

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

IN RE: :
: CHAPTER 11
RALPH J. GIVENS, :
: Case No. 09-14401(BLS)
Debtor. :

DEBTOR'S THIRD AMENDED CHAPTER 11 PLAN OF REORGANIZATION

RALPH J. GIVENS ("Debtor"), respectfully files and proposes to the creditors of the Debtor and other parties in interest the following third amended Chapter 11 plan of reorganization (as may be further amended, the "Plan").

ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION

1.1 For purposes of this Plan, and unless the context otherwise requires, the terms set forth below shall have the following meanings:

1.1.1 **Actions** means any and all claims, causes of action or choses in action of the Estate which are not released hereunder, whether legal, equitable or otherwise, against any other party, whether arising before or after the Petition Date, including, but not limited to, Avoidance Actions and all other claims, causes of action, chooses in action, counterclaims, and cross-claims, whether arising under state or federal law.

1.1.2 **Administrative Claim** means, except as otherwise specified in the Plan, a Claim for payment of an administrative expense of a kind specified in Code § 503(b) and referred to in Code § 507(a), including, without limitation, compensation for legal and other professional services rendered to or on behalf of the Estate, reimbursement of expenses awarded under Code §§ 330(a) or 331, other post-Petition Date accounts payable arising in the ordinary course of business which are accrued as of the Effective Date in accordance with generally accepted accounting principles, consistently applied, and all fees and charges assessed against the Estate pursuant to 28 U.S.C. § 1930, including, without limitation, the United States Trustee Fees and the fees to the Clerk of Court.

1.1.3 **Allowed Claim** means a Claim against the Debtor, to the extent that a proof of claim (i) was timely filed with the Court and no objection to the Claim is filed within the time fixed either by the Court or this Plan for such objections, or (ii) is deemed filed pursuant to Code § 1111(a) and no objection to the Claim is filed within the time fixed either by the Court or this Plan for such objections, (iii) is, or is deemed to be, an Allowed Claim pursuant to a Final Order or this Plan, or (iv) A claim listed in the Schedules as other than contingent, unliquidated

or disputed”. A Claim that appears on the Schedules as “disputed”, “contingent”, or “unliquidated” and for which a timely proof of claim has not been filed is deemed to be a disallowed Claim.

1.1.4 **Allowed Priority Claim** means all or that portion of any Priority Claim that is or has become an Allowed Claim.

1.1.5 **Allowed Priority Tax Claim** means all or that portion of any Priority Tax Claim that is or has become an Allowed Claim, excluding any Tax Penalty Claim asserted by the Delaware Department of Revenue or the Internal Revenue Service.

1.1.6 **Allowed Professional Fees** means all or the portion of a Claim for Professional Fees that is approved by the Court for payment.

1.1.7 **Allowed Unsecured Claim** means all or that portion of any Unsecured Claim that is or has become an Allowed Claim, including any Tax Claim that is not a Priority Tax Claim.

1.1.8 **Assets** means all property, owned by the Debtor on the Petition Date, of any nature whatsoever, real or personal, tangible or intangible, including but not limited to the Personal Property, and the Actions, and as provided by Code § 1115, but excluding any and all property which is either not property of the Estate under Code § 541 or otherwise exempt or excluded from constituting property of the Estate pursuant to Code §§ 522, 541 and/or applicable state law exemptions.

1.1.9 **Auction** means the auction of the Residence pursuant to Article VI of the Plan or of the Other Real Property. The Auction of the Residence shall occur on or before 25 Business Days following the Effective Date (or such later as may be approved by the Court).

1.1.10 **Auction Date** means a day that is no more than 25 Business Days following the Effective Date when the Auction of the Residence will occur under the Plan and, as to the Other Real Property, on such date that is not later than 30 days following the time period Debtor is permitted to sell the Other Real Property pursuant to the terms of the Plan.

1.1.11 **Auction Proceeds** means the Cash payment by the High Bidder of the Winning Bid on the Auction Proceeds Date.

1.1.12 **Auction Report** means the report filed by the Debtor in accordance with section 6.6 of the Plan.

1.1.13 **Avoidance Action** means any claim or cause of action of the Debtor or his Estate that is or may be the subject of an adversary proceeding under §§ 510, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, or 553 of the Bankruptcy Code or other applicable law that have not been deemed settled by the Plan.

1.1.14 **Bar date** means June 15, 2010.

1.1.15 **Back-up Bid** means the final bid at the Auction by the Back-up Bidder as determined under section 6.5 of the Plan.

1.1.16 **Back-up Bidder** means a Qualified Bidder with the second highest or best bid for the Residence or Other Real Property at the conclusion of bidding at the Auction.

1.1.17 **Bankruptcy Rules** mean the Federal Rules of Bankruptcy Procedure and the Local Bankruptcy Rules of the Court, as applicable and in force at the commencement of this Debtor's Case and amended from time to time.

1.1.18 **Bidding Increments** means the minimum amount of United States Dollars a Qualified Bidder needs to increase the next bid at the Auction to become the High Bidder at that point in the Auction, i.e. \$5,000.

1.1.19 **Business Day** means any day, except Saturday, Sunday, Memorial Day or any other day on which national commercial banks in the State of Delaware are closed.

1.1.20 **Case** means the within bankruptcy case commenced by the Debtor by virtue of the filing of a petition for relief under Chapter 11 of the Code on the Petition Date.

1.1.21 **Cash** means all cash and cash equivalents, including, but not limited to, bank deposits, checks and other similar items in whatever form, wherever located, and by whomsoever held.

1.1.22 **Claim** means, as against the Estate, whether incurred prior to or after the Petition Date: (a) any right to payment, whether or not such right is reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance if such breach gives rise to a right to payment, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured or as otherwise defined in Code § 101(5).

1.1.23 **Class** means each class of Claims or Interest established pursuant to Article II of this Plan.

1.1.24 **Code or Bankruptcy Code** means title 11 of the United States Code, 11 U.S.C. §§ 101-1330 as may from time to time be amended.

1.1.25 **Collateral** means any property or interest in property of the Estate or the Debtor subject to a Lien to secure a Claim to the extent such Lien is not subject to avoidance under the Bankruptcy Code or such avoidance has been settled by this Plan, nor otherwise invalid under the Bankruptcy Code or applicable state law.

1.1.26 **Confirmation Date** means the date on which the Clerk of the Court enters the Confirmation Order on the docket in the Case.

1.1.27 **Confirmation Escrow** means a segregated bank escrow account maintained by the Reorganized Debtor funded by the Debtor from certain proceeds from the sale of the Residence and Other Real Property and, as required by 11 U.S.C. § 1129(b)(15), such disposable income as is sufficient to satisfy the provisions of the Code.

1.1.28 **Confirmation Hearing** means the hearing scheduled by the Court to consider confirmation of the Plan pursuant to Code § 1129, as such hearing may be adjourned or continued from time to time.

1.1.29 **Confirmation Hearing Date** means the date set by the Court for the commencement of the Confirmation Hearing, as may be adjourned or continued from time to time.

1.1.30 **Confirmation Order** means the order of the Court confirming the Plan pursuant to Code § 1129.

1.1.31 **Court** means the United States Bankruptcy Court for the Eastern District of Pennsylvania or such other court having jurisdiction over the Case.

1.1.32 **Debtor** means Ralph J. Givens, an adult individual.

1.1.33 **Disbursing Agent** means the Debtor who shall effectuate this Plan and hold and distribute consideration to be distributed to holders of Allowed Claims pursuant to the provisions of the Plan and Confirmation Order.

1.1.34 **Disclosure Statement** means that certain Third Amended Disclosure Statement, dated October 5, 2010, as may be amended, filed by the Plan Proponent in respect of this Plan, as may be amended, and approved by the Court on _____, 2010, as containing adequate information pursuant to Code § 1125.

1.1.35 **Disputed Claim** means any Claim, or portion thereof, for which no Allowed amount has been established or as to which (i) a proof of claim has been filed in an unliquidated amount; (ii) an objection, or request for estimation, has been timely filed (and not withdrawn) by any party in interest; and (iii) no Final Order has Allowed or disallowed such Claim or portion thereof or such claim is listed in the Schedules as contingent, unliquidated or disputed and for which no timely claim has been filed before the Bar Date in a liquidated amount. In the event that any part of a Claim is disputed, such Claim in its entirety shall be deemed to constitute a Disputed Claim for purposes of distribution under this Plan unless the Plan Proponent and the Holder thereof agree otherwise. Without limiting any of the above, a Claim that is the subject of a pending application, motion, complaint or any other legal proceeding seeking to disallow, subordinate or estimate such Claim shall be deemed to constitute a Disputed Claim.

1.1.36 **Effective Date** means 20 days following the date on which the Confirmation Order becomes a Final Order. The Debtor shall file with the Court a notice of occurrence of the Effective Date.

1.1.37 **Estate** means the estate of the Debtor within the meaning of Code § 541 and Code §1115.

1.1.38 **Final Order** means an order or judgment (i) as to which the time to appeal, petition for certiorari or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari or other proceedings for reargument or rehearing shall then be pending; or (ii) as to which any right to appeal, move for a stay pending appeal, petition for certiorari, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Plan Proponent or, (iii) in the event that an appeal, writ of certiorari or reargument or rehearing thereof has been sought, such order shall have been denied by the highest court to which such order was appealed, or certiorari reargument or rehearing shall have been taken and the time to take any further appeal, petition for certiorari or move for reargument or rehearing shall have expired; provided, however, that the possibility that a motion under Rule 59 or Rule 60 of the Federal Rules of Civil Procedure or Bankruptcy Rules 9023 or 9024 may be filed with respect to such order shall not cause such order not to be a Final Order.

1.1.39 **High Bidder** means that Qualified Bidder whose bid at the Auction at any point in time is the highest in amount of total United States Dollars and after the completion of bidding at the Auction, that Person who that is determined to have made the Winning Bid under the Plan or the Back-up Bidder, if there is a High Bidder Default.

1.1.40 **High Bidder Default** means the failure of the Winning Bidder or Back-Up Bidder, if appropriate, to consummate the purchase of the Residence or Other Real Property in accordance with Article VI of the Plan.

1.1.41 **Holder** means the beneficial owner or holder of any Claim or Interest.

1.1.42 **Lien** means a "lien" as defined in Code § 101(37).

1.1.43 **Minimum Bid** means \$10,000.00 in United States Dollars.

1.1.44 **Other Real Property** means any real property owned by the Debtor other than the Residence.

1.1.45 **Person** shall have the same meaning as provided in Code § 101(41).

1.1.46 **Personal Property** means all of the Debtor's personal property as scheduled on Schedule B of the Debtors official schedules as amended.

1.1.47 **Petition Date** means December 14, 2009.

1.1.48 **Plan Proponent** means the Debtor or Reorganized Debtor.

1.1.49 **Plan Supplement** means the additional documents filed with the Court by the Debtor on or before the commencement of the Confirmation Hearing supplementing the provisions of the Plan as provided for in the Plan.

1.1.50 **Priority Tax Claim** means any Claim which may be validly asserted by federal, state or local governmental tax authorities pursuant to Code §507(a)(8).

1.1.51 **Professional Fees** means Claims by professional persons employed pursuant to Code §§ 327 and 1103 for compensation and reimbursement of expenses pursuant to Code §§330 and 331 or other provisions of the Code.

1.1.52 **Professional Fees Fund** means a segregated escrow account maintained by Weir & Partners LLP for the payment of Allowed Professional Fees under section 4.1.1 of the Plan.

1.1.53 **Quarterly Fees** means the sums that the Debtor is required to pay to the United States Trustee pursuant to 28 U.S.C. § 1930(a)(6).

1.1.54 **Rejection Claim** means any Claim, proof of which is timely filed, arising under Code § 502(g) as a result of the rejection of an executory contract or unexpired lease.

1.1.55 **Reorganized Debtor** shall means the Debtor once the Effective Date occurs under this Plan.

1.1.56 **Residence** means 12043 Chipmans Pond Road, Laurel Delaware, 19956. The Residence is further identified by its Tax Parcel Number 23-32-13.00-3.18. To assist the reader to further identify the Residence, attached to the Disclosure Statement as Attachment "A" are true and correct copies of (a) the legal description of the Residence; (b) the Deed conveying the Residence to the Debtor; and (c) an uninsured title report obtained on October 5, 2010, which identifies the Residence by its Tax Parcel No. stated above and also identifies the mortgages and liens on the Residence to further assist those mortgagees to identify their collateral.

1.1.57 **Schedules** mean the Debtor's schedules of assets and liabilities and statement of financial affairs, as amended from time to time, filed by the Debtor with the Court pursuant to Bankruptcy Rule 1007.

1.1.58 **Secured Claim** means the portion of any Claim determined in accordance with §§ 506(a) and 1111(b) of the Bankruptcy Code, as of the Confirmation Date, that is (a) secured by a valid, perfected and unavoidable Lien, to the extent of the value of the Holder's interest in the Debtor's interest in the Collateral or (b) subject to offset under § 553 of the Bankruptcy Code, to the extent of the amount subject to offset.

1.1.59 **Tax Penalty Claim** means any Claim arising from or based upon interest, penalties, or additions attributable to or imposed on or with respect to one or more assessments of Taxes.

1.1.60 **Taxes** means all taxes, charges, fees, levies, or other assessments by any federal, state, local or foreign taxing authority, including, without limitation, income, excise, property, sales, transfer, use and occupancy, business privilege, net profits, occupation, intangible and withholding taxes, license, severance, and franchise taxes, excluding any interest, penalties or additions attributable to or imposed by the Delaware Department of Revenue or the Internal Revenue Service on or with respect to such taxes, charges, fees, levies or other assessments. This definition shall not preclude the Debtor's from any right to object to any other or further Claim either timely or tardily filed by any claimant for any Taxes which includes a claim for interest or penalties or additions attributable thereto.

1.1.61 **United States Trustee Fees** means the Quarterly Fees.

1.1.62 **Unclaimed Property** means any distributions to creditors that are unclaimed, including, without limitation, (i) Cash and checks (and the funds represented thereby) that have been mailed to creditors and returned as undeliverable without a forwarding address; and (ii) checks (and the funds, represented thereby) that were not mailed or delivered because of the absence of a proper address to which to mail or deliver such property.

1.1.63 **Unsecured Claim** means any Claim, whether or not disputed, liquidated or contingent, which is not an Administrative Claim, a Priority Claim, a Priority Tax Claim, or a Secured Claim.

1.1.64 **Unsecured Creditor Fund** means funds or money deposited into the Confirmation Escrow under 4.5.1 of the Plan for distribution to Class 4 creditors under the Plan.

1.1.65 **Voting Deadline** means the date set by the Court as the last date for receipt of ballots for acceptance or rejection of the Plan.

1.1.66 **Winning Bid** means the bid, in an amount not less than the Minimum Bid, of a Qualified Bidder at the completion of the bidding at the Auction that is determined by the Debtor to have complied with the terms of the Auction and to be the highest in amount of United States Dollars, that are actually paid by the Qualified Bidder, pursuant Article VI of the Plan or the Back Up Bid, if appropriate and necessary.

1.1.67 **Rules for Interpreting Undefined Terms.** All terms used in this Plan and not defined herein but that are defined in the Code shall have the respective meanings assigned to such terms in the Code. All terms used in this Plan and not defined herein or in the Code but that are defined in the Bankruptcy Rules shall have the respective meanings assigned to such terms in those rules.

1.1.68 **Rules of Construction.** The words "herein," "hereof" and "hereunder"

and other words of similar import refer to the Plan as a whole and not to any particular section, subsection or clause contained in the Plan unless the context requires otherwise. Whenever from the context it appears appropriate, each term stated in either the singular or the plural includes the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender include the masculine, feminine and the neuter.

ARTICLE II **CLASSIFICATION OF CLAIMS AND INTERESTS**

The Holders of Claims and Interest are classified under the Plan, as follows:

2.1 **Unclassified Claims.** Administrative Claims and Priority Tax Claims shall be treated in accordance with the Plan, but are not required to be classified pursuant to Code § 1123(a)(1).

2.2 **Class 1** shall consist of Other Priority Claims.

2.3 **Class 2** shall consist of the Wilgus/Johnson Secured Claim.

2.4 **Class 3** shall consist of the Deutsche Bank Secured Claim.

2.5 **Class 4** shall consist of Unsecured Claims.

2.6 **Class 5** shall consist of the Dakota Financial Claim.

2.7 **Class 6** shall consist of the Debtor.

2.8 **Class 7** shall consist of the Delaware Department of Revenue Claim

ARTICLE III **IDENTIFICATION OF CLASSES OF CLAIMS THAT** **ARE AND ARE NOT IMPAIRED UNDER THE PLAN**

3.1 **Classes Of Claims Not Impaired or Deemed to Reject.** Claims in Class 1 are not impaired under the Plan. Solicitation of acceptance with respect to Class 1 is not required under Code § 1126(f). Claims in Classes 2, 3, 4 and 5 are impaired and are entitled to vote on the Plan. Class 6 is the Debtor and the Debtor is deemed to accept the Plan.

3.2 **Impaired Classes Of Claims And Interests.** Claims in Classes 2, 3, 4 and 5 are impaired under the Plan and may vote.

3.3 **Impaired Classes To Vote.** Only those Classes of Claims holding impaired Claims shall be entitled to vote as a Class to accept or reject the Plan.

3.4 **Acceptance By Class Of Creditors.** A Class of Claims shall have accepted the

Plan if the Plan is accepted by Holders in such Class that hold at least two-thirds of the aggregate dollar amount and more than one-half in the number of the Allowed Claims of creditors of such class that vote to accept or reject the Plan.

3.5 **One Vote Per Holder.** If a Holder of a Claim holds more than one Claim in any one Class, all Claims of such Holder in such Class shall be aggregated and deemed to be one Claim for purposes of determining the number and amount of Claims in such Class voting on this Plan.

ARTICLE IV **TREATMENT OF CLAIMS AND INTERESTS**

The treatment of and consideration to be received by Holders of Allowed Claims and Interests pursuant to this Article IV shall be in full satisfaction, settlement and release of such Holder's respective Claims against the Debtor and the Estate. The rights of Claim Holders with respect to their Claims and Interests following the Confirmation Date shall arise exclusively under the Plan and Confirmation Order and any documents or instruments entered into in connection therewith.

4.1 Unclassified Claims.

4.1.1 **Allowed Administrative Claims.** Each Holder of an Allowed Administrative Claim shall be paid in full in Cash by the Reorganized Debtor from the Confirmation Escrow on the Effective Date, unless the Holder of an Allowed Administrative Claim agrees to other treatment. To the extent of the Allowed Claims for Professional Fees, those claims shall be paid from the Confirmation Escrow, after reduction for any retainer and fee advances from the Debtor commencing on the Effective Date or as soon thereafter as practical. To the extent that the Professional Fee is in the nature of a fee to a real estate agent or broker, such fee shall be paid to such Professional at the time the applicable real estate closing and in accordance with the order approving the employment of and compensation of such professional. In the event that any Administrative Claim is a Disputed Claim on the Effective Date, such Claim, or any portion thereof, shall be paid in full in Cash from the Confirmation Escrow, within thirty (30) days after such Claim becomes an Allowed Administrative Claim, unless the Holder of such Allowed Administrative Claim agrees to be treated differently. Such disputed amounts shall be reserved until the dispute is resolved.

The estimated aggregate amount of all Allowed Administrative Claims (principally professionals' fees) is approximately \$70,000.00 (net of the retainer and payments received on account). The Plan Proponent may experience a taxable event due to the sale of the Other Real Property and/or the Residence depending on the allocation of the purchase price thereof when weighed against the Debtor's basis in such property. The Debtor believes that his basis in each of the parcels of real estate to be sold under and pursuant to the terms of the Plan is more than the sale price for each such parcel and that, as a result, there will be no taxable event related thereto. Further, regarding the Residence, the Debtor believes that to the extent of any taxable event resulting from the Auction sale of the Residence, there would be no tax due and

payable because of certain lifetime and other exemptions from taxation available to the Debtor related to the realization of gain from the sale of a primary residence.

4.1.2 Allowed Priority Tax Claims. Each Holder of an Allowed Priority Tax Claim shall be paid in full in Cash by the Reorganized Debtor from the proceeds of the sale or Auction of the Residence and/or the Other Real Property or, in the sole discretion of the Debtor, from income generated by the Debtor, including such income as the Debtor may receive from the United States Social Security Administration in connection his claim for Social Security Income associated with his health issues as more fully described in the Disclosure Statement. If the Debtor chooses to pay any Holder of an Allowed Priority Tax Claim from the proceeds of the sale or Auction of the Residence or Other Real Property, then such payment will be made within 10 days of the date on which the sale proceeds of the sale or Auction of such real estate is paid to the Debtor's estate and so long as the net proceeds of the sale of such real estate, after payment of ordinary and necessary expenses of such sale and Claims that enjoy priority over such Allowed Priority Tax Claims, including unpaid Administrative Claims, are sufficient to pay such Allowed Priority Tax Claims in full. In the event that such proceeds are not sufficient to pay all Allowed Priority Tax Claims in full in the manner described above, such Allowed Priority Tax Claims shall be paid first in part from the net sale proceeds as discussed above, if any, and then from income, if any, contributed by the Debtor as may become required by 11 U.S.C. 1115. However, regardless how such Allowed Priority Tax Claims are paid, such claims shall be paid not later than over a period of time ending not later than 60 months after the Petition Date as required by 11 U.S.C. § 1129(9)(C)(ii) and in a manner not less favorable than the most favored nonpriority unsecured claim.

In the event that a Priority Tax Claim is a Disputed Claim on the date on which the sale proceeds of the sale or Auction of such real estate is paid to the Debtor's estate, such Claim, or any portion thereof, shall be paid in accordance with the above provisions only after such Claim or any portion thereof becomes an Allowed Priority Tax Claim. Any Holder of an Allowed Priority Tax Claim may agree to be treated differently than described above. Any portion of a Priority Tax Claim that is determined by the Court or agreed to be an Allowed Unsecured Claim shall be treated in Class 4 hereof.

As of the Bar Date, only the IRS has filed a Priority Tax Claim. That claim was in the original amount of \$27,627.29, but was subsequently amended to reflect a claim in the amount of \$0.00.

4.2 Class 1 (Other Priority Claims)

4.2.1 The estimated aggregate amount of all Allowed Other Priority Claims is approximately \$0.00. There are no filed or scheduled Other Priority Claims but Debtor reserves

the right to include same if allowed as tardily filed by the Court (in which case same shall be treated in accordance with the Code). Debtor also reserves the right to object to any Class 1 claim and to the extent that such claim should be treated as unsecured the Debtor will object thereto for purposes of reclassification. Each Holder of an Allowed Other Priority Claim shall be paid in full in Cash by the Reorganized Debtor from the proceeds of the sale or Auction of the Residence and/or the Other Real Property or from assets contributed by family members of the Debtor, on within 10 days of the date on which the sale proceeds of the sale or Auction of such real estate is paid to the Debtor's estate. on the date on which the sale proceeds of the sale or Auction of such real estate is paid to the Debtor's estate, such Claim, or any portion thereof, shall be paid in full in Cash from such proceeds within thirty (30) days after such Claim or any portion thereof becomes an Allowed Priority Tax Claim unless the Holder of such Allowed Other Priority Claim agrees to be treated differently.

4.2.2 Any portion of an Other Priority Claim that is determined by the Court or agreed to be an Allowed Unsecured Claim shall be treated in Class 4 hereof.

4.2.3 Holders of Class 1 Claims are impaired by the Plan and are entitled to vote on the plan.

4.3 **Class 2 (Wilgus/Johnson Secured Claims)**

4.3.1 Class 2 consists of the Wilgus/Johnson Secured Claim. The Lien of the Holder of the Wilgus/Johnson Secured Claim on a part of the Other Real Property arises from the judgment entered in favor of the Holder of the Wilgus/Johnson Secured Claim and a certain mortgage executed and delivered by the Debtor to the Holder of the Wilgus/Johnson Secured Claim on the Debtor's real estate. The Wilgus/Johnson Secured Claim shall be fixed at \$209,000.00. The Wilgus/Johnson Secured Claim shall not accrue interest during the 10 month period in which the Debtor may sell the Other Real Property. Thereafter, the Wilgus/Johnson Secured Claim shall accrue interest at the legal rate applicable to its judgment pursuant to Delaware law. The Holder of the Wilgus/Johnson Secured Claim shall retain its lien on the Debtor's Other Real Property. To the extent that the Debtor is successful in securing a purchaser for a part of the Other Real Property for less than the amount of the Wilgus/Johnson Secured Claim, and subject to the right to object to the terms of any such sale as leaving insufficient collateral to repay in full the Wilgus/Johnson Secured Claim, the Holder of the Wilgus/Johnson Secured Claim, shall release the lien of its judgment and mortgage as to such part of the Other Real Property, but will retain its lien with regard to the remainder, if any. The Holder of the Wilgus and Johnson Secured claim shall be granted relief from the Automatic Stay on the Effective Date, but will forbear from execution on the Other Real Property or its judgment until the conclusion of 10 months following the Effective Date. The Debtor believes that the treatment of the Wilgus/Johnson Secured Claim is proper, fair and equitable.

4.4 **Class 3 (Deutsche Bank Secured Claim.)**

4.4.1 Class 3 consists of the Deutsche Bank Secured Claim.

The estimated aggregate amount of the Deutsche Bank Secured Claim, which is a first priority mortgage on the Residence, is as reflected on the proof of claim filed in the amount of asserted at approximately \$84,728.83, as well as additional interest and costs as may have accrued since the filing thereof. The Debtor believes the Holder of the Deutsche Bank Secured Claim is wholly secured by the value of the Residence. In other words, the Debtor believes the value of the Residence to be in excess of the amount of the Deutsche Bank Secured Claim and that the Holder of the Deutsche Bank Secured Claim is adequately protected by the value of the Residence. The Holder of the Deutsche Bank Secured Claim will be allocated the total amount of the proceeds of the Auction of the Residence, up to the amount of the Deutsche Bank Secured Claim, but subject to payment of ordinary and necessary closing costs, but also will pay a carve-out in an amount equal to 10% of the Sale Price of the Residence (the "Residence Carve-Out") to be contributed for the benefit of the Debtor's estate from the net sale price received from the Auction of the Residence, which amount would be retained by the Debtor's bankruptcy estate for payment of Administrative Claims.

If the Court does not approve the results of the Auction of the Residence, or the Residence is withdrawn from the Auction the Debtor, in his sole discretion, shall have the option of reinstating his loan with Deutsche Bank or listing the Residence for sale for a period of time not to exceed six (6) months. In either case, as adequate protection, the Debtor shall make all regular monthly payments to Deutsche Bank beginning on the first day of the first month following the Effective Date at the non-default rate of interest provided in the note and mortgage. If the Debtor chooses to reinstate his loan with Deutsche Bank, in addition to all regular monthly payments, each month for a period of 60 months after the Effective Date, the Debtor shall pay to the Holder of Deutsche Bank Secured Claim $1/60^{\text{th}}$ of the amount of any combined pre-petition date and post-petition date arrears due to the Holder of Deutsche Bank Secured Claim, which the Debtor believes will result in an additional monthly payment in the approximate amount of \$200.00. The Holder of the Deutsche Bank Secured Claim shall not seek relief from the automatic stay unless the Debtor first defaults on any payment Debtor is required to make to the Holder of the Deutsche Bank Secured Claim as provided in this Plan and until the Holder of the Deutsche Bank Secured Claim provides Debtor and counsel to Debtor with 10 days prior written notice and opportunity to cure such default. The Debtor believes that the treatment of the Deutsche Bank Secured Claim is proper, fair and equitable.

4.4.2 The Holders of Allowed Class 3 Claims are impaired by the Plan and may vote.

4.5 Class 4 (Unsecured Claims)

4.5.1 Class 4 consists of the Allowed Unsecured Claims. The estimated aggregate amount of all Unsecured Claims for which timely proofs of claim have been filed as of the Bar Date is \$169,042.77. All Holders of Allowed Unsecured Claims shall receive a one time *pro rata* distribution of the lesser of \$25,000.00 or the amount of non-exempt equity in the Other Real Property. (the "Distribution"). However, in no event shall the Distribution exceed the total amount of Allowed Unsecured Claims. Each Holder of an Allowed Unsecured Claim shall be paid their *pro rata* share of the Distribution in Cash by the Reorganized Debtor from the proceeds of the sale or Auction of the Residence and/or the Other Real Property. Such payment will be made within 10 days of the date on which the sale proceeds of the sale or Auction of such real estate is paid to the Debtor's estate or of the date on which such sale becomes final, whichever is later. Such Distribution shall be made, if at all, so long as (and to the extent that) the net proceeds of the sale of such real estate, after payment of ordinary and necessary expenses of such sale and Claims that enjoy priority over such Allowed Unsecured Claims including Allowed Priority Tax Claims and unpaid Administrative Claims, including any tax liability incurred by the Debtor as a result of the sale, are sufficient to pay such Distribution. In the event that such proceeds are not sufficient to pay the Distribution in full in the manner described above, such Distribution shall be paid first in part from the net sale proceeds as discussed above, if any, and then from the Debtor's disposable income, if any, as may be required pursuant to 11 U.S.C. §1129, which references 11 U.S.C. §1325. When determining the amount of each such Holder's *pro rata* distribution, the amount of each claim shall be in an amount equal to the principal amount of such claims, without interest, costs or attorneys' fees, of the Holders of Allowed Unsecured Claims. The Debtor believes that the treatment of the Allowed Unsecured Claims is proper, fair and equitable.

4.5.1.2 Should any Class 4 Claimant object to this Plan, the Debtor respectfully submits that the payment to each Class 4 Claimant contemplated by this Plan is not less than the projected disposable income of the Debtor (as defined in Code Section 1325(b)(2)) for a five year period beginning on the Effective Date. The Debtor remains unemployed. The present and future expected sources of income include any benefits to which the Debtor becomes entitled on account of his disability which the Debtor believes will be in the amount of \$1397.00 per month, and 1,062.00 per month as reflected on Schedule I. **As reflected on the Debtor's Schedule J, the Debtor incurs monthly expenses in the amount of \$1,996.00. However, when the proposed rental obligation of the Debtor at \$200.00 per month is included, the Debtor's projected monthly disposable income is \$263.50 which, when multiplied by 60, is not less than the Distribution the Debtor proposes to pay to the Holders of Allowed Unsecured Claims.** The Debtor will file annually (not later than April 15 of each year following the Effective Date through the date on which the Debtor receives a discharge) a report in which he will disclose the amount of his annual income during the life of this Plan.

The Debtor's current monthly income of \$2,459.50, when multiplied by 12 results in an annual gross income of \$29,514.00. Pursuant to Code section 1129, which incorporates code section 1325(b)(2), the Debtor's current monthly income, when multiplied by 12 is not greater than \$70,075.00, which is the median family income of the

State of Delaware for a household of 3 individuals (applicable to bankruptcy cases filed between 11/1/2009 and 3/14/2010 inclusive), as reported by the United States Census Bureau and found, among other places at www.justice.gov under that part of that website governing the Office of the United States Trustee.

4.5.2 Holders of Allowed Class 4 Claims are impaired by the Plan and may vote.

4.6 **Class 5 (Dakota Financial Claim)**

4.6.1 Class 5 consists of the Dakota Financial Claim. The Holder of the Dakota Financial Claim filed a proof of claim in which it asserts it is the holder of a secured claim in the amount of \$266,685.43. The Debtor believes that the Dakota Financial Claim is subject to modification pursuant to Code Section 1123(b)(5) because the Dakota Financial Claim is not a claim secured only by the Residence. Rather, Dakota's claim is secured by the Business assets and the Equipment. The Debtor may seek this determination even after the Effective Date, but Dakota will retain its Lien on the Residence to the extent its Lien is an Allowed Secured Claim, after modification pursuant to Code Section 1123(b)(5). The Debtor reserves the right to assert that the Dakota Financial Claim impairs the Debtor's exemption in the Residence. The Holder of the Dakota Financial Claim is secured to the extent of the value of its interest in the Debtor's interest in the Residence, minus the claim of the Holder of the Deutsche Bank Secured Claim, any other claims with priority over Dakota and, to the extent applicable, the amount of the Debtor's exemption of \$50,000.00. The Holder of the Dakota Financial Claim shall receive no payments on the Effective Date. The Holder of the Dakota Financial Claim will be allocated the net proceeds of the Auction of the Residence, up to the amount of the Dakota Financial Claim, after payment of ordinary and necessary closing costs and any taxes that are liens against the Residence and the claim of the Holder of the Deutsche Bank Secured Claim and the Residential Carve-Out and any other liens or claims that have priority over Dakota Financial. The Auction of the Residence shall, be free and clear of the Dakota Financial Claim and all other liens, claims, encumbrances and/or interests on the Residence. If however, the Residence is not sold at the Auction or sold pursuant to Section 6.9 hereof, the Debtor will not pay any consideration to the Holder of the Dakota Financial Claim on the Effective Date but Dakota will retain its Lien on the Residence to the extent its Lien is an Allowed Secured Claim, after modification pursuant to Code Section 1123(b)(5). The Debtor has or soon will seek a determination by the Court of the extent, priority and validity of the lien of the Holder of the Dakota Financial Claim and will seek to modify the rights of the Holder of the Dakota Financial Claim such that it will be secured only to the extent of the value of the Residence minus the amount of all liens and claims that have priority over the Dakota Financial Claim. The Holder of the Dakota Financial Claim shall not have the right to accrue interest, late charges, penalties, attorneys' fees or other costs on the Dakota Financial Claim because it is undersecured.

4.6.2 The Dakota Financial Claim is impaired and is entitled to vote.

4.7 Class 6 (Debtor)

4.7.1 Class 6 consists of all ownership interests of the Debtor in assets he will retain under the Plan.

4.7.2 The Debtor shall retain his interest in the Assets, other than the Residence and the Other Secured Property that is sold pursuant to the terms of this Plan and any income that is, or becomes required to be, contributed to this Plan and to effectuate this Plan.

4.10.2 Consistent with Code §1129(14), the Debtor is not required by a judicial or administrative order, or by statute, to pay a domestic support obligation.

4.10.3 The Debtor is deemed to have accepted the Plan.

4.8 Class 7 (Delaware Department of Revenue Claim)

4.8.1 Class 7 consists of the Delaware Department of Revenue Claim filed in the amount of \$15,424.90. This claim is filed as a secured claim and, apparently, relates to an alleged pass through liability from the Business for failure to pay certain withholding taxes in 2007 and 2008. The Delaware Department of Revenue Claim states that, in fact, there is no principal tax due. The entirety of the claim appears to be for Penalty (\$14,822.62) and Interest (\$602.28).

4.8.2 The Delaware Department of Revenue Claim appears to be estimated because, apparently certain tax returns were not filed by the Business. The Debtor believes that the Business did file returns for 2007 and 2008 and, as the Business was not operating during 2009, that no return for that year is required.

4.8.3 Without prejudice to the Debtor's right to object to the Delaware Department of Revenue Claim, the Debtor will pay any Allowed portion of the Delaware Department of Revenue Claim that is a Secured Claim from the proceeds of the sale of the Other Real Property, after the payment of all ordinary and necessary closing costs and after payment of any Claims that enjoy priority over the Delaware Department of Revenue Claim to the extent that it is Allowed and Secured.

4.8.4 Any portion of the Delaware Department of Revenue Claim that is determined by the Court or agreed to be an Allowed Unsecured Claim shall be treated in Class 4 hereof.

4.8.4 Any portion of the Delaware Department of Revenue Claim that is determined by the Court or agreed to be an Allowed Priority Tax Claim shall be treated as an Unclassified Claim.

4.8.5 The Delaware Department of Revenue Claim is impaired and is entitled to vote.

ARTICLE V
IMPLEMENTATION OF THE PLAN

5.1 The Debtor shall conduct the Auction of the Residence in conformity with Article VI hereinafter. The Debtor shall cause to be listed for Sale the Other Real Property.

5.2 The Reorganized Debtor shall act as Disbursing Agent for all amounts that are to be distributed in accordance with the Plan.

5.2.1 The Reorganized Debtor may employ legal counsel without seeking Court approval to assist in the Reorganized Debtor's duties hereunder and pay such reasonable legal counsel fees as and when such fees become due for payment.

5.2.2 Consistent with Code section 1146, no transfer, stamp or similar taxes shall imposed or paid in connection with the sale of the Residence or the Other Real Property as such sales are pursuant to a confirmed Plan. The amount of any estimated tax obligation owed by the Debtor due to any gain realized from the sale of any real estate shall be placed into the Confirmation Escrow for payment of such tax obligation before the payment of any funds to Unsecured Creditors, but after payment of Administrative Claims.

5.3 Notwithstanding 5.2.2 above, if such taxes and costs become due, all sales taxes and costs of transfer, if any, shall be borne by the purchaser of such assets.

5.4 The Debtor shall pay all Cash on hand on the Effective Date into the Confirmation Escrow. The Confirmation Escrow shall first be used by the Reorganized Debtor to pay the Allowed Administration Claims (other than Allowed Professional Fees), the Allowed Priority Tax Claims and the post-confirmation United States Trustee Fees. The Confirmation Escrow shall then be used to make those other payments required by the Debtor under this Plan, including those payments to the various classes of creditors as described more fully above.

5.5 Upon fully administering and distributing all payments under this Plan, the Reorganized Debtor shall file appropriate pleadings to close the Case and to obtain a discharge.

ARTICLE VI
THE AUCTION OF RESIDENCE AND SALE OF OTHER REAL PROPERTY

6.1

Sale of Other Real Property

Subject to Court approval, the Debtor will engage a licensed broker to list the Other Real Property for sale in a non-auction and non-forced sale setting. The Other Real Property is identified by its Tax Parcel Number 2-32 13.00 3.03. The terms of such engagement, among other terms to be fully described in the engagement application will reserve in the Debtor the right and ability to privately market the Other Real Property such that if the Debtor locates a purchaser for the Other Real Property, or any part thereof, no commission will be paid to the broker. The Debtor intends to sell the property in more than one lot, which the Debtor believes will maximize the value of the Other Real Property. The Debtor will immediately seek approval from the appropriate governmental agencies to subdivide the Other Real Property into 7 separate lots and will use his income to pay the expenses associated therewith. The Debtor believes that the cost associated with obtaining such approval will not exceed \$5,000.00 and believes that such expense will benefit the estate and its creditors because the Debtor is certain that such subdivision will expand the pool of potential purchasers and therefore expedite the sale of such real estate. This expedited process, the Debtor believes, will expedite payment of his obligations under the Plan. Within the last 5 years, the Debtor has successfully subdivided the Other Real Property and closed the sale of two of such subdivided parcels. Further, because the Debtor is intimately knowledgeable regarding his real estate, as it has been owned by his family for many years and he has lived in Laurel, Delaware for his entire life, the Debtor believes he is best suited to oversee the further subdivision of the Other Real Property and subsequent sale thereof. However, as discussed above, the Debtor also will engage a licensed real estate broker to satisfy creditors' concerns regarding whether the Debtor should retain sole control over the process, while at the same time permitting the Debtor to seek a sale privately.

When any offer is received to purchase the Other Real Property, or any part of it, notice of such offer and the salient terms of the proposed sale will be given to all creditors in the Debtor's case and the Office of the United States Trustee and such notice parties shall have a period of 10 days in which to object to sale. If no objections are received, then the Other Real Property will be sold pursuant to the terms of the proposed sale and of the Plan and, pursuant to 11 U.S.C. Section 1146 shall not be made subject to any law imposing a stamp tax, transfer tax or similar tax.

The Debtor will be permitted a period of 10 months from the Effective Date in which the Other Real Property may be listed for sale during which time all creditors agree that execution proceedings against the Other Real Property, or any of it, will not be permitted. On a monthly basis following the Effective Date, the Debtor will provide to the Holder of the Wilgus and Johnson Secured Claim a status report regarding efforts to sell the Other Real Property. The Debtor also will, pay any and all real estate taxes that come due after the Effective Date and until such property is sold in accordance herewith. The Holder of the Wilgus and Johnson Secured

claim shall be granted relief from the Automatic Stay on the Effective Date, but will forbear from execution on the Other Real Property or its judgment until the conclusion of 10 months following the Effective Date. The Holder of the Wilgus and Johnson Secured Claim may, in their discretion, agree to extensions of time in connection herewith. The Proceeds of the Sale of any Other Real Property will be distributed in accordance with the provisions of the Plan.

FOR AN EXAMPLE OF RECIEPTS AND DISBURSMENTS AFTER SALE, THE READER IS DIRECTED TO THE DISCLSORE STATEMENT.

Auction of Residence

Pursuant to Code section 1129(b)(2)(A)(iii), the Debtor will hold an Auction of the Residence on or before 25 days following the Effective Date that the Debtor believes will provide for the holders of secured claims the realization of the indubitable equivalent of their respective claims. The Auction of the Residence shall be free and clear of all liens, claims, interests and/or encumbrances thereon. At the Auction, the Minimum Bid will be \$10,000.00 and bidding will be proceeding in minimum increments of \$5,000. After the Auction is complete counsel for the Debtor will report to the Court the result of which bids are the Winning Bid and the Back-Up Bid, if any. The Court will be asked to approve the result of the Auction immediately following the Auction and the Successful Bidder will then close on the Auction Sale of the Residence on or before 30 days after the date on which the Auction is held, but the Winning Bid must be paid in full in Cash on the date of the Auction. Any and all Bids and the purchase price for the Residence must be in cash and no Bidder may credit bid any claim, regardless whether and such creditor is the Holder of an Allowed Secured Claim.

If the Auction occurs, the Debtor proposes to distribute the Auction Proceeds under the Plan as follows:

The entire sale price would be allocated to the Holder of the Deutsche Bank Secured Claim up to the Allowed amount of such claim. The Debtor proposes that the Bank agree to a carve-out equal to 10% of the Sale Price of the Residence (the "Residence Carve-Out") to be contributed for the benefit of the Debtor's estate from the Auction sale proceeds from the Auction of the Residence, which would be paid to the Debtor's bankruptcy estate for purposes of paying Administrative Claims. Any remaining proceeds would be paid first to any ordinary and necessary closing costs associated with the Auction of the Residence and then to subordinate lienholders.

6.2 The terms and conditions of the Auction of the Residence shall be:

6.2.1 The Residence is sold free and clear of all Liens of Taxes, and security interests, Liens, encumbrances and interests on such property. The sale of the Residence shall not be subject to any stamp or similar tax pursuant Code section 1146.

6.2.2 The Residence is sold “as is, where is” and without any representation, covenants or warranties whatsoever.

6.2.3 All expenses and cost incurred by purchaser Residence shall be solely born by such purchaser and there shall not be any Administrative Claims filed by a purchaser under this Article.

6.2.4 The purchaser shall agree not to evict the Debtor for a period of not less than six months following the Closing Date of the Sale of the Residence following the Auction. However, the Debtor shall pay to the Winning Bidder \$200.00 per month for every month up to six months that the Debtor remains in the Residence.

6.2.5 The Auction Date shall be the date that is not more than 25 Days following the Effective Date.

6.3 The Winning Bid shall be accompanied by a bank treasurer’s check or certified check in the amount of the Winning Bid payable to “Weir & Partners LLP, escrow account for Debtor Ralph J. Givens” which must be received at the Auction.

6.4 In accordance with Code section 1129(b)(2)(A)(iii), the Winning Bid shall be for a Cash purchase without any financing or other contingency, payable in full in Cash in the Amount of the Winning Bid to the Debtor on the Auction Date. No creditor may credit bid at the Auction.

6.5 All expenses and cost incurred by any Bidder shall be solely born by such Bidder and there shall not be any Administrative Claims filed by a Bidder under this Article.

6.6 The Auction shall be conducted by Jeffrey S. Cianciulli, Esquire, counsel for Debtor on the Auction Date at 10:00 a.m. prevailing Eastern Time at Weir & Partners, LLP, The Widener Building, Suite 500, 1339 Chestnut Street, Philadelphia, PA 19107. The Auction and the Auction Date shall be advertised in a newspaper of general circulation in and around the location of the Residence. Such advertisement shall run for three consecutive days, with the third advertised date to be not less than three days prior to the Auction Date.

6.7 At the Auction, the bidding shall take place in one or more successive rounds. All bidding will be made and received on an open and oral basis and all Bidders and their respective counsel are entitled to be present for bidding with the understanding that bidding may only be made by one representative of each Bidder. The bidding shall start at the Minimum Bid and all subsequent bids at the Auction must be in higher Bidding Increments of at least \$5,000.00 and all bids must be in United States Dollars. Each bid at the Auction must continue to satisfy all the terms and conditions applicable to this Article VI and shall remain irrevocable until the Auction

is completed and the Winning Bid is determined and approved by the Court pursuant to this Article. All bidding shall take place without adjournment until bidding is completed.

6.8 Upon receiving the last Auction bid in accordance with the bidding requirements and the bidding has been completed, Debtor's counsel shall determine which Bid is the High Bidder and the Back Up Bidder and the amount of the Winning Bid and the Back-Up Bid which determination shall then be announced to all participating Bidders present and to the Court. If required by the Court, the Debtor shall file an Auction Report with the Court immediately following the end of the Auction setting forth the determination of the Winning Bid and High Bidder and the Back-Up Bid and Back-Up Bidder.

6.9 The Debtor may withdraw the Residence from the Auction at any time before the Auction begins and the parties shall be placed back in their respective positions that existed immediately prior to the Auction.

If the Court does not approve the results of the Auction of the Residence, or the Residence is withdrawn from the Auction the Debtor, in his sole discretion, shall have the option of reinstating his loan with Deutsche Bank or listing the Residence for sale for a period of time not to exceed six (6) months. In either case, as adequate protection, the Debtor shall make all regular monthly payments to Deutsche Bank beginning on the first day of the first month following the Effective Date at the non-default rate of interest provided in the note and mortgage. If the Debtor chooses to reinstate his loan with Deutsche Bank, in addition to all regular monthly payments, each month for a period of 60 months after the Effective Date, the Debtor shall pay to the Holder of Deutsche Bank Secured Claim $1/60^{\text{th}}$ of the amount of any combined pre-petition date and post-petition date arrears due to the Holder of Deutsche Bank Secured Claim, which the Debtor believes will result in an additional monthly payment in the approximate amount of \$200.00.

If the Debtor chooses to sell the Residence, the Debtor will engage (if he has not already done so regarding the Other Real Property), a broker to assist in the sale of the Residence. All proceeds would be paid first to any ordinary and necessary closing costs associated with the sale of the Residence. Thereafter, the entire net proceeds would be allocated to the Holder of the Deutsche Bank Secured Claim up to the Allowed amount of such claim. Deutsche Bank agrees to a carve-out equal to 10% of the Sale Price of the Residence (the "Residence Carve-Out") to be contributed for the benefit of the Debtor's estate from the sale proceeds from the sale of the Residence, which would be paid to the Debtor's bankruptcy estate for purposes of paying Administrative Claims. Any remaining funds would be paid to subordinate lien holders. The Debtor does not expect any funds to be available for distribution to unsecured creditors from the Sale of the Residence, but is hopeful that some proceeds may be available to pay some or all of the Debtor's exemption in the Residence.

FOR AN EXAMPLE OF RECIEPTS AND DISBURSMENTS AFTER AUCTION OR SALE OF RESIDENCE, SEE THE DISCLOSURE STATEMENT

ARTICLE VII
DISTRIBUTIONS TO HOLDERS OF ALLOWED CLAIMS AND
PROVISIONS FOR TREATMENT OF DISPUTED CLAIMS

Distribution To Holders Of Allowed Claims.

7.1 Distributions to each Holder of an Allowed Claim as provided by the Plan shall be made: (i) at the address set forth on the Schedules; (ii) at the address set forth on the proof of claim or any amendment thereof filed by or on behalf of such Holder, if different from clause (i).

7.1.2 Except as otherwise provided in this Plan, each distribution to each Holder of an Allowed Claim as provided by the Plan shall be made on the Effective Date, whichever is applicable, or as soon thereafter as practicable. Any payment or distribution required to be made under the Plan on a day other than a Business Day shall be due on the next succeeding Business Day.

7.1.3 The actual costs of distributions under the Plan shall be borne by the applicable fund or escrow from which the distribution is paid.

7.2 Disputed Claims.

7.2.1 For purposes of this Plan, any and all Claims that are subject to disallowance pursuant to Code §§502(e) and 509 shall be deemed to be disallowed as of the Confirmation Date, notwithstanding the absence of any objection thereto.

7.2.2 Except as otherwise provided in the Plan, no payments shall be made with respect to all or any portion of a Disputed Claim unless and until any and all objections to such Disputed Claim or Actions against the Holder of a Disputed Claim have been determined by a Final Order. Payments and distributions to each Holder of a Disputed Claim, to the extent that the Disputed Claim ultimately becomes an Allowed Claim, shall be made in accordance with the provisions of the Plan. Any payments that would have been made prior to the date on which a Disputed Claim becomes an Allowed Claim shall be made as soon as practicable after the date that the order or judgment of the Court determining such Claim to be an Allowed Claim becomes a Final Order.

7.3 **Setoffs.** Plan Proponent may, but is not obligated to, setoff against any Claim and/or the distributions to be made pursuant to the Plan on account of such Claim, any claim or defense of any nature whatsoever the Estate may have against the Holder of such Claim. The payment of a distribution on account of an Allowed Claim under the Plan shall not constitute a waiver, bar or estoppel of Actions against the Holder of any such Claim.

7.4 **Claims Objections Which Are Pending As Of The Effective Date.** Claims objections which are pending on the Effective Date may be prosecuted after such date unless the Claim is deemed Allowed under the Plan. The objecting party shall have the discretion to

litigate to judgment, settle (without notice and approval by the Court pursuant to Bankruptcy Rule 9019) or withdraw objections to Disputed Claims.

7.5 Post-Confirmation Date Objections. After the Confirmation Date, only the Plan Proponent may make and file objections to proofs of claim for any claims that are not deemed allowed under this Plan. Any such objections to Claims shall be filed with the Court at any time within ninety (90) days after the Confirmation Date. Such objecting party shall have the discretion to litigate to judgment, settle, without notice or approval of the Court or withdraw its objections.

ARTICLE VIII

EXECUTORY CONTRACTS AND UNEXPIRED LEASES

8.1 Executory Contracts And Unexpired Leases.

8.1.1 Except as otherwise provided for in the Plan, any and all executory contracts and unexpired leases not expressly assumed by Debtor pursuant to the Confirmation Order or a Final Order of the Court entered on or prior to the Confirmation Hearing Date shall be deemed assumed as of the Effective Date.

8.1.2 Except as otherwise provided in the Plan, any Allowed Claims arising out of the rejection of any executory contract or unexpired lease shall be treated in accordance with the provisions relating to Class 4.

8.1.3 A proof of claim evidencing any Rejection Claim shall be filed with the Clerk of the Court, with a copy to the counsel for the Plan Proponent no later than thirty (30) days following Confirmation Date. A failure to file, in a timely manner, a proof of claim resulting from the rejection of an executory contract or unexpired lease shall result in the disallowance of any such Claim and the holder of such Claim shall be forever barred from asserting such Claim.

8.1.4 Objections to Rejection Claims may be filed with the Court at any time prior to the thirtieth (30th) day following the Effective Date. Such objections shall be served upon the Holder of the Claim to which an objection is made. Any objection not timely filed shall be deemed waived by all parties-in-interest.

ARTICLE IX
DISCHARGE, RELEASE AND INJUNCTION

9.1 Discharge And Release Of Claims.

9.1.1 **Discharge of Debtor.** Upon the completion of all payments provided for under this Plan, Debtor shall be discharged pursuant to Code §1141(d) of all debts provided for in the Plan and scheduled by the Debtor in this Case. The Debtor reserves the right to request, upon such notice as may be necessary under the circumstances, and after a hearing, that the Court grant the Debtor an earlier discharge for cause.

9.1.2 **Injunction.** Except as otherwise provided for herein or in the Confirmation Order, upon the Effective Date, all Persons that have held, currently hold or may hold a Claim or other debt or liability, including, but not limited to, any and all Claims for contribution and/or indemnity, that are subject to this Plan or who have held, currently hold or may hold an Interest that is subject to this Plan from taking any of the following actions in respect of such Claim, debt or liability or Interest are, consistent with 9.1.1, permanently enjoined from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind against the Debtor, the Estate, and the Assets ; (ii) enforcing, levying, attaching, collecting or otherwise recovering in any manner or by any means, whether directly or indirectly, any judgment, award, decree or order against the Estate, and the Assets; (iii) creating, perfecting or enforcing in any manner, directly or indirectly, any Lien or encumbrance of any kind against the Estate, the Debtor, and the Assets; (iv) asserting any setoff of any kind, directly or indirectly, against any debt, liability or obligation due to the Estate; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions, and the enforcement, of the Plan or the Confirmation Order.

9.1.3 **Exculpation Of Liability.** The Debtor and her agents, affiliates, successors, assigns, and representatives, shall not have or incur any liability to any Person for any act taken or omitted to be taken in good faith prior to or after the Effective Date in connection with the Case or related to the formulation, preparation, dissemination, implementation, confirmation or consummation of the Plan, the Disclosure Statement, or any other contract, instrument, release, agreement or other document created or entered into, or any act taken or omitted to be taken prior to or after the Effective Date in connection with the Plan or the Case, including, without limitation, any pleadings filed with, or actions taken in, the Court in connection with the Case or the formulation, preparation, dissemination, implementation, confirmation or consummation of the Plan and the Disclosure Statement; provided, however, that the foregoing provision of this section 9.1.3 of the Plan shall have no effect on the liability of any Person that would otherwise result from any such act or omission to the extent that such act or omission is determined by a Final Order to have constituted willful misconduct or gross negligence.

9.2 Other Documents And Actions. The Debtor, or Reorganized Debtor, may cause

any other party to execute documents that are or may be necessary to effectuate the transactions provided for in this Plan. The Debtor or Reorganized Debtor or its representatives or agents shall take such other actions as may be necessary or appropriate to effectuating the terms of the Plan.

9.3 **Continuance of the Automatic Stay.** The Automatic Stay of §362 of the Code shall continue until the Case is closed unless the Court orders otherwise.

ARTICLE X

MODIFICATION OF THE PLAN

10.1 **Modification Before The Confirmation Date.** The Plan Proponent, exclusively, may modify the Plan at any time before the Confirmation Date provided that the Plan, as modified, meets the requirements of Code §§ 1122 and 1123. Once the Plan Proponent files a modification with the Court in accordance with this section 10.1 of the Plan, the Plan, as modified, becomes the Plan.

10.2 **Modification After The Confirmation Date.** The Plan Proponent, exclusively, may modify the Plan at any time after the Confirmation Date and before the Effective Date, provided that the Plan, as modified, meets the requirements of Code §§ 1122 and 1123. After the Effective Date and before substantial consummation of the Plan, only the Plan Proponent may modify the Plan (and, in accordance with Code §1127(e), whether or not the Plan has been substantially consummated), provided that the Plan, as modified, meets the requirements of Code §§ 1122 and 1123. The Plan, as modified, under this subsection becomes the Plan only if the Court, after notice and a hearing, authorizes such modification.

10.3 **Defects, Omission, And Inconsistencies.** Before the Effective Date, the Plan Proponent may, with the approval of the Court, remedy any defect or omission, or reconcile or correct any inconsistencies in the Plan or amend the Plan in such manner as may be necessary to carry out the purpose and effect of the Plan, so long as it does not materially and adversely affect the interest of Holders of Allowed Claims and Interests. After the Effective Date, the Plan Proponent, with the approval of the Court, may remedy any defect or omission, or reconcile or correct any inconsistencies in the Plan or amend the Plan in such manner as may be necessary to carry out the purpose and effect of the Plan, so long as it does not materially and adversely affect the interest of creditors.

ARTICLE XI

RETENTION OF JURISDICTION

Following the Effective Date, and notwithstanding the entry of the Confirmation Order, the Court shall retain and have jurisdiction to the extent allowable by law or applicable law, for the following purposes:

11.1 To enable the consummation of the Plan and to resolve any disputes arising with

respect thereto;

11.2 To enable the Plan Proponent or any other party to consummate any and all proceedings which it may bring prior to the entry of the Confirmation Order;

11.3 To set aside any and all Liens, levies and encumbrances as required by the Plan;

11.4 To hear and determine the Actions or adversary proceedings, including any and all claims, causes and actions seeking to: (i) recover any transfers, assets or damages to which the Debtor, the Estate or any other party may be entitled to assert; and (ii) prosecute or recover money or property of the Estate under applicable provisions of the Code, including, without limitation, any avoidance actions brought by the Debtor pursuant to Code §§ 545, 546, 548, or 549 or other federal, state or local law;

11.5 To adjudicate all controversies concerning any Actions, the Auction, any sale, , valuation of Collateral for, classification, subordination or allowance of any Claim or Interest;

11.6 To hear and determine all Claims arising from the rejection of any executory contracts or unexpired leases;

11.7 To fix, estimate and/or liquidate any Claims which are disputed, contingent, or unliquidated;

11.8 To determine any and all objections to the allowance of Claims or Interests;

11.9 To consider and act on the compromise and settlement of any Claim or cause of action by or against the Estate, respectively;

11.10 To adjudicate all Claims to a security interest in or Lien on any Assets of Debtor or in any proceeds thereof.

11.11 To determine extent priority or validity of liens on Assets of the Debtor.

11.12 To recover all Assets and property of the Debtor or the Estate wherever located and to audit or require an accounting of any party that held Assets or property of the Estate;

11.13 To adjudicate and determine any cause of action including the Actions provided for under the Plan;

11.14 To hear and determine any and all controversies regarding any releases, waivers, guarantees affected by the Plan.;

11.15 To hear and determine any and all motions to assume and assign any executory contract or unexpired lease;

11.16 To make such orders as are necessary or appropriate to carry out the provisions of this Plan including conducting of the Auction and applications of the Auction Proceeds;

11.17 To consider any modifications of the Plan, remedy any defect or omission or reconcile or correct any inconsistency in the Plan or in any order of the Court, including the Confirmation Order;

11.18 To adjudicate and determine any and all adversary proceedings permitted under the Code;

11.19 To hear and determine all fee applications and fee disputes regarding Professional Fees and objection to allowance of Administrative Claims;

11.20 To issue injunctions, enter and implement other orders or to take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation or enforcement of this Plan; and

11.21 To enter an order closing the Case and hear and determine any matter related thereto.

ARTICLE XII

GENERAL PROVISIONS

12.1 **Title to Assets.** Except otherwise set forth in the Plan, including regarding the Other Real Property and the Residence, if the Residence is not sold at Auction, and in accordance with Code §1141, all remaining Assets of the Estate shall revert in the Reorganized Debtor as of the Effective Date free and clear of all interests, liens, claims and encumbrances.

12.2 **No Levy.** The distributions made pursuant to this Plan shall not be subject to levy, garnishment, attachment or like legal process by any Person by reason of any claimed subordination agreement, right to avoid payments or transfers, guaranties or otherwise (unless specifically provided for under this Plan), so that each Holder of an Allowed Claim will have and receive the full benefit, if any, of distributions provided under this Plan.

12.3 **Interest Payments.** All Holders of Allowed Claims hereby waive any and all interest, late charges, penalties, attorneys' fees, court costs, and any other such charges of any kind arising from or related to such Claims not expressly provided for in this Plan.

12.4 **Filing Of Additional Documents.** On or before the Effective Date, the Debtor or Reorganized Debtor, may file with the Court such agreements and other documents including the Plan Supplement which may be necessary or appropriate to effectuate and further evidence the terms and conditions of this Plan. In addition, the Court, to the extent necessary, shall direct any party or Person to execute all appropriate documents and instruments to implement or further the provisions of the Plan.

12.6 **Cure of Default.** No default shall be declared under this Plan unless and until Reorganized Debtor and its counsel shall have received written notice of default setting forth the specific provision of the Plan and the method of cure sought, and Reorganized Debtor has failed to cure such default within (30) days of receipt of the written notice.

12.7 **Quarterly Fees.** The Debtor shall pay on the Effective Date all the then due Quarterly Fees and simultaneously provide to the U.S. Trustee a report indicating cash disbursements for the relevant period(s). The Reorganized Debtor shall further pay Quarterly Fees, based upon all post-confirmation disbursements made pursuant to the Plan for post-Confirmation periods within the time periods set forth in 28 U.S.C. § 1930(a)(6) until the earlier of the closing of this Case by the issuance of final decree by the Court, or upon the entry of an order by this Court dismissing the case, or converting this case to another chapter under the Code from the Confirmation Escrow. The Reorganized Debtor shall provide to the U.S. Trustee upon the payment of each post-Confirmation payment a report indicating disbursement for the relevant periods.

12.8 **Transfer Taxes.** The transfer of any Assets of the Estate, the making or delivery of any instrument of transfer under the Plan, or the recording of any deed, lease, or other instrument executed and delivered in connection with the Plan shall be free and clear of any and all stamp or similar Taxes imposed upon the making or delivery of an instrument of transfer pursuant to Code § 1146(c).

12.9 **Compliance** This Plan is not proposed principally for the purpose of avoidance of Taxes or the avoidance of the application of Section 5 of the Securities Act of 1933. The provisions of Code §§ 1145 and 1146 shall apply hereto to the fullest extent permitted by law.

12.10 **Reservation under Code §1129(b).** If all impaired classes do not vote in favor of the Plan, the Plan Proponent shall seek confirmation of the Plan in accordance with Code § 1129(b) either under the terms provided herein or upon such terms as may exist if the Plan is modified in accordance with Code § 1127(a) and the Plan.

12.11 **Reservation of Rights.** If the Plan is not confirmed by Final Order, or if the Plan is confirmed and the Effective Date does not occur, the rights of the Debtor, and all parties in interest in the Case are and will be reserved in full. Any concessions, settlements or statements reflected therein are made for the purposes of the Plan only, and if Confirmation or the Effective Date does not occur, no party in interest in the Case shall be bound nor deemed prejudiced by any concession, settlement or statement.

12.12 **Notices.** All notices required or permitted to be given under the Plan shall be in writing and addressed at the address of the party set forth below:

If to Debtor or Reorganized Debtor:

Ralph J. Givens

12043 Chipmans Pond Road
Laurel, DE 19956

With a copy to:

Jeffrey S. Cianciulli, Esquire
Weir & Partners LLP
Suite 500, The Widener Bldg.
1339 Chestnut Street,
Philadelphia, PA 19107
Telephone: (215) 665-8181
Facsimile: (215) 665-8464

All notices shall be deemed given when actually received or refused by the party to whom the same is directed. Each party may designate a change of address or supplemental addressee(s) by notice to the other effected parties given at least five (5) Business Days before such change of address is to become effective or by filing a Plan Supplement prior to or after the Effective Date.

12.13 **Recordation of Plan and Confirmation.** A true, certified copy of the Plan and/or the Confirmation Order may be recorded in any public place appropriate for such recordation. Pursuant to Code § 1146(c), the making or delivery of an instrument of transfer under the Plan may not be taxed under any law imposing a stamp tax or similar tax. In order to effectuate Code § 1146(c), each recorder of deeds or similar official for any county, city or governmental unit in which deeds for transfer of any property of the Estate is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such deeds for recording and promptly to record such deeds. The Confirmation Order shall provide that the filing of any objection thereto shall not stay the effect of the Confirmation Order and shall not exempt or excuse any recorder of deeds or similar official from promptly accepting and recording any such deeds.

12.14 **Headings.** The article and section headings used in the Plan are inserted for convenience and reference only and neither constitutes a part of the Plan nor in any manner effect the terms, provisions or interpretation of the Plan.

12.15 **Computation Of Time.** In computing any period of time prescribed or allowed by this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

12.16 **Severability.** If, prior to the Effective Date, any term, provision or portion of any provision of the Plan is held by the Court to be invalid, illegal, void or unenforceable for any reason, the Court shall have the power to alter, amend and/or interpret such term, provision or portion of the provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose and intent of the term, provision or portion of the provision held to be invalid, illegal, void or unenforceable; and, except as may be determined by the Plan Proponent, and any other Person directly and materially affected, (i) such term, provision or portion of the provision will then be applicable and valid as so altered, amended, or interpreted

or (ii) such term shall be deemed deleted from the Plan. The remaining terms, provisions or portions of the provisions of the Plan shall remain in full force and effect and will in no way be affected, impaired or invalidated by such alteration, amendment or interpretation.

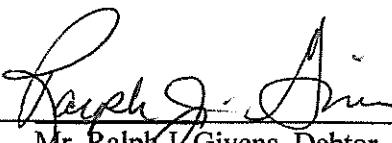
12.17 **Governing Law.** Except to the extent that the Code is applicable, the rights and obligations arising under the Plan and any documents, instruments or agreements executed in connection with the Plan (except as otherwise indicated in such documents, instruments or agreements) shall be governed by, and construed and enforced in accordance with, the laws of the State of Delaware, without giving effect to the principles of conflicts of law thereof.

12.18 **Binding Effect.** The provisions of this Plan and the Confirmation Order shall be binding upon and for the benefit of all parties in interest and all other Persons to the fullest extent permitted by Code § 1141. The provisions of this Plan and the Confirmation Order shall also inure to the benefit of the Plan Proponent, and the Holders of Claims or Interests, and their respective successors, assigns, heirs and personal representatives, whether or not the Claims or Interests are impaired by the Plan and whether or not such Person or the Holder of any Claim or Interest voted to accept or reject the Plan or was deemed to have accepted or rejected the Plan.

12.19 **Plan Controls.** In the event and to the extent that any provision of the Plan is inconsistent with the provisions of the Disclosure Statement, the provisions of the Plan shall control.

12.20 **Unclaimed Property.** Unclaimed Property shall be returned to the Debtor, who shall deposit such Unclaimed Property in a segregated account established by the Debtor for such purpose. Such Unclaimed Property shall be held in such account, in trust, for the benefit of the Holders of Allowed Claims entitled thereto under the terms of the Plan. For a period of three (3) months following the original distribution date of such Unclaimed Property to such Holder, Unclaimed Property (i) shall be held in such segregated account solely for the benefit of such Holder or Holders which have failed to claim such Unclaimed Property and (ii) shall be released from such segregated account and delivered to the Holder entitled thereto upon presentation of proper proof by such Holder of its entitlement thereto. At the expiration of three (3) months following the date of distribution of such Unclaimed Property, the Holders of Allowed Claims theretofore entitled to Unclaimed Property shall cease to be entitled thereto and such Claims shall be deemed disallowed in their entirety. At such time, such Unclaimed Property shall be distributed in accordance with the terms of the Plan. Any excess funds after full effectuation of the Plan shall be paid to the Professional Fees Fund.

Respectfully Submitted,

By 
Mr. Ralph J. Givens, Debtor

Dated: October 5, 2010