by the Plan, and

(v) from performing any act, in any manner, in any place whatsoever, that does not conform to, or comply with the provisions of the Plan or prevents or hinders the performance of the Plan; provided, however, no provision of this Plan shall prevent a holder of a Claim to prosecute in the Court its Claim against Debtor or the Estate or enforce its relief afforded under the Plan in the Court or such other court as the Claim or Bankruptcy case may be referred or withdrawn by the United States District Court.

ARTICLE XIV

MISCELLANEOUS PROVISIONS

14.01 The Debtor reserves the right to revoke and withdraw the Plan at any time prior to the Confirmation Date.

14.02 Each Claimant that is to receive distribution under the Plan in full satisfaction of a Secured Claim shall, upon such satisfaction, deliver to the Debtor a release, in recordable form, of all of its liens and encumbrances.

14.03 No Allowed Claim shall be entitled to receive interest on a Claim accruing after the Petition Date, except upon any funds escrowed for payment of Disputed Claim whose amount is not determined as of the Consummation Date.

14.04 All dates defined in the Plan shall also include the next business day after any date falling on a Saturday, Sunday or legal holiday.

14.05 Should any provisions of the Plan be determined to be enforceable for any reason, such determination shall in no way limit or affect the enforceability or operative effect of other provisions of the Plan.

14.06 The Debtor shall comply with all tax reporting requirements imposed by federal, state and

local taxing authorities and distributions under the Plan shall be subject to such wage withholding requirements. Creditors may be required to provide certain tax information as a condition of receipt of distribution under the Plan.

14.07 If a holder of an Allowed Claim fails to negotiate a check issued or delivered to such holder pursuant to the provisions of the Plan within sixty (60) days of the date such check is issued, then the amount of the cash attributed to such check shall be deemed to be unclaimed for distributions with respect to such holder of a Class of Claims and the payee of the check will be deemed to have no further Claim or interest with respect to such check and shall be deemed to have released and abandoned any and all Claims in any further or other distribution under the Plan. All unclaimed distributions shall revert to and belong to Debtor.

10.10 On or before the commencement of the Confirmation Hearing the Debtor shall file with the Bankruptcy Court such agreements and other documents as will be necessary or appropriate to effectuate or further evidence the terms or conditions of the Plan.

10.11 Debtor, upon the confirmation date shall have power and authority to; (a) S e l l non-exempt real and personal property of the Debtor FREE AND CLEAR OF ALL LIENS AND ENCUMBRANCES WITH LIENS AND ENCUMBRANCES ATTACHING TO PROCEEDS, and distribute proceeds to the administrative expenses, sale expenses and other claimants and determine the amount in terms of sales as to each of the asset sold

10.12 Limitation of Liability. The Debtor, sales agent, counsel or other professional member or authorized representative of the Debtor shall have or assume no individual, personal or corporate duty, obligation or liability by reason of their service and their capacities including without limitation or liabilities for remediation of environmental conditions created by debtor, procuring, restituting or acting by order of any court agency of any criminal act or omission of debtor, payment of employees or employee benefits due from debtor, payment of any claim of any creditor, conflict of interest for the prior representation of any party, or any other duty or obligation of the debtor or the reorganized debtor under applicable law. As provided for in the Plan, these people shall not be so responsible for the performance of duties such as to make them liable for any mistake or omission therein except willfulness or recklessness in their disregard for duty.

CONCLUDING REMARKS

No statements of information concerning the Debtor or the assets or securities are authorized other than as set forth herein, and in the Plan and other documents prepared by counsel, which we have read and understand.

11 USC § 507 Priorities for final distribution after all sales, operating and professional costs shall be followed despite any provision above which may appear to the contrary.

If the Plan is confirmed, you will be bound by its terms, and you are urged to review the materials contained in our Disclosure Statement and Plan in detail.

DEBTOR

BY:
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