

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

_____)	
In re:)	Chapter 11
)	
HSH DELAWARE GP LLC, et al.,)	Case No. 10-10187 (MFW)
)	
Debtors.)	Jointly Administered
_____)	

**JOINT PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE
(AS AMENDED)**

Dated: ~~December 21~~ January 13, ~~2010~~
2011

Wilmington, Delaware

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PLAN SUPPLEMENTS

The following Plan Supplements shall be Filed on or before the Supplement Filing Date:

- Plan Supplement 1: Form of Amendment and Restatement Agreements
- Plan Supplement 2: Form of Upside Sharing Agreement
- Plan Supplement 3: Form of New GP Withdrawal and Release Documents
- Plan Supplement 4: Form of Security Agreements
- Plan Supplement 5: Form of Cayman Settlement Agreement
- Plan Supplement 6: Form of Restructured Alberta Limited Partnership Agreements and Notices to Amend
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- Plan Supplement 12: Form of Restructured Delaware Limited Partnership Agreement
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- Plan Supplement 14: Post-Effective Date Directors, Officers and Managers of the Reorganized Debtors
- Plan Supplement 15: Post-Effective Date Management Agreements
- Plan Supplement 16: [Intentionally omitted]
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- Plan Supplement 18: Assumed Executory Contracts and Unexpired Leases
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INTRODUCTION

HSH Delaware GP LLC, HSH Alberta I L.P., HSH Alberta II L.P., HSH Alberta V L.P., HSH Coinvest (Alberta) L.P., JCF HSH (DE) GP LP, HSH Delaware L.P., HSH Luxembourg S.à r.l., and HSH Luxembourg Coinvest S.à r.l., as debtors and debtors in possession (collectively, the “**Debtors**”), hereby propose the following Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, pursuant to section 1121(a) of the Bankruptcy Code.¹

Reference is made to the Disclosure Statement with respect to the Plan, distributed contemporaneously herewith, for a discussion of the Debtors’ history, businesses, properties, operations, risk factors, a summary and analysis of the Plan, and certain related matters. Subject to the restrictions in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtors respectfully reserve the right to alter, amend, modify, revoke or withdraw the Plan in the manner set forth in Sections 12.8 and 12.9 of the Plan. The Debtors are the proponents of the Plan within the meaning of section 1129 of the Bankruptcy Code.

Under section 1125(b) of the Bankruptcy Code, a vote to accept or reject this Plan cannot be solicited from a Holder of a Claim or Interest until such time as the Disclosure Statement has been approved by the Bankruptcy Court and distributed to Holders of Claims and Interests.

ALL HOLDERS OF CLAIMS AND INTERESTS ARE ENCOURAGED TO READ THIS PLAN AND THE RELATED DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THIS PLAN. NO MATERIALS, OTHER THAN THE ACCOMPANYING SOLICITATION MATERIALS AND ANY EXHIBITS AND ANY EXHIBITS AND SCHEDULES ATTACHED THERETO OR REFERENCED THEREIN, HAVE BEEN APPROVED BY THE BANKRUPTCY COURT OR THE DEBTORS FOR USE IN SOLICITING ACCEPTANCES OR REJECTIONS OF THIS PLAN. THE PLAN PROPONENTS RESERVE THE RIGHT TO ALTER, AMEND, MODIFY, REVOKE OR WITHDRAW THIS PLAN PRIOR TO ITS SUBSTANTIAL CONSUMMATION.

ARTICLE I DEFINITIONS AND INTERPRETATION

A. Definitions. The following terms (which appear in this Plan as capitalized terms) shall have the meanings set forth below. A term used in this Plan and not defined in this Plan but that is defined in the Bankruptcy Code has the meaning set forth in the Bankruptcy Code.

1.1 *Administrative Expense Claim* means a Claim to the extent that it is of the kind described in section 503(b) of the Bankruptcy Code and is entitled to priority under section 507(a)(2) of the Bankruptcy Code, including, without limitation, (a) any actual and

¹ Capitalized terms used in the Introduction shall have the meanings ascribed to them in Article I below.

necessary expenses of preserving the Estate, (b) any actual and necessary expenses of operating the business of the Debtors, (c) any actual indebtedness or obligations incurred or assumed by the Debtors during the pendency of the Chapter 11 Cases in connection with the conduct of their business, (d) any actual expenses necessary or appropriate to facilitate or effectuate this Plan, (e) any amount required to be paid under section 365(b)(1) of the Bankruptcy Code in connection with the assumption of Executory Contracts or Unexpired Leases, (f) all allowances of compensation or reimbursement of expenses to the extent Allowed by the Bankruptcy Court under sections 330(a), 331 or 503(b)(2), (3), (4) or (5) of the Bankruptcy Code, and (g) all U.S. Trustee Fees.

1.2 *Agreed ~~Sale-Disposal~~ Conditions* means the conditions under which the HSH Shares and/or the Relevant Equity interests may be sold or merged, as set forth in section 17.6 (*Disposals*) of each of the Amended and Restated Credit Agreements and section 5.2 (*Disposals*) of the Upside Sharing Agreement.

1.3 *Alberta Debtors* means HSH Alberta I L.P., HSH Alberta II L.P., HSH Alberta V L.P. and HSH Coinvest (Alberta) L.P.

1.4 *Allowed* means with respect to any Claim or Interest, except as otherwise provided herein: (i) a Claim or Interest that is scheduled by the Debtors on their Schedules as neither disputed, contingent, nor unliquidated, and as to which the Debtors or other party in interest have not Filed an objection by the Claims Objection Bar Date; (ii) a Claim that either is not a Disputed Claim or has been Allowed by a Final Order; (iii) a Claim or Interest that is Allowed (a) pursuant to the Plan, (b) in any stipulation that is approved by the Bankruptcy Court, or (c) pursuant to any contract, instrument, indenture, or other agreement entered into or assumed in connection with the Plan; (iv) a Claim relating to a rejected Executory Contract or Unexpired Lease that either (a) is not a Disputed Claim or (b) has been Allowed by Final Order; or (v) a Claim as to which a Proof of Claim has been Filed on or before the applicable Bar Date and as to which no objection has been Filed by the Claims Objection Bar Date.

1.5 *Allowed Claim* means a Claim or any portion thereof, without duplication, that has been Allowed.

1.6 *Amended and Restated Credit Agreements* means the Credit Agreements as amended and restated on the Effective Date pursuant to the Amendment and Restatement Agreements, in the form set forth in the schedules to the Amendment and Restatement Agreements.

1.7 *Amendment and Restatement Agreements* means the seven separate amendment and restatement agreements between, among others, a Debtor, the Lenders, the Facility Agent and the Security Agent, to be executed by the parties thereto on the Effective Date, which agreements shall amend and restate the Credit Agreements and shall be substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.8 *Amended Luxco Articles of Association* means the articles of association of the Luxembourg Fund II Debtor, as amended on the Effective Date, which articles shall be

substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.9 Amended YFCPEC Documents means the agreements amending the terms of the YFCPEC Documents and governing the subordination of the YFCPEC Claims, to be entered into on the Effective Date between, among others, the Lenders and the Holders of YFCPEC Claims, substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date; *provided, however*, that no amendment to the maturity date shall detrimentally affect the tax situation of the Luxembourg Fund II Debtor or the tax situation of the Holders of the YFCPEC Claims.

1.10 Article means any article of this Plan.

1.11 Asset means any and all property that would be property of the Debtors and the Debtors' Estate under section 541 of the Bankruptcy Code, whether such property is now existing or hereafter arising or acquired and wherever located including, without limitation, Causes of Action and all proceeds of and recoveries on Causes of Action.

1.12 Available Cash means, in respect of each Debtor, the aggregate of the following amounts of Cash: (i) the aggregate amount held in each bank account of that Debtor, and (ii) the aggregate amount (if any) distributed by that Debtor to any Trust since the date that the last payment of interest was made to the Facility Agent under a Credit Agreement during the course of 2008 (such amounts to be set out in a Plan Supplement to be provided to the Facility Agent in draft by August 16, 2010 and to be Filed on or before the Supplement Filing Date).

1.13 Avoidance Action means, collectively, causes of action arising under sections 542, 543, 544, 545, 546, 547, 548, 549, 550 or 553 of the Bankruptcy Code, or under similar or related state or federal statutes or common law, including fraudulent transfer laws, in each case whether or not litigation to prosecute such causes of action was commenced prior to the Effective Date.

1.14 B Shares has the meaning set forth in Section 7.1(c) of this Plan.

1.15 Ballot means the form distributed to each Holder of an Impaired Claim or Interest upon which is to be indicated, among other things, acceptance or rejection of the Plan.

1.16 Bankruptcy Code means the United States Bankruptcy Code, 11 U.S.C. §§ 101 et seq., as amended from time to time.

1.17 Bankruptcy Court means the United States Bankruptcy Court for the District of Delaware in which the Chapter 11 Cases were Filed or any other court with jurisdiction over the Chapter 11 Cases.

1.18 Bankruptcy Rules means the Federal Rules of Bankruptcy Procedure and the local rules and standing orders of the Bankruptcy Court, as amended from time to time.

1.19 Bar Date means such date(s) fixed by the Bankruptcy Court by which proofs of Claim, proofs of Interest, or requests for allowance of Administrative Claims must be Filed, as applicable.

1.20 Business Day means any day other than a Saturday, Sunday, or “legal holiday” as such term is defined in Bankruptcy Rule 9006(a).

1.21 Cash means cash and cash equivalents, such as bank deposits, checks and other similar items or instruments.

1.22 Cause(s) of Action means any and all actions, causes of action, suits, accounts, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured, asserted or unasserted and whether asserted or assertable directly or derivatively, in law, equity or otherwise, including Avoidance Actions.

1.23 Cayman Court means the Grand Court of the Cayman Islands (Financial Services Division).

1.24 Cayman GP(s) means HSH Cayman I GP ~~Limited-Ltd.~~ (in liquidation), HSH Cayman II GP ~~Limited-Ltd.~~ (in liquidation), HSH Cayman V GP ~~Limited-Ltd.~~ (in liquidation), and HSH Coinvest (Cayman) GP ~~Limited-Ltd.~~ (in liquidation).

1.25 Cayman GP Indemnity Claims(s) means, with respect to each Cayman GP, the contingent Claim of the Cayman GP arising out of its entitlement to an indemnity from the Alberta Debtor of which it is a general partner, for payments made and liabilities incurred by the Cayman GP in the ordinary and proper conduct of the Alberta Debtor’s business, by virtue of the Alberta Partnership Act, R.S.A. 2000, c.P-3.

1.26 Cayman Settlement Agreement(s) means the settlement agreements to be entered into on the Effective Date between, among others, each Cayman GP and its relevant Trust limited partner, substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.27 Chapter 11 Cases means the Debtors’ chapter 11 cases pending in the Bankruptcy Court, which are being jointly administered under Case No. 10-10187.

1.28 Claim means “claim” as defined in section 101(5) of the Bankruptcy Code, as supplemented by section 102(2) of the Bankruptcy Code, against any of the Debtors, whether or not asserted.

1.29 Claims Objection Bar Date means with respect to any Claim, the 90th day following the latest of the Effective Date, the date such Claim is Filed, and such later date as may be established from time to time by the Bankruptcy Court.

1.30 Class means each category or group of Holders of Claims or Interests as designated under this Plan.

1.31 Class [] Claim means a Claim in the particular class of Claims identified and described in Article IV of the Plan.

1.32 Class 6 Interest means an Interest in Class 6, identified and described in Article IV of the Plan.

1.33 Confirmation means “confirmation” as used in section 1129 of the Bankruptcy Code.

1.34 Confirmation Date means the date on which the Confirmation Order is entered on the docket by the clerk of the Bankruptcy Court.

1.35 Confirmation Hearing means the hearing(s) at which the Bankruptcy Court considers Confirmation of this Plan.

1.36 Confirmation Order means an order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code.

1.37 Credit Agreements means the seven separate term and revolving credit facilities agreements dated as of October 19, 2006 (as amended from time to time) between a Debtor, the Lenders and the Facility Agent.

1.38 Cure Claim means a Claim based upon the Debtors’ defaults under an Executory Contract or Unexpired Lease existing as of the time such contract or lease is assumed by the Debtors pursuant to section 365 of the Bankruptcy Code.

1.39 Custodian Agreement means any custodian agreement under which the HSH Share Title Documents are held by an HSH Shares Custodian.

1.40 Debtor(s) has the meaning set forth on page 1 of this Plan, a list of which entities, together with their individual case numbers in the Chapter 11 Cases, is attached hereto as Exhibit A.

1.41 Debtors’ CRO Motion means that certain Motion of the Debtors and Debtors in Possession Pursuant to Bankruptcy Code Section 363 for Entry of an Order Approving the Services Agreement Between the Debtors and H Ronald Weissman Nunc Pro Tunc to the Commencement Date, dated February 3, 2010 [D.I. 24].

1.42 Debtors’ DIP Motion means that certain Motion of the Debtors and Debtors in Possession for an Order (A) Authorizing HSH Alberta I L.P., HSH Alberta II L.P., HSH Albert V L.P., HSH Coinvest (Alberta) L.P., HSH Luxembourg S.a. r.l., HSH Luxembourg Coinvest S.a. r.l., and HSH Delaware L.P. to Obtain Postpetition Financing; (B) Authorizing JCF HSH (DE) GP LP and HSH Delaware GP LLC to Issue Guarantees in Respect of Such Postpetition Financing; (C) Authorizing Debtors to Grant Security Interests and Superpriority Administrative Expense Status Pursuant to 11 U.S.C. Sections 105 and 364; and (D) Modifying the Automatic Stay Pursuant to 11 U.S.C. Section 362, dated February 3, 2010 [D.I. 25].

1.43 Delaware Debtor means HSH Delaware L.P.

1.44 *Delaware LLC* means HSH Delaware GP LLC.

1.45 *Disclosure Statement* means the Disclosure Statement with respect to this Plan approved by order of the Bankruptcy Court and all supplements, schedules and exhibits thereto.

1.46 *Disputed Claim* means any Claim against a Debtor to the extent that (a) the allowance of such Claim or any portion thereof is the subject of an objection, appeal or motion to estimate that has been timely Filed by a party in interest and which objection, appeal or motion has not been determined by a Final Order, (b) such Claim is scheduled by the Debtors in the Schedules as disputed, contingent and/or unliquidated, (c) during the period prior to the Claims Objection Bar Date, such Claim is in excess of the amount scheduled as other than disputed, unliquidated or contingent, or (d) such Claim may be subject to section 502(d) of the Bankruptcy Code.

1.47 *Effective Date* means the first Business Day this Plan becomes effective and is implemented in accordance with Article IX hereof.

1.48 *Estate* means the estates of the Debtors, individually or collectively, as is appropriate in the context, created in the Chapter 11 Cases pursuant to section 541 of the Bankruptcy Code.

1.49 *Exculpated Party* or *Parties* means: (i) each of the Debtors, and their respective affiliates, managers, officers, directors, employees, attorneys, advisors, agents and Professionals; (ii) each of the Trusts, and their respective affiliates, managers, officers, directors, employees, trustees, attorneys, advisors and agents; (iii) each of the Cayman GPs, and their respective affiliates, managers, officers, directors, employees, trustees, attorneys, advisors and agents; (iv) each of the Lenders and the Facility Agent, and their respective affiliates, managers, officers, directors, employees, attorneys, advisors and agents; (v) each of the Liquidators, and their respective firms or future firms, affiliates, managers, officers, directors, employees, fellow members, partners, personal representatives, attorneys, advisors and agents; and (vi) J. Christopher Flowers, JCF Associates II-A LLC, JCF Associates II-A L.P., J.C. Flowers II-A L.P., JCF Associates II Ltd., JCF Associates II L.P., J.C. Flowers II L.P., J.C. Flowers II-B L.P., J.C. Flowers & Co. LLC, J.C. Flowers & Co. UK Ltd, HSH Cayman Associates Ltd, JCF HSH (DE) GP LLC, HSH Cayman Partners GP Ltd, HSH Cayman Partners L.P., HSH Coinvest Partners GP Ltd, and HSH Coinvest Partners L.P., and their respective affiliates, managers, officers, directors, employees, attorneys, advisors and agents; along with the successors and assigns of each of the foregoing.

1.50 *Executory Contract* means a contract to which one or more of the Debtors is a party and that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

1.51 *Exhibit* means any exhibit attached to or incorporated by this Plan.

1.52 *Exit Fee* has the meaning set forth in the Amended and Restated Credit Agreements.

1.53 *Facilities* means the seven separate single term loan facilities under the respective Amended and Restated Credit Agreements.

1.54 *Facility Agent* means The Royal Bank of Scotland, N.V., London Branch and any successor thereto appointed in accordance with the relevant Amended and Restated Credit Agreement.

1.55 *File or Filed* means file or filed with the Bankruptcy Court in the Chapter 11 Cases.

1.56 *Final Order* means an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the subject matter: (a) that has not been reversed, stayed, modified or amended and as to which (i) any right to appeal or seek certiorari, review, reargument, stay or rehearing has been waived or (ii) the time to appeal or seek certiorari, review, reargument, stay or rehearing has expired and no appeal or petition for certiorari, review, reargument, stay or rehearing is pending; or (b) as to which an appeal has been taken or petition for certiorari, review, reargument, stay or rehearing has been filed and (i) such appeal or petition for certiorari, review, reargument, stay or rehearing has been resolved by the highest court to which the order or judgment was appealed or from which certiorari, review, reargument, stay or rehearing was sought or (ii) the time to appeal further or seek certiorari, further review, reargument, stay or rehearing has expired and no such further appeal or petition for certiorari, further review, reargument, stay or rehearing is pending.

1.57 *Final Settlement Date* means the date on which the Reorganized Debtors have satisfied all of their payment obligations to the Lenders under the Plan (including, without limitation, the payment of any Upside Amount).

1.58 *General Unsecured Claim* means any Claim that is not an Administrative Expense Claim, a Priority Tax Claim, a Priority Non-Tax Claim, a Secured Claim, a Lender Claim, or a YFCPEC Claim.

1.59 *Hedging Arrangements* means any interest hedging arrangements entered into in connection with the Credit Agreements and which were terminated on or before October 19, 2009.

1.60 *Holder* means any Person holding an Interest or Claim.

1.61 *HSH* means HSH Nordbank AG.

1.62 *HSH Shares* means all shares and other interests of any nature (including, without limitation, any silent participations) in HSH held by the Debtors.

1.63 *HSH Shares Custodian* means any custodian appointed by the Debtors, the Facility Agent and the Security Agent to hold the HSH Share Title Documents under a Custodian Agreement.

1.64 *HSH Share Title Documents* means: (i) prior to the completion of an initial public offering of the HSH Shares, (a) all notarial deeds held by the Debtors, the Trusts, or

J.C. Flowers & Co. LLC and/or its affiliates issued to the The HSH AIV 1 Trust, The HSH AIV 2 Trust, The HSH AIV 3 Trust, The HSH AIV 4 Trust, The HSH AIV 5 Trust and Close Trustees (Cayman) Limited containing the sale and purchase agreement under which the HSH Shares were acquired, (b) all original agreements held by the Debtors, the Trusts, or J.C. Flowers & Co. LLC and/or its affiliates transferring shares in HSH from WestLB Beteiligungsholding GmbH to any of the Debtors, (c) notarial protocol of general meeting and copies of the subscription certificates held by the Debtors, the Trusts, or J.C. Flowers & Co. LLC and/or its affiliates relating to the subscription of shares issued by HSH after August 30, 2006 by any of the Debtors, and (d) all original documents relating to the silent participations in HSH held by the Debtors, the Trusts, or J.C. Flowers & Co. LLC and/or its affiliates; or (ii) following the completion of an initial public offering of the HSH Shares, any documents of title or access to securities accounts which evidence title to the listed HSH Shares.

1.65 *HSH Supervisory Board Representative* means David Morgan, or any successor appointed to the supervisory board of HSH Nordbank AG having been proposed by the relevant Reorganized Debtor(s) and approved by the Post-Effective Date Committee, in each case in accordance with Section 8.4(d) of this Plan.

1.66 *Impaired* means “impaired” within the meaning of section 1124 of the Bankruptcy Code.

1.67 *Interest* means the interest held by any Person in the equity of the Debtors, including, without limitation: (i) any “equity security” issued by the Debtors, as defined by section 101(16) of the Bankruptcy Code; (ii) a share in a corporation, whether or not transferable or denominated “stock”, or similar security; (iii) a membership interest in a limited liability company; (iv) interest of a limited partner in a limited partnership; (v) a warrant, option or right, contractual or otherwise, other than a right to convert, to purchase, sell or subscribe to a share, security or interest of a kind specified in subparagraphs (i), (ii), (iii) and (iv) of this paragraph; or (vi) an interest of a general partner in a limited or general partnership.

1.68 *Irish Intercompany Claims* means: (i) the Claim of Clonbarry Developments Limited under the loan agreement between Clonbarry Developments Limited and the Luxembourg Co-Invest Debtor dated October 19, 2006; and (ii) the Claim of Cromeville Limited under the loan agreement between Cromeville Limited and the Luxembourg Fund II Debtor dated October 19, 2006.

1.69 *Irish Intercompany Claims Subordination Documents* means: the documents to be entered into on the Effective Date governing the subordination of the Irish Intercompany Claims, substantially in the form set forth in a Plan Supplement to be Filed on or before the Plan Supplement Filing Date.

1.70 *Lenders* means Commerzbank AG, Crédit Agricole Corporate and Investment Bank, Landsbanki Islands hf, Lloyds TSB Bank plc, The Royal Bank of Scotland, N.V. and The Royal Bank of Scotland plc, and any of their assignees or transferees; provided, that such assignment or transfer is made in accordance with the terms of an Amended and Restated Credit Agreement.

1.71 *Lender Claim(s)* means the Claims of the Lenders and the Facility Agent on account of the Credit Agreements and all amounts outstanding under the Hedging Arrangements, as set forth in Exhibit B3 of this Plan, which are Allowed Claims under the Plan.

1.72 *Lenders' Trustee Motion* means that certain Motion of the Lenders for an Order (A) Directing the Appointment of a Trustee Pursuant to 11 U.S.C. §§ 1104(a)(1)-(3); or, in the Alternative, (B) Terminating the Debtors' Exclusive Rights Pursuant to 11 U.S.C. § 1121(d) to Allow the Lenders to File and Solicit Acceptances of a Chapter 11 Plan, dated February 23, 2010 [D.I. 80].

1.73 *Liens* means, with respect to any interest in property, any mortgage, lien, pledge, charge, security interest, easement or encumbrance of any kind whatsoever affecting such interest in property.

1.74 *Liquidators* means David Walker and Ian Stokoe of PwC Corporate Finance and Recovery (Cayman) Ltd, each in their capacity as joint official liquidator of each of the Cayman GPs pursuant to orders of the Cayman Court dated 12 February 2010, and any additional or successor liquidator appointed by the Cayman Court or otherwise.

1.75 *LLC Interest* means the interest of The HSH AIV 4 Trust in the Delaware LLC.

1.76 *Lock Up Period* means the period commencing on the Effective Date and ending on the earlier of (i) midnight on June 30, 2013, and (ii) termination by ~~they~~the Facility Agent following the occurrence of a Termination Event.

1.77 *Luxembourg Debtor(s)* means the Luxembourg Fund II Debtor and the Luxembourg Co-Invest Debtor.

1.78 *Luxembourg Co-Invest Debtor* means HSH Luxembourg Coinvest S.à r.l.

1.79 *Luxembourg Fund II Debtor* means HSH Luxembourg S.à r.l.

1.80 *Luxembourg Voting Agreement* means the voting agreement to be entered into on the Effective Date in respect of the Luxembourg Fund II Debtor, by the Trust which is the shareholder of the Luxembourg Fund II Debtor and PlanCo SPV, substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.81 *Luxembourg Settlement Agreement(s)* means the settlement agreements to be entered into on the Effective Date between, among others, each Luxembourg Debtor and the Trust which is its shareholder, substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.82 *Manager(s)* means Ian Stokoe and David Walker, each in their capacity as manager of any Reorganized Debtor, and any other manager appointed to a Reorganized Debtor prior to a Voluntary Prepayment.

1.83 *New GP* means JCF HSH (DE) GP LP.

1.84 *New GP Withdrawal and Release Documents* means the documentation governing the withdrawal of the New GP as a general partner of the Alberta Debtors, to be entered into on the Effective Date between, among others, the New GP, each Cayman GP, and each Alberta Debtor, substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.85 *New Organizational Documents* means the documents evidencing the corporate structure applicable to the Reorganized Debtors, including, without limitation, the Restructured Alberta Limited Partnership Agreements, the Restructured Delaware Limited Partnership Agreement, the Restructured LLC Agreement, the Amended Luxco Articles of Association, the Luxembourg Voting Agreement and any other applicable agreements set forth in the Term Sheet, which documents will be substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.86 *Par Amount* means, at any time, an amount equal to the following payment obligations of the Debtors and/or the Trusts to the Lenders and the Facility Agent at that time: (i) the aggregate amount of all costs and expenses of the Lenders and the Facility Agent and Security Agent relating to the Credit Agreements and Plan (including, without limitation, any default interest accrued to date, all legal and other professional costs and expenses (including, without limitation, those of the Liquidators and such Liquidators' legal and other professional costs and expenses)) which the Facility Agent has determined (in its sole discretion) should be added to the Par Amount; (ii) the aggregate amount of any accrued but uncapitalized interest under the Credit Agreements and any Hedging Arrangements; (iii) the aggregate amount of any outstanding principal or close out amounts under the Amended and Restated Credit Agreements and the Hedging Arrangements (including, without limitation, any capitalized interest); and (iv) the aggregate of any Exit Fees payable.

1.87 *Person* means any person, including, without limitation, any individual, partnership, joint venture, venture capital fund, association, corporation, limited liability company, limited liability partnership, unlimited liability company, trust, trustee, executor, administrator, legal personal representative, estate, group, unincorporated association or organization or governmental unit.

1.88 *Petition Date* means, (i) in the case of the Alberta Debtors, the Delaware LLC and the New GP, January 21, 2010, and (ii) in the case of the Luxembourg Debtors and the Delaware Debtor, September 8, 2009.

1.89 *Plan* means this Joint Plan of Reorganization Under Chapter 11 of the Bankruptcy Code, the Plan Supplement, and all addenda, exhibits, schedules and other attachments hereto, all of which are incorporated herein by reference, as the same may be amended from time to time, pursuant to this Plan, the Bankruptcy Code or the Bankruptcy Rules.

1.90 *PlanCo SPV* means a special purpose vehicle incorporated in the Cayman Islands for the purposes of holding certain equity interests in the general partners of any Debtor which is a limited partnership and in the Luxembourg Fund II Debtor and to be managed in a manner consistent with the Plan and the Restructuring Documents for the purposes of implementing the Plan.

1.91 *Plan Supplement* means, collectively, any and all Supplements to this Plan that will be Filed by the Debtors with the Bankruptcy Court not later than seven (7) days prior to the Confirmation Hearing, which supplements shall contain substantially final forms of documents required for the implementation of the Plan.

1.92 *Post-Effective Date Committee* means the committee to be established pursuant to Article VIII of this Plan.

1.93 *Postpetition Period* means the period of time following the Petition Date through the Confirmation Date.

1.94 *Priority Non-Tax Claims* means a Claim to the extent that it is of the kind described in, and entitled to priority under, section 507(a) of the Bankruptcy Code, but other than any Priority Tax Claim.

1.95 *Priority Tax Claim* means a Claim to the extent that it is of the kind described in, and entitled to priority under, section 507(a)(8) of the Bankruptcy Code.

1.96 *Professional* means (a) Richards, Layton & Finger, P.A., (b) Walkers, (c) Barlow Lyde & Gilbert LLP, (d) McCarthy Tetrault LLP, (e) Mourant Fund Services LLC, (f) SGG S.A., and (g) Arendt & Medernach.

1.97 *Professional Compensation Claim(s)* means Allowed Administrative Expense Claims of Professionals.

1.98 *Record Date* means February 1, 2009.

1.99 *Reinstated* means, with respect to any Claim, (a) leaving unaltered the legal, equitable and contractual rights to which a Claim entitles the Holder of such Claim so as to leave such Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code or (b) notwithstanding any contractual provision or applicable law that entitles the Holder of such Claim to demand or receive accelerated payment of such Claim after the occurrence of a default: (i) curing any such default that occurred before or after the Petition Date, other than a default of a kind specified in section 365(b)(2) of the Bankruptcy Code or of a kind that section 365(b)(2) of the Bankruptcy Code expressly does not require to be cured; (ii) reinstating the maturity of such Claim as such maturity existed before such default; (iii) compensating the Holder of such Claim for any damages incurred as a result of any reasonable reliance by such Holder on such contractual provision or such applicable law; (iv) if such Claim arises from any failure to perform a non-monetary obligation, other than a default arising from failure to operate a non-residential real property lease subject to section 365(b)(1)(A) of the Bankruptcy Code, compensating the Holder of such Claim (other than any Debtor or an insider of any Debtor) for any actual pecuniary loss incurred by such Holder as a result of such failure; and (v) not otherwise altering the legal, equitable or contractual rights to which such Claim entitles the Holder of such Claim.

1.100 *Released Party* or *Parties* means: (i) each of the Debtors, and their respective affiliates, managers, officers, directors, employees, attorneys, advisors, agents and Professionals; (ii) each of the Trusts, and their respective affiliates, managers, officers, directors,

employees, trustees, attorneys, advisors and agents; (iii) each of the Cayman GPs, and their respective affiliates, managers, officers, directors, employees, trustees, attorneys, advisors and agents; (iv) each of the Lenders and the Facility Agent, and their respective affiliates, managers, officers, directors, employees, attorneys, advisors and agents; (v) each of the Liquidators, and their respective firms or future firms, affiliates, managers, officers, directors, employees, fellow members, partners, personal representatives, attorneys, advisors and agents; and (vi) J. Christopher Flowers, JCF Associates II-A LLC, JCF Associates II-A L.P., J.C. Flowers II-A L.P., JCF Associates II Ltd., JCF Associates II L.P., J.C. Flowers II L.P., J.C. Flowers II-B L.P., J.C. Flowers & Co. LLC, J.C. Flowers & Co. UK Ltd, HSH Cayman Associates Ltd, JCF HSH (DE) GP LLC, HSH Cayman Partners GP Ltd, HSH Cayman Partners L.P., HSH Coinvest Partners GP Ltd, and HSH Coinvest Partners L.P., and their respective affiliates, managers, officers, directors, employees, attorneys, advisors and agents; along with the successors and assigns of each of the foregoing.

1.101 *Relevant Equity Interests* means the shares, partnership interests or other equity interests in the Alberta Debtors, the Luxembourg Debtors and the Delaware Debtor, but excluding (i) the partnership interests held by the Cayman GPs in the Alberta Debtors, (ii) the partnership interest held by the Delaware LLC in the Delaware Debtor, and (iii) any shares, partnership interests or other equity interests held by PlanCo SPV.

1.102 *Reorganized Debtors* means, on and after the Effective Date, collectively, all of the surviving Debtors that are reorganized under and pursuant to this Plan.

1.103 *Restructured Alberta Limited Partnership Agreement(s)* means the amended partnership agreements of each of the Alberta Debtors, to be adopted on the Effective Date substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.104 *Restructured Delaware Limited Partnership Agreement* means the amended partnership agreement of the Delaware Debtor, to be adopted on the Effective Date substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.105 *Restructured LLC Agreement* means the amended limited liability company agreement of the Delaware LLC, to be adopted on the Effective Date substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.106 *Restructuring* means the restructuring of the obligations of the Debtors pursuant to the Restructuring Documents.

1.107 *Restructuring Documents* means the Plan, any document referred to in Annex 2 (Documentation Summary) of the Term Sheet, and any other contractual agreements or other documents contemplated to be entered into pursuant to the Plan or the Term Sheet.

1.108 *Schedules* means the Schedules of Assets and Liabilities Filed in the Chapter 11 Cases, as amended, revised or modified from time-to time.

1.109 *Section* means any section of this Plan.

1.110 Secured Obligations means all present and future obligations and liabilities (whether actual or contingent and whether owed jointly or severally or in any other capacity whatsoever) of the Debtors and the Trusts to any Lender under any Restructuring Document (other than, after a Voluntary Prepayment in full, in respect of any Upside Amount).

1.111 Security Agreements means each agreement relating to the grant of security over the HSH Shares, the YFCPEC Claims, the Irish Intercompany Claims and the Relevant Equity Interests and all ancillary documents thereto (including, without limitation, any powers of attorney granted in support of such security), which agreements will be substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.112 Security Agent means The Royal Bank of Scotland, N.V., London Branch and any successor thereto appointed in accordance with the relevant Amended and Restated Credit Agreement.

1.113 Supplement(s) means any supplement attached to or incorporated into this Plan, including the Plan Supplement.

1.114 Supplement Filing Date means the date or dates on which certain exhibits, schedules and supplements to this Plan, including the Plan Supplement, each of which shall be in a form reasonably acceptable to the Debtors and the Facility Agent, shall be Filed with the Bankruptcy Court, which date or dates shall be at least 7 (seven) days prior to the Confirmation Hearing.

1.115 Termination Event has the meaning set forth in the Amended and Restated Credit Agreements.

1.116 Term Sheet means that certain term sheet, attached as Exhibit C hereto, setting forth the terms of the restructuring of the Debtors' obligations to the Lenders to be implemented pursuant to this Plan. The provisions of the Term Sheet are subject to the other finalized Restructuring Documents, as agreed between the Debtors, the Lenders and the Trusts.

1.117 Trust(s) means The HSH AIV 1 Trust, The HSH AIV 2 Trust, The HSH AIV 3 Trust, The HSH AIV 4 Trust, The HSH AIV 5 Trust, The HSH Coinvest (Cayman) Trust-A and The HSH Coinvest (Cayman) Trust-B.

1.118 Trust Agreements means the trust agreements in respect of each of the Trusts.

1.119 Unexpired Lease means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

1.120 Unimpaired means "unimpaired" within the meaning of section 1124 of the Bankruptcy Code.

1.121 Upside Amount has the meaning set forth in Section 7.1(b) of this Plan.

1.122 Upside Sharing Agreement means the agreement governing the allocation and payment of the Upside Amount to be entered into on the Effective Date between, among others, the Lenders, the Trusts and the Debtors, substantially in the form set forth in a Plan Supplement to be Filed on or before the Supplement Filing Date.

1.123 U.S. Trustee means the United States Trustee for the District of Delaware.

1.124 U.S. Trustee Examiner Motion means that certain United States Trustee's (I) Statement with Respect to Motion for an Order (A) Directing the Appointment of a Trustee Pursuant to 11 U.S.C. §§ 1104(a)(1)-(3); or in the Alternative, (B) Terminating the Debtors' Exclusive Rights Pursuant to § 1121(d) to Allow the Lenders to File and Solicit Acceptances of a Chapter 11 Plan and (II) Independent Motion of the United States Trustee for an Order Directing the Appointment of an Examiner, dated March 24, 2010 [D.I. 186].

1.125 U.S. Trustee Fees means all fees and charges assessed against the Estate by the U.S. Trustee and due pursuant to section 1930 of title 28 of the United States Code.

1.126 Voluntary Prepayment has the meaning set forth in Section 7.1(a) of this Plan.

1.127 Voting Deadline means the date set in an order of the Bankruptcy Court as the deadline for the return of Ballots accepting or rejecting this Plan.

1.128 YFCPEC Claim means any Claim that any Person has in respect of the Luxembourg Fund II Debtor under the YFCPEC Documents.

1.129 YFCPEC Document(s) means: (i) the certificate of designation dated August 19, 2008 for 12,552,606,900 HSH Luxembourg S.à r.l. Yield Free Convertible Preferred Equity Certificates subscribed to by Genesis Trust & Corporate Services Ltd. acting in its capacity as trustee for The HSH AIV 3 Trust for a total aggregate nominal value of EUR 125,526,069 and (ii) the Register of Yield Free Convertible Preferred Equity Certificates (YFCPEC).

B. Interpretation. For purposes of this Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural; (b) unless otherwise provided in this Plan, any reference in this Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document will be substantially in such form or substantially on such terms and conditions; (c) unless otherwise provided in this Plan, any reference in this Plan to an existing document or exhibit means such document or exhibit, as it may have been or may be amended, modified or supplemented pursuant to this Plan; (d) unless otherwise specified herein, any reference to a Person as a Holder of a Claim includes that Person's successors, assigns and affiliates; (e) unless otherwise specified, all references in this Plan to sections, Articles, schedules, Supplements and Exhibits are references to sections, Articles, schedules, Supplements and Exhibits of or to this Plan; (f) the words "herein", "hereof" and "hereto" refer to this Plan in its entirety rather than to a particular portion of this Plan; (g) captions and headings to Articles and sections are inserted for convenience of reference only

and are not intended to be part of or to affect the interpretation of this Plan; and (h) the rules of construction set forth in section 102 of the Bankruptcy Code will apply.

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

D. Currency Denomination. All references in this Plan to monetary figures shall refer to currency of the United States of America unless otherwise indicated.

ARTICLE II

TREATMENT OF ADMINISTRATIVE EXPENSE CLAIMS, PRIORITY TAX CLAIMS AND PROFESSIONAL COMPENSATION CLAIMS AGAINST THE DEBTORS

2.1 Administrative Expense Claims. On the later of (i) the Effective Date or (ii) if the Administrative Expense Claim is not Allowed as of the Effective Date, 30 days after the date on which an Administrative Expense Claim becomes Allowed, the Debtors shall either (x) pay to each Holder of an Allowed Administrative Expense Claim, in Cash, the full amount of such Allowed Administrative Expense Claim, or (y) satisfy and discharge such Administrative Expense Claim in accordance with such other terms that the Debtors and such Holder shall have agreed upon; provided, however, that such agreed-upon treatment shall not be more favorable than the treatment provided in clause (x); and provided further, that U.S. Trustee Fees shall be paid in accordance with Section 2.4 of the Plan. Other than with respect to Professional Compensation Claims and Cure Claims, notwithstanding anything in the Plan to the contrary, if an Administrative Expense Claim arises (i) based on liabilities incurred in, or to be paid in, the ordinary course of business during the Postpetition Period or (ii) pursuant to an Executory Contract or Unexpired Lease, the Holder of such Administrative Expense Claim shall be paid in Cash by the applicable Debtor (or after the Effective Date, by the applicable Reorganized Debtor) pursuant to the terms and conditions of the particular transaction and/or agreements giving rise to such Administrative Expense Claim without the need or requirement for the Holder of such Administrative Expense Claim to file a motion, application, claim or request for allowance or payment of an Administrative Expense Claim with the Bankruptcy Court.

2.2 Professional Compensation Claims. Notwithstanding any other provision of the Plan to the contrary, payment of any Professional Compensation Claims shall be made solely by the Trusts, and in no event shall any Professional Compensation Claims be paid by the Debtors or the Reorganized Debtors or otherwise be satisfied by Assets of the Estate. Any Holder of a Professional Compensation Claim shall submit such Professional Compensation Claim directly to the Trusts. Payment with respect to any undisputed Professional Compensation Claim submitted to the Trusts in accordance with this provision shall be made by the Trusts on the later of (i) the Effective Date, and (ii) within ten (10) calendar days of the Trusts' receipt of such Professional Compensation Claim, without the need for Bankruptcy Court approval. To the extent there is any dispute by the Trusts with respect to a Professional Compensation Claim or to the extent the Trusts fail to satisfy timely any undisputed Professional Compensation Claim, the Bankruptcy Court shall retain exclusive jurisdiction to resolve such matter.

2.3 Priority Tax Claims. Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement,

release, and discharge of and in exchange for each Allowed Priority Tax Claim, each Holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) or (D), as applicable, of the Bankruptcy Code.

2.4 U.S. Trustee Fees. U.S. Trustee Fees incurred prior to the Effective Date shall be paid on the Effective Date or as soon as possible thereafter, in accordance with the applicable schedule for payment of such fees. Until each of the Chapter 11 Cases is closed by entry of a final decree of the Bankruptcy Court, any additional U.S. Trustee Fees shall be paid by the Reorganized Debtors.

ARTICLE III
CLASSIFICATION OF CLAIMS AGAINST AND INTERESTS IN THE DEBTORS

3.1 Classification. Pursuant to sections 1122 and 1123 of the Bankruptcy Code, the following designates the Classes of Claims and Interests under this Plan. A Claim or Interest is in a particular Class for purposes of voting on, and receiving distributions pursuant to, this Plan only to the extent that such Claim or Interest is an Allowed Claim or Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date. A Claim or Interest shall be deemed classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class, and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Interest qualifies within the description of such different Class. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified, and their treatment is set forth in Article II of this Plan.

3.2 Separate Plans. The Plan constitutes a separate chapter 11 plan for each of the Debtors, and does not provide for substantive consolidation of the Estate.

3.3 Classes. The Claims against and Interests in the Debtors are classified as follows:

Class	Claims and Interests	Status	Voting Rights
Class 1	Priority Non-Tax Claims	Unimpaired	Not entitled to vote (Presumed to accept)
Class 2	Secured Claims	Unimpaired	Not entitled to vote (Presumed to accept)
Class 3	Lender Claims	Impaired	Entitled to vote
Class 4	General Unsecured Claims	Unimpaired	Not entitled to vote (Presumed to accept)
Class 5	YFCPEC Claims	Impaired	Entitled to vote

Class 6	Interests	Impaired	Entitled to vote
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3.4 Effect of Non-Voting; Modifications. At the Confirmation Hearing, the Debtors may seek a ruling that if no Holder of a Claim or Interest eligible to vote in a particular Class timely votes to accept or reject the Plan, the Plan will be deemed accepted by the Holders of such Claims or Interests in such Class for the purposes of section 1129(b) of the Bankruptcy Code (provided that, the Debtors will not seek any such ruling without the consent of the Facility Agent). Subject to section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, the Debtors reserve the right to modify the Plan to the extent that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, provided that such modifications are made in accordance with Section 12.8 below.

ARTICLE IV
TREATMENT OF CLAIMS AND INTERESTS AND DESIGNATION WITH RESPECT TO IMPAIRMENT

4.1 Class 1 – Priority Non-Tax Claims.

(a) **Classification.** Class 1A through 1I (collectively, the “**Class 1 Claims**”), as set forth on Exhibit B1, consist of all Priority Non-Tax Claims against the Debtors.²

(b) **Impairment and Voting.** Class 1 Claims are Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

(c) **Treatment.** Unless the Holder of such Claim and the Debtors agree to different treatment, on the later of the Effective Date and the date such Claim is Allowed, each Holder of an Allowed Class 1 Claim, in full satisfaction of such Claim, shall be paid in full in Cash.

4.2 Class 2 – Secured Claims.

(a) **Classification.** Class 2A through 2I (collectively, the “**Class 2 Claims**”), as set forth on Exhibit B2, consist of all Secured Claims against the Debtors.³

(b) **Impairment and Voting.** Class 2 Claims are Unimpaired by the Plan. Each Holder of an Allowed Secured Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

² The Debtors currently are not aware of any Priority Non-Tax Claims, however, out of an abundance of caution, the Debtors have created a Class for Priority Non-Tax Claims in the event that they become aware of any prior to confirmation of the Plan.

³ The Debtors currently are not aware of any Secured Claims; however, out of an abundance of caution, the Debtors have created a Class for Secured Claims in the event that they become aware of any prior to the Confirmation Date.

(c) **Treatment.** Unless the Holder of such Claim and the Debtors agree to different treatment, on the Effective Date, each Holder of an Allowed Secured Claim shall have its Claim Reinstated.

4.3 Class 3 – Lender Claims.

(a) **Classification.** Class 3A through 3D and 3F through 3H (collectively, the “**Class 3 Claims**”), as set forth on Exhibit B3, consist of all Lender Claims against the Debtors.

(b) **Impairment and Voting.** Class 3 Claims are Impaired by the Plan. Each Holder of an Allowed Lender Claim is entitled to vote to accept or reject the Plan.

(c) **Allowance.** The Lender Claims set forth on Exhibit B3 shall be Allowed Class 3 Claims in the amount set forth, and against the applicable Debtor(s) identified, in Exhibit B3.

(d) **Treatment.** Each Holder of an Allowed Lender Claim shall participate, with respect to each Debtor, for its pro rata share of indebtedness under the Amended and Restated Credit Agreements, on the terms and in the amounts set forth in the Amended and Restated Credit Agreements and the Upside Sharing Agreement. Additionally, and as set forth in more detail in Article VII below, the organizational documents of the Reorganized Debtors will be amended to ensure that the Reorganized Debtors are managed in accordance, and in compliance, with the Restructuring Documents, and to provide for oversight by the Post-Effective Date Committee of the Reorganized Debtors’ implementation of and compliance with the provisions of the Plan. Each Lender shall be entitled to participate in the Post-Effective Date Committee.

4.4 Class 4 – General Unsecured Claims.

(a) **Classification.** Class 4A through 4I (collectively, the “**Class 4 Claims**”), as set forth on Exhibit B4, consist of all General Unsecured Claims against the Debtors.

(b) **Impairment and Voting.** Class 4 Claims are Unimpaired by the Plan. Each Holder of an Allowed General Unsecured Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

(c) **Allowance.** The General Unsecured Claims set forth on Exhibit B4 shall be Allowed Class 4 Claims in the amount set forth, and against the applicable Debtor(s) identified, in Exhibit B4.

(d) **Treatment.** Unless the Holder of such Claim and the Debtors agree to different treatment, on the later of the Effective Date and the date such Claim is Allowed, each Holder of an Allowed Class 4 Claim, in full satisfaction of such Claim, shall be paid in full in Cash; *provided that*, each Holder of a Cayman GP Indemnity Claim shall have its Claim Reinstated; *provided further that*, the Allowed Class 4 Claims of McCarthy Tetrault LLP and Barlow Lyde & Gilbert LLP shall be paid in full in Cash by the Trusts; and *provided further*

that, the Holders of the Irish Intercompany Claims have agreed that their Claims shall be Reinstated and the Holders of the Irish Intercompany Claims shall enter into the Irish Intercompany Claims Subordination Documents and shall provide to the Lenders security over the Irish Intercompany Claims.

4.5 Class 5 – YFCPEC Claims.

(a) **Classification.** Class 5, as set forth in Exhibit B5, consists of all YFCPEC Claims against the Luxembourg Fund II Debtor.

(b) **Impairment and Voting.** Class 5 Claims are Impaired by the Plan. Each Holder of an Allowed YFCPEC Claim is entitled to vote to accept or reject the Plan.

(c) **Allowance.** The YFCPEC Claims set forth on Exhibit B5 shall be Allowed Class 5 Claims in the amount set forth, and against the applicable Debtor(s) identified, in Exhibit B5.

(d) **Treatment.** Each Holder of an Allowed YFCPEC Claim shall be entitled to retain such YFCPEC Claim, *provided that*, the rights attaching to such YFCPEC Claim shall be modified in accordance with the Amended YFCPEC Documents, the Plan and any other applicable Restructuring Document; and *provided, further*, that no such modification or amendment to the maturity date shall detrimentally affect the tax situation of the Luxembourg Fund II Debtor or the tax situation of the Holders of the YFCPEC Claims.

4.6 Class 6 – Interests.

(a) **Classification.** Class 6A through 6I (collectively, the “**Class 6 Interests**”), as set forth in Exhibit B6, consist of all Interests in the Debtors.

(b) **Impairment and Voting.** Class 6 Interests are Impaired by the Plan. Each Holder of an Allowed Interest is entitled to vote to accept or reject the Plan.

(c) **Allowance.** The Interests set forth on Exhibit B6 shall be Allowed Class 6 Interests to the extent set forth therein, and in the applicable Debtor(s) identified, in Exhibit B6. The Interests held by New GP are specifically deemed not Allowed, and no distribution shall be made to the New GP on account thereof.

(d) **Treatment.** Each Holder of an Allowed Interest shall be entitled to retain such Interest, *provided that*, the rights attaching to such Interest shall be modified in accordance with the New Organizational Documents, the Plan and any other applicable Restructuring Document.

ARTICLE V **VOTING AND DISTRIBUTIONS**

5.1 Voting of Claims and Interests. Each Holder of an Allowed Claim or Allowed Interest in an impaired Class of Claims or Interests that is entitled to vote on the Plan pursuant to Article IV of this Plan shall be entitled to vote separately to accept or reject the Plan

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

ARTICLE VI
TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

6.1 Executory Contracts and Unexpired Leases. Except as otherwise provided herein or pursuant to the Confirmation Order, all Executory Contracts and Unexpired Leases that exist between the Debtors and any Person shall be deemed rejected as of the Confirmation Date, except for such contract or lease (i) that has been assumed or rejected pursuant to an order of the Bankruptcy Court entered prior to the Confirmation Date, or (ii) as to which a motion for approval of the assumption or rejection of such contract or lease has been Filed prior to the Confirmation Date; *provided that*, the applicable Debtor or Debtors will assume, or assume and assign, each Executory Contract or Unexpired Lease listed in a Plan Supplement to be Filed on or before the Supplement Filing Date.

6.2 Approval of Assumption or Rejection of Executory Contracts and Unexpired Leases. Entry of the Confirmation Order shall constitute the approval, pursuant to section 365(a) of the Bankruptcy Code, of the assumption or rejection of the Executory Contracts and Unexpired Leases assumed or rejected pursuant to Section 6.1 of this Plan.

ARTICLE VII
IMPLEMENTATION OF PLAN

7.1 Overview. As discussed in the Disclosure Statement and as provided herein, pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the Restructuring, releases and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a compromise and settlement of all Claims and Interests and controversies resolved pursuant to the Plan. The Plan provides for, among other things, the capitalization of all outstanding and unpaid interest and costs under the Credit Agreements as at the Record Date, the amendment and restatement of the Credit Agreements and the extension of the maturities thereunder, the terms under which the HSH Shares or the Relevant Equity Interests can be ~~disposed of~~ sold (or, in certain circumstances, merged) (in accordance with the Agreed ~~Sale-Disposal~~ Conditions), and the rights of the Lenders to share in any Upside Amount recovered pursuant to any such sale or merger, in each case on the terms described in the Restructuring Documents. The organizational documents of certain Debtors will be amended to ensure that they are managed in a manner which is not inconsistent with the Restructuring Documents, and a Post-Effective Date Committee will be appointed to oversee the compliance by the Reorganized Debtors with the provisions of the Plan and the Restructuring Documents. The key terms of the Restructuring (which are subject in all respects to the finalized terms of the Restructuring Documents other than the Plan) include, without limitation, the following:

(a) Subject to the terms of the Amended and Restated Credit Agreements, the amounts outstanding under the Facilities and the Hedging Arrangements will

remain outstanding until they are put on demand by the Facility Agent, at which time they will become immediately due and payable. The Facility Agent will have the ability to put the Facilities and the Hedging Arrangements on demand (i) at any time on and from December 31, 2014 provided that the relevant Reorganized Debtor has received not less than 30 days prior written notice from the Facility Agent (such that the first date that the Facility Agent can put the Facilities on demand under this paragraph (i) is December 31, 2014 if prior notice has been given in accordance with this paragraph (i)); (ii) immediately on the occurrence of a Termination Event; or (iii) simultaneously with the completion of any sale or transfer of (or, in certain circumstances, the merger involving) all of the HSH Shares or Relevant Equity Interests. During the Lock Up Period only, the Reorganized Debtors will have the ability to prepay all (but not part) of the Facilities and the Hedging Arrangements by prepaying an amount equal to the Par Amount at that time (and at the same time for each Facility) on 10 Business Days notice (“**Voluntary Prepayment**”). For the avoidance of doubt, a Voluntary Prepayment must be in respect of all the Facilities and the Hedging Arrangements.

(b) Until the Facilities are repaid in full, the Reorganized Debtors will, provided that they do so in accordance with the terms of the Amended and Restated Credit Agreements and the Agreed ~~Sale-Disposal~~ Conditions, have the ability to effect a sale or merger of the HSH Shares or the Relevant Equity Interests at any time (subject to a right of first refusal or consultation, as applicable, as set out in the Restructuring Documents), in order to effect a full or, as the case may be, partial repayment or prepayment of the Par Amount (provided that, during the Lock Up Period, the Reorganized Debtors will not effect a disposal of the HSH Shares or the Relevant Equity Interests below the Par Amount without the consent of the Trusts). Any excess amount over and above the Par Amount received on a sale or other disposal of (or, in certain circumstances, in the merger involving) the HSH Shares and/or the Relevant Equity Interests (“**Upside Amount**”) will be split between the Lenders and the relevant Debtors or the Trusts, as applicable, on a 50/50 basis; provided that if contracts for the sale-, merger, or disposal of the HSH Shares and/or the Relevant Equity Interests are executed on a date which is later than 6 months after a Voluntary Prepayment, any Upside Amount will be split between the Lenders and the relevant Debtors or the Trusts, as applicable, on a 25/75 basis.

(c) To ensure compliance with the agreed terms of the Restructuring and the Plan, certain modifications and amendments will be made to the corporate structure and organizational documents of the Alberta Debtors, the Delaware Debtor, the Delaware LLC and the Luxembourg Fund II Debtor. In particular (but without limitation): (i) the New GP will withdraw as a general partner of each of the Alberta Debtors and the Alberta Debtors will be managed solely by the Cayman GPs; (ii) PlanCo SPV will be admitted as a member of the Delaware LLC with sole power to control the appointment and removal of the managers of the Delaware LLC; (iii) an additional class of shares in the Luxembourg Fund II Debtor (the “**B Shares**”) will be created and allocated to PlanCo SPV (which shares will grant PlanCo SPV the exclusive right to propose to the general shareholders meeting of the Luxembourg Fund II Debtor candidates to be appointed at board level); and (iv) all of the shares in the Cayman GPs will be transferred to PlanCo SPV. The New Organizational Documents will, among other things, prohibit any sale-, merger, or transfer of the HSH Shares or the Relevant Equity Interests other than in accordance with the Agreed ~~Sale-Disposal~~ Conditions and in accordance with the terms of the Amended and Restated Credit Agreements and the Upside Sharing Agreement.

(d) The Luxembourg Co-Invest Debtor will not be subject to any changes to its constitution, management or corporate structure. The Luxembourg Co-Invest Debtor and the Trust which is its shareholder will enter into certain contractual arrangements described in the Term Sheet and the Restructuring Documents which will bind the Luxembourg Co-Invest Debtor and its shareholder Trust to the arrangements contemplated by the Term Sheet and this Plan, including, without limitation, the sale or merger of the HSH Shares and/or the Relevant Equity Interests in accordance with the Agreed ~~Sale-Disposal~~ Conditions, the granting of security for the Secured Obligations and the sharing of any Upside Amount.

(e) To secure the Secured Obligations, the Reorganized Debtors and the Trusts will provide to the Lenders security over the YFCPEC Claims, the Irish Intercompany Claims, the Relevant Equity Interests, the LLC Interest and, to the extent possible, the HSH Shares, together with certain powers of attorney, stock powers and other applicable instruments in order to enable the Lenders to enforce their security and effect a sale of the YFCPEC Claims, the Irish Intercompany Claims, the Relevant Equity Interests, the LLC Interest and/or the HSH Shares in accordance with the terms of the Restructuring Documents. The applicable Debtors and the Trusts will use their commercially reasonable efforts to obtain the consent of HSH to enable the applicable Debtors to provide direct security over the HSH Shares held by the Debtors to the Lenders. If the Lenders are not granted security over the HSH Shares, all HSH Share Title Documents will be physically deposited with an HSH Shares Custodian on the Effective Date and held pursuant to the terms of a Custodian Agreement. If the Lenders are granted security over the HSH Shares, all HSH Share Title Documents will be physically deposited with the Security Agent on the Effective Date; provided that, following a Voluntary Prepayment, such documents will be transferred to an HSH Shares Custodian and held pursuant to the terms of a Custodian Agreement, pending payment of any Upside Amount.

(f) The Post-Effective Date Committee established pursuant to Article VIII of this Plan will oversee the implementation of the Plan in accordance with the Plan and the New Organizational Documents.

(g) The Liquidators will remain in office and will continue to manage the Cayman GPs, provided that, for the avoidance of doubt, nothing in the Plan is intended to, nor shall it, supersede any authorizations and/or statutory compliance required of the Liquidators under the law of the Cayman Islands.

7.2 Distribution of Available Cash. On the Effective Date, all Available Cash of each Debtor will be applied against the obligations of that Debtor in the manner described in the Amendment and Restatement Agreements.

7.3 Continued Existence of Debtors. Except as provided herein, each Debtor will continue to exist on or after the Effective Date as a separate corporate or other applicable entity, with all the rights and powers applicable to such entity under applicable law, subject to, where applicable, the terms of the New Organizational Documents.

7.4 Implementation Transactions. The Debtors (or, after the Effective Date, the Reorganized Debtors) and the Trusts shall implement the Plan through the transactions described in the Term Sheet, including, without limitation: (i) the withdrawal of the New GP as a

general partner of each of the Alberta Debtors; (ii) the transfer of all shares in the Cayman GPs to PlanCo SPV; (iii) the admission of PlanCo SPV as a member of the Delaware LLC; and (iv) the creation and allocation of the B Shares to PlanCo SPV. The Reorganized Debtors may engage in any other transaction in furtherance of the Plan, provided that such transaction does not conflict with the terms of the Amended and Restated Credit Agreements and the Restructuring Documents.

7.5 Reorganized Debtors; Restructuring Transactions and Documents.

On the Effective Date, the Reorganized Debtors, the Trusts and the Lenders (as applicable), and any other necessary Person, will adopt, execute, or enter into, as applicable, the Restructuring Documents, including, without limitation, the Amended and Restated Credit Agreements, the Upside Sharing Agreement, the Cayman Settlement Agreements, the Luxembourg Settlement Agreements, the Luxembourg Voting Agreement, the New GP Withdrawal and Release Documents, the Security Agreements, and the New Organizational Documents. The Reorganized Debtors may, provided that such action does not conflict with the terms of the Amended and Restated Credit Agreements or the Restructuring Documents, adopt any other agreements, documents and instruments and to take any other action necessary and desirable to consummate the Plan. The New Organizational Documents, which evidence the new corporate and corporate governance structure of the Reorganized Debtors, will be substantially as described in the Term Sheet and in the form Filed in the Plan Supplement. After the Effective Date, the New Organizational Documents may not be amended other than in accordance with the terms of such documents (such terms to include a prohibition on any amendment to the New Organizational Documents absent the prior consent of the Cayman GPs, the Delaware LLC or PlanCo SPV, as applicable). Unless the prior written consent of the Post-Effective Date Committee, Cayman GP, or Delaware LLC, as applicable, is obtained, (i) the appointment or removal of any general partner of a Reorganized Debtor that is a limited partnership, and (ii) the removal of PlanCo SPV as a member of the Delaware LLC or the Luxembourg Fund II Debtor, will be prohibited.

7.6 Prohibition on Issuance of Non-Voting Equity Securities. The New Organizational Documents shall prohibit the issuance of non-voting equity securities to the extent required by section 1123(a) of the Bankruptcy Code.

7.7 Post-Effective Date Management.

(a) On and after the Effective Date, other than in the case of the Luxembourg Co-Invest Debtor, the business and affairs of the Reorganized Debtors will be managed by the officers, directors or other responsible persons identified in the New Organizational Documents. Information regarding these proposed officers, directors, managers and other responsible persons as required by section 1129(a)(5) of the Bankruptcy Code will be set forth in a Plan Supplement to be filed on or before the Supplement Filing Date.

(b) No Manager shall in any way be liable for any action taken or omitted pursuant to, and in accordance with, the Plan and the other Restructuring Documents or in furtherance of the transactions contemplated therein, except for such acts or omissions that are finally determined by a court of competent jurisdiction to result from the willful misconduct, gross negligence, bad faith or fraud of such Manager.

7.8 Effectuating Documents; Further Transactions. On and after the Effective Date, the Reorganized Debtors are authorized to and may, in the name of and on behalf of the applicable Reorganized Debtors, issue, execute, deliver, file or record such contracts, securities, instruments, releases and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Amended and Restated Credit Agreements, the other Restructuring Documents and/or the Plan.

7.9 Entity Action. Upon the Effective Date, all actions contemplated by the Plan shall be deemed ratified, authorized, and approved in all respects, including but not limited to: (i) the adoption of the New Organizational Documents; (ii) the selection of the new directors, officers and managers of the Reorganized Debtors; (iii) the issuance of B Shares in the Luxembourg Fund II Debtor to PlanCo SPV; (iv) the admission of PlanCo SPV as a member of the Delaware LLC; (v) the transfer of the shares in the Cayman GPs to PlanCo SPV; (vi) the execution and entry into the Restructuring Documents, including, without limitation, the Amended and Restated Credit Agreements, the Upside Sharing Agreement, the Security Agreements, and any other ancillary agreements relating thereto; and (vii) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date). On or (as applicable) prior to the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtors, as applicable, shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtors, the documents set forth in the Plan Supplement and any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated herein shall be effective notwithstanding any requirements under any non-bankruptcy law.

7.10 Liquidation / Dissolution of the Reorganized Debtors. Upon a sale or transfer of (or, in certain circumstances, the merger involving) the HSH Shares, and provided that the Secured Obligations are not repaid in full as a result of such sale or merger, the Reorganized Debtors will be liquidated or dissolved in a manner determined by the Post-Effective Date Committee and the Facility Agent.

7.11 Control of the Debtors After Voluntary Prepayment. Following a Voluntary Prepayment in full and a discharge in full of the Secured Obligations, the Trusts will have the ability to alter the management of the Reorganized Debtors in accordance with the terms of the New Organizational Documents and the Upside Sharing Agreement. In such event, the Post-Effective Date Committee and the Facility Agent will thereafter retain the following two rights (as well as the right to veto or disapprove any amendment, waiver, limitation or termination of such rights): (i) withhold consent to the sale or merger of the HSH Shares and a sale or merger of the Relevant Equity Interests only if they are not reasonably satisfied that the total ~~sale~~-proceeds of such sale or merger will be paid to a bank account or custodian account of a third party agent appointed by both the Reorganized Debtors and the Lenders who has unconditional instructions from the Reorganized Debtors and/or the Trusts to pay any Upside Amount due to the Lenders directly to the Lenders before any remaining proceeds are paid to the Reorganized Debtors or the Trusts, and (ii) the right to be notified in respect of the incurrence of

any indebtedness by a Trust or a Reorganized Debtor or the granting of security over any assets of any Reorganized Debtor or the Relevant Equity Interests by any Trust (provided that neither a Trust nor a Reorganized Debtor may incur any indebtedness or grant any security over any assets or Relevant Equity Interests (as the case may be) where the secured obligations (in aggregate) exceed the Voluntary Par Amount (as defined in the Upside Sharing Agreement)).

ARTICLE VIII **POST-EFFECTIVE DATE COMMITTEE**

8.1 Creation and Dissolution. On the Effective Date, there shall be created a Post-Effective Date Committee (the “**Post-Effective Date Committee**”). Unless the Post-Effective Date Committee unanimously votes to disband earlier, the Post-Effective Date Committee shall be dissolved and the members thereof shall be released and discharged of and from all further authority, duties, responsibilities and obligations relating to and arising from and in connection with these Chapter 11 Cases and/or administration of the Plan on the Final Settlement Date.

8.2 Membership. The members of the Post-Effective Date Committee shall be the Lenders, the Facility Agent and the Security Agent, as identified in the Plan Supplement. In the event of the resignation of a member of the Post-Effective Date Committee for any reason, the remaining members may, but need not, designate a successor. Unless and until such vacancy is filled, the Post-Effective Date Committee shall function with such reduced membership.

8.3 Governance. The Post-Effective Date Committee shall have the power to adopt rules of procedure and may choose one of its members to act as chairperson.

8.4 Responsibilities and Powers. The Post-Effective Date Committee shall have the following responsibilities and powers:

(a) consent rights in respect of the matters expressly referred to in the Plan, the Term Sheet or the Restructuring Documents;

(b) oversight to ensure that any sale or merger of the HSH Shares or Relevant Equity Interests is made in accordance with the Restructuring Documents;

(c) oversight of the implementation of the Plan, to ensure that the Reorganized Debtors are performing their obligations in accordance with the Plan and that the Reorganized Debtors are being managed in accordance with the Plan and the other Restructuring Documents;

(d) prior to a Voluntary Prepayment in full and/or a discharge in full of the Secured Obligations, a veto right in respect of any Person proposed to be the HSH Supervisory Board Representative;

(e) independent standing to appear and be heard in the Bankruptcy Court as to any matter relating to the Plan, the Estate or the Reorganized Debtors, including any matter as to which the Bankruptcy Court has retained jurisdiction pursuant to the Plan;

(f) power to perform such additional functions as may be agreed by the Reorganized Debtors, or contemplated in the Confirmation Order or any other order entered in connection with the Plan; and

(g) prior to a Voluntary Prepayment in full and/or a discharge in full of the Secured Obligations, a veto right in respect of the appointment, removal or replacement of any manager of any Reorganized Debtor (other than the New GP or the Luxembourg Co-Invest Debtor).

8.5 Limitation of Liability. Neither the Post-Effective Date Committee, nor any of its members, nor any of its employees (or the employees of its members), professionals or agents, shall in any way be liable for conduct in connection with this Plan, including, but not limited to, the confirmation, execution, consummation, administration of the Plan and/or any transaction contemplated thereby, except for such acts or omissions that are finally determined by a court of competent jurisdiction to result from the willful misconduct, gross negligence, bad faith or fraud of such member or such member's employee, professional or agent. The Post-Effective Date Committee shall be entitled to rely upon any opinion of counsel and other professionals employed by the Post-Effective Date Committee, and shall not be liable for any action taken or omitted in good faith on such reliance. The Post-Effective Date Committee shall not owe any fiduciary or other duties to any person, including without limitation, the Debtors, the Reorganized Debtors, or any Holder of a Claim against or Interest in the Debtors or the Reorganized Debtors.

8.6 Indemnity. The Estate shall indemnify and hold harmless the Post-Effective Date Committee, its members, employees (or the employees of its members) and its professionals and agents from and against any and all liabilities, expenses, claims, damages or losses incurred by them as a direct result of acts or omissions taken by them in good faith in their capacities as members of or professionals or agents for the Post-Effective Date Committee, except those that are finally determined by a court of competent jurisdiction to have resulted from gross negligence, willful misconduct, bad faith or fraud.

8.7 Co-operation. Until the termination or dissolution of the Post-Effective Date Committee in accordance with Section 8.1 of this Plan, the Reorganized Debtors will provide cooperation to the Post-Effective Date Committee as may be reasonably requested in respect of the exercise by the Post-Effective Date Committee of its powers and functions under the Plan.

ARTICLE IX

CONDITIONS PRECEDENT

9.1 Conditions to Confirmation. The following are conditions precedent to Confirmation of this Plan, each of which must be (i) satisfied or (ii) waived in accordance with Section 9.3 of this Plan:

(a) The Bankruptcy Court shall have approved by Final Order a Disclosure Statement with respect to this Plan in form and substance reasonably acceptable to the Debtors and the Facility Agent; and

(b) The Exhibits, Supplements, schedules, documents, or agreements to be executed in connection with this Plan shall be in form and substance reasonably acceptable to the Debtors and the Facility Agent.

9.2 Conditions to the Effective Date. The following are conditions precedent to the occurrence of the Effective Date, each of which must be (i) satisfied or (ii) waived in accordance with Section 9.3 of this Plan:

(a) The Confirmation Order, in form and substance reasonably acceptable to the Debtors and the Facility Agent, shall have been entered by the Bankruptcy Court;

(b) The Confirmation Order shall contain a provision, reasonably satisfactory to the Debtors and the Facility Agent, that deems the Debtors' CRO Motion, the Debtors' DIP Motion, the Lenders' Trustee Motion and the U.S. Trustee Examiner Motion withdrawn with prejudice upon the Effective Date;

(c) The Confirmation Order shall be a Final Order, the Confirmation Date shall have occurred, and no request for revocation of the Confirmation Order under section 1144 of the Bankruptcy Code shall have been made, or, if made, shall remain pending;

(d) All statutory fees then due and payable to the United States Trustee shall have been paid in full;

(e) All authorizations, consents, and regulatory approvals required, if any, in connection with the consummation of the Plan shall have been obtained;

(f) Any and all consents required under the terms of the Trust Agreements shall have been obtained, and any necessary amendments and modifications to the Trust Agreements shall have been made, in each case as is necessary to effect the transactions contemplated by the Plan and the Restructuring Documents (and such consents and/or amendments shall be in form and substance satisfactory to the Facility Agent);

(g) All Restructuring Documents shall be completed and in final form acceptable in all material respects to the Debtors and the Facility Agent and, to the extent necessary, shall have been executed and delivered by the respective parties thereto, and become unconditional in all respects except for confirmation of the Plan, including, without limitation, the Amendment and Restatement Agreements, the Upside Sharing Agreement, the Cayman Settlement Agreements, the Luxembourg Settlement Agreements, the Luxembourg Voting Agreement, the New GP Withdrawal and Release Documents, the Security Agreements, and the New Organizational Documents, and the releases to be exchanged between and among the Released Parties pursuant to the terms of the Term Sheet and consistent with the releases provided in Section 10.3 herein; and

(h) All conditions precedent to the effectiveness of the Amendment and Restatement Agreements shall have been provided to the Facility Agent in form and substance satisfactory to the Facility Agent.

9.3 Waiver of Conditions. The Facility Agent may waive any or all of the conditions set forth in Sections 9.1 and 9.2 of this Plan (except for the conditions set forth in Section 9.1(a) or 9.2(a)) at any time, and provided that any waiver of the conditions set forth in Sections 9.1(b) and 9.2(g) shall also require the consent of the Debtors. Any such waiver may be effected at any time by filing a notice thereof with the Bankruptcy Court.

9.4 Notice of Effective Date. The Debtors shall file with the Bankruptcy Court a notice of the occurrence of the Effective Date within a reasonable period of time after the conditions in Section 9.2 of the Plan have been satisfied or waived pursuant to Section 9.3 of the Plan.

9.5 Order Denying Confirmation. If an Order denying confirmation of the Plan is entered by the Bankruptcy Court and such Plan is not consummated, then nothing contained in the Plan shall (a) constitute a waiver or release of any Claims against or Interests in the Debtors, (b) prejudice in any manner the rights of the Holder of any Claim against, or Interest in, the Debtors, (c) prejudice in any manner any right, remedy or Claim of the Debtors, (d) be deemed an admission against interest by the Debtors, or (e) constitute a settlement, implicit or otherwise, of any kind whatsoever.

ARTICLE X

EFFECT OF THIS PLAN ON ASSETS, CLAIMS AND INTERESTS

10.1 Revesting of Assets. Except as expressly provided herein, or as provided in a prior or future order of the Bankruptcy Court, no Asset of the Estate shall be deemed abandoned and no Cause of Action shall be deemed released or compromised by or as a result of this Plan, its Confirmation, its consummation or its treatment of any Claim or Creditor. Further, no defense, set-off, counterclaim or right of recoupment of the Debtors or the Estate shall be deemed waived or compromised. The Reorganized Debtors, under the supervision and subject to the consent of the Post-Effective Date Committee, are authorized to investigate, prosecute and, if necessary, litigate, any Cause of Action.

10.2 Discharge.

(a) **Discharge of Claims Against the Debtors and the Reorganized Debtors.** Except as otherwise expressly provided in the Plan or the Confirmation Order, the Confirmation of the Plan shall, as of the Effective Date: (i) discharge the Debtors, the Reorganized Debtors or any of its or their Assets from all Claims, demands, liabilities, other debts and Interests that arose on or before the Effective Date, including all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, whether or not (a) a Proof of Claim based on such debt is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (b) a Claim based on such debt is Allowed pursuant to section 502 of the Bankruptcy Code, or (c) the Holder of a Claim based on such debt has accepted the Plan; and (ii) preclude all Persons from asserting against the Debtors, the Reorganized Debtors, or any of their Assets, any other or further Claims or Interests based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, all pursuant to sections 524 and 1141 of the Bankruptcy Code. The discharge provided in this provision shall extinguish any liability of the Debtors to the

extent that such liability relates to a discharged Claim or cancelled Interest, whether such liability is reduced to judgment or not.

(b) **Injunction Related to the Discharge.** Except as otherwise provided in the Plan or the Confirmation Order, all entities, wherever located in the world, that have held, currently hold, or may hold Claims or other debts or liabilities against the Debtors, or any Interest in any or all of the Debtors, that are discharged pursuant to the terms of the Plan, are permanently enjoined, on and after the Effective Date, from taking, or causing any other entity to take, any of the following actions on account of any such Claims, debts, liabilities or Interests or rights: (i) commencing or continuing in any manner any action or other proceeding of any kind with respect to any such Claim, debt, liability, Interest, or right, other than to enforce any right to a distribution pursuant to the Plan; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree or order against the Debtors, the Reorganized Debtors, or any of their Assets on account of any such Claim, debt, liability, Interest, or right; (iii) creating, perfecting, or enforcing any Lien or encumbrance against the Debtors, the Reorganized Debtors, or any of their Assets on account of any such Claim, debt, liability, Interest or right; (iv) asserting any right of setoff, subrogation, or recoupment of any kind against any debt, liability, or obligation due to the Debtors, the Reorganized Debtors, or any of their Assets on account of any such Claim, debt, liability, Interest, or right; and (v) commencing or continuing any action, in any manner, in any place in the world that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order. Such injunction shall extend to any successor of the Debtors, the Reorganized Debtors, and any of their Assets. Any Person injured by any willful violation of such injunction shall recover actual damages, including costs and attorneys' and experts' fees and disbursements, and, in appropriate circumstances, may recover punitive damages, from the willful violator.

10.3 Releases.

(a) **Releases by the Debtors.** As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors in their individual capacity and as debtors in possession shall be deemed to release and forever waive and discharge the Released Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date (including prior to the Petition Date) in any way relating to the Debtors, the Chapter 11 Cases, the Plan, the Restructuring Documents, or the Disclosure Statement, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Plan Supplement, the Disclosure Statement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective

Date and that could have been asserted by or on behalf of the Debtors or their Estate at any time on or prior to the Effective Date against one or more of the Released Parties, other than Claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct, gross negligence, bad faith or fraud. Notwithstanding anything to the contrary in the foregoing, the release set forth above does not release any post-Effective Date obligations of any Person under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

(b) **Releases by Holders of Claims and Interests.** Pursuant to section 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration of the Restructuring, releases and other benefits provided under the Plan, on and after the Effective Date, Holders of Claims and Interests, and their respective successors, assigns and transferees, shall be deemed to have released and forever waived and discharged the Released Parties from any and all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity, or otherwise that are based in whole or part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date (including prior to the Petition Date) in any way relating to the Debtors, the Chapter 11 Cases, the Plan, the Restructuring Documents, or the Disclosure Statement, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors or the Reorganized Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims and Interests prior to or in the Chapter 11 Cases, the negotiations, formulation, or preparation of the Plan, the related Disclosure Statement, the related Plan Supplement, or related agreements, instruments, or other documents, or upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date and that could have been asserted by or on behalf of any Holder of a Claim or Interest at any time up to immediately prior to the Effective Date against one or more of the Released Parties, other than Claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct, gross negligence, bad faith, or fraud. Notwithstanding anything to the contrary in the foregoing, the release set forth above does not release any post-Effective Date obligations (except Cure Claims that have not been Filed timely) of any Person under the Plan or any document, instrument, or agreement (including those set forth in the Plan Supplement) executed to implement the Plan.

(c) **Exculpation.** On and after the Effective Date, none of the Exculpated Parties shall have or incur any liability for, and each Exculpated Party is hereby released from, any claim, cause of action, or liability to any other Exculpated Party, to any Holder of a Claim or Interest, or to any other party in interest, for any act or omission that occurred during and in connection with the Chapter 11 Cases or in connection with the preparation and filing of the Chapter 11 Cases, the formulation, negotiation, and/or pursuit of confirmation of the Plan, the consummation of the Plan, and/or the administration of the Plan and/or the property to be distributed under the Plan,

except for claims, causes of action, or liabilities arising from the gross negligence, willful misconduct or fraud of any Exculpated Party, in each case subject to determination of such by final order of a court of competent jurisdiction and provided that any Exculpated Party shall be entitled to reasonably rely upon the advice of counsel with respect to its duties and responsibilities (if any) under the Plan. Without limiting the generality of the foregoing, the Debtors, the Estate, the Trusts, the Lenders, and the Liquidators and their respective officers, directors, employees, members, attorneys, crisis managers, financial advisors, and professionals, shall be entitled to and granted the protections and benefits of section 1125(e) of the Bankruptcy Code. Except as provided in this Section 10.3, no provision of the Plan, the Disclosure Statement, or the Confirmation Order shall be deemed to act upon or release any claims, Causes of Action or liabilities that the Debtors, the Estate, or any party in interest may have against or to any Person for any act, omission, or failure to act that occurred prior to the Petition Date other than in connection with the preparation and filing of the Chapter 11 Cases.

(d) **Injunction Related to Releases and Exculpation.** To the fullest extent allowed by law, and except as otherwise provided in the Plan or the Confirmation Order, all Persons that have held, currently hold, or may hold claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities that are released, waived, or exculpated pursuant to this Section 10.3 are permanently enjoined, on and after the Effective Date, from taking or causing any other Person to take, any of the following actions, at any time or at any place in the world, on account of any such claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities: (i) commencing or continuing in any manner any action or other proceeding of any kind against a Released Party or Exculpated Party with respect to any such claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities; (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order against any Released Party or any Exculpated Party or any of its or their assets on account of any such claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities; (iii) creating, perfecting, or enforcing any Lien or encumbrance against any Released Party or any Exculpated Party or any of its or their assets on account of any such claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities; (iv) asserting any right of setoff, subrogation, or recoupment of any kind against any debt, liability, or obligation due to any Released Party or any Exculpated Party or any of its or their assets on account of any such claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, and liabilities; and (v) commencing or continuing any action, in any manner, in any place in the world that does not comply with or is inconsistent with the provisions of the Plan or the Confirmation Order. Such injunction shall extend to any successor of any Released Party or any Exculpated Party or any of its or their assets. Any Person injured by any willful violation of such injunction shall recover actual damages, including costs and attorneys' and experts' fees and disbursements, and, in appropriate circumstances, may recover punitive damages, from the willful violator.

(e) **Injunctions In Furtherance of the Plan.** As consideration for the releases set forth herein and in furtherance of the implementation of this Plan in accordance with its terms and the terms of the Restructuring Documents (i) prior to the

Final Settlement Date, no Released Party shall take any step towards the commencement or initiation of bankruptcy, dissolution or other insolvency proceedings in any jurisdiction in relation to any Reorganized Debtor or any Trust other than in accordance with the Restructuring Documents and with the prior consent of the Post-Effective Date Committee (provided that, nothing in this Section 10.3(e) shall prevent the Facility Agent and/or the Lenders from commencing such proceedings following the occurrence of a Termination Event); (ii) no Released Party shall commence or continue any action, or take any step, in any manner, in any place in the world that does not comply with or is inconsistent with the provisions of the Restructuring Documents, the Plan or the Confirmation Order; (iii) no Released Party shall oppose any claim for specific performance brought by the Lenders, the Facility Agent, the Security Agent, the Liquidators, the Post-Effective Date Committee or PlanCo SPV as a result of a breach of any term of a Restructuring Document (it being acknowledged by the Released Parties that specific performance and/or an injunction to compel performance are the appropriate remedies for any such breach and that damages are an inadequate and inappropriate remedy); and (iv) no Released Party shall oppose, obstruct, or refuse consent to any request, application, motion or proceeding brought by the Lenders, the Facility Agent, the Security Agent, the Liquidators, the Post-Effective Date Committee or PlanCo SPV before any court or judicial, regulatory or administrative body in order to give effect to, or assist in the implementation of, the Plan and the Restructuring, provided that such request, application, motion or proceeding is consistent with the terms of the Plan and Restructuring Documents.

(f) **In exchange for the distributions pursuant to this Plan, each Holder of an Allowed Claim or Interest receiving such distribution pursuant to this Plan shall be deemed to have specifically consented to the injunctions set forth in this Section 10.3.**

10.4 Integral to Plan. Each of the discharge, injunction and release provisions provided in this Article X is an integral part of the Plan and is essential to its implementation. Each of the Released Parties shall have the right to independently seek the enforcement of the discharge, injunction and release provisions set forth in this Article X.

10.5 No Successor Liability. Except as otherwise expressly provided herein, none of the Released Parties shall be determined to be successors to any of the Debtors or to any Person for which the Debtors may be held legally responsible, by reason of any theory of law or equity, and none can be responsible for any successor or transferee liability of any kind or character. The Released Parties do not agree to perform, pay, or indemnify creditors or otherwise have any responsibilities for any liabilities or obligations of the Debtors or the Reorganized Debtors, whether arising before, on, or after the Effective Date, except as otherwise expressly provided in the Plan.

10.6 Release of Liens. Except as otherwise expressly provided in the Plan, the Confirmation Order shall release any and all prepetition Liens against the Debtors, the Reorganized Debtors and any of their Assets.

10.7 Withdrawal of Motions. On the Effective Date, the Debtors' CRO Motion, the Debtors' DIP Motion, the Lenders' Trustee Motion and the U.S. Trustee Examiner Motion shall be deemed withdrawn, with prejudice, without any further action.

ARTICLE XI
RETENTION OF JURISDICTION

11.1 Retention of Jurisdiction. Following the Effective Date, and in light of the close nexus to the interpretation, implementation, consummation, execution and administration of this Plan that each of the transactions contemplated hereby has, the Bankruptcy Court shall retain jurisdiction over all matters arising from or relating to the Chapter 11 Cases to the fullest extent of applicable law, including, without limitation, jurisdiction to:

- (a) Determine any and all objections to the allowance of Claims;
- (b) Ensure that distributions to Holders of Allowed Claims and Allowed Interests are accomplished as provided herein;
- (c) Determine any and all motions to estimate Claims at any time, regardless of whether the Claim to be estimated is the subject of a pending objection, a pending appeal, or otherwise;
- (d) Hear and determine all Professional Compensation Claims and Administrative Expense Claims;
- (e) Hear and determine all matters with respect to the assumption or rejection of any Executory Contract or Unexpired Lease to which one or more of the Debtors is a party or with respect to which the Debtors may be liable, including, if necessary, the nature or amount of any Cure Claim arising therefrom;
- (f) Hear and determine any and all adversary proceedings, motions, applications and contested or litigated matters arising out of, under or related to, the Chapter 11 Cases;
- (g) Enter such orders as may be necessary or appropriate to execute, implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;
- (h) Hear and determine disputes arising in connection with the interpretation, implementation, consummation or enforcement of the Plan and all contracts, instruments and other agreements executed in connection with the Plan;
- (i) Hear and determine any request to modify the Plan or to cure any defect or omission or reconcile any inconsistency in the Plan or any order of the Bankruptcy Court;

(j) Issue and enforce injunctions or other orders, or take any other action that may be necessary or appropriate to restrain any interference with the implementation, consummation or enforcement of the Plan or the Confirmation Order, including to invoke the Bankruptcy Court's power of contempt for any violation of the Confirmation Order and/or any Person's failure to comply with their obligations under this Plan or the transactions contemplated hereby;

(k) Enter and implement such orders as may be necessary or appropriate if the Confirmation Order is for any reason reversed, stayed, revoked, modified or vacated;

(l) Hear and determine any matters arising in connection with or relating to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

(m) Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases;

(n) Recover all assets of the Debtors and property of the Debtors' Estate, wherever located;

(o) Hear and determine matters concerning state, local and federal taxes in accordance with sections 346, 505 and 1146 of the Bankruptcy Code;

(p) Hear and determine all disputes involving the existence, nature or scope of the Debtors' discharge;

(q) Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under or not inconsistent with, provisions of the Bankruptcy Code; and

(r) Enter a final decree closing the Chapter 11 Cases.

From the Confirmation Date through the Effective Date, the Bankruptcy Court shall retain jurisdiction with respect to each of the foregoing items and all other matters that were subject to its jurisdiction prior to the Confirmation Date.

ARTICLE XII **MISCELLANEOUS PROVISIONS**

12.1 Terms Binding. Upon the occurrence of the Effective Date, all provisions of this Plan, including all agreements, instruments and other documents Filed in connection with this Plan and executed by the Debtors or the Reorganized Debtors in connection with this Plan, shall be binding upon the Debtors, the Reorganized Debtors, all Holders of Claims and Interests and all other Persons that are affected in any manner by this Plan. All agreements, instruments and other documents Filed in connection with this Plan shall have full

force and effect, and shall bind all parties thereto as of the entry of the Confirmation Order, whether or not such exhibits actually shall be executed by parties other than the Debtors or the Reorganized Debtors, or shall be issued, delivered or recorded on the Effective Date or thereafter. The rights, benefits and obligations of any entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

12.2 Governing Law. Except to the extent that the Bankruptcy Code or any other federal law is applicable or to the extent the law of a different jurisdiction is validly elected by the Debtors and the Lenders, the rights, duties and obligations arising under this Plan shall be governed in accordance with the substantive laws of the United States of America and, to the extent federal law is not applicable, the laws of the State of Delaware.

12.3 Severability. If the Bankruptcy Court determines at the Confirmation Hearing that any material provision of this Plan is invalid or unenforceable, with the consent of the Debtors and the Lenders, such provision, subject to section 1127 of the Bankruptcy Code, shall be altered or interpreted in such a way as to make the provision valid or enforceable to the maximum extent practicable, consistent with the original purpose of the provision, or, if not practicable, shall be severable from this Plan and shall be null and void, and, in such event, such determination shall in no way limit or affect the enforceability or operative effect of any or all other portions of this Plan.

12.4 Confirmation of Plan for Single Debtor. The Plan constitutes a separate plan of reorganization for each Debtor. However, in the event that the Plan cannot be confirmed with respect to one of the Debtors, the Plan may not be confirmed with respect to the other Debtors.

12.5 Confirmation Order and Plan Control. Except as otherwise expressly provided in this Plan, in the event of any inconsistency between this Plan and the Disclosure Statement, any exhibit to this Plan or any other instrument or document created or executed pursuant to this Plan, this Plan shall control; *provided that*, in the event of any inconsistency between the Term Sheet or the Plan and any other Restructuring Document, such other Restructuring Document shall control. In the event of any inconsistency between the Plan and the Confirmation Order, the Confirmation Order shall control.

12.6 Incorporation by Reference. Each Exhibit, schedule or Supplement to this Plan is incorporated herein by reference.

12.7 Plan Supplements. Each of the Plan Supplements shall be in form and substance satisfactory to the Facility Agent.

12.8 Modifications to this Plan. The Debtors, with the consent of the Facility Agent, may amend or modify this Plan, and any Exhibit, schedule or Supplement to this Plan, at any time prior to the Confirmation Date in accordance with the Bankruptcy Code and Bankruptcy Rules. Notwithstanding the foregoing, prior to the Voting Deadline, the Debtors may make non-material, administrative amendments or modifications to this Plan, and any Exhibit, schedule or Supplement to this Plan, without the consent of the Facility Agent.

12.9 Revocation, Withdrawal or Non-Consummation. The Debtors reserve the right to revoke or withdraw this Plan at any time prior to the Effective Date, provided that the Debtors may not revoke or withdraw this Plan without the consent of the Facility Agent. If the Debtors revoke or withdraw this Plan prior to the Effective Date, or if the Effective Date does not occur by January 31, 2011 (unless extended by mutual agreement of the Debtors and the Facility Agent), then this Plan, any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain any Claim or Class of Claims), the assumption or rejection of Executory Contracts or Unexpired Leases effected by this Plan, and any document or agreement executed pursuant to this Plan, shall be null and void; provided, however, that all orders of the Bankruptcy Court and all documents executed pursuant thereto, except the Confirmation Order and any order approving the Disclosure Statement, shall remain in full force and effect. In such event, nothing contained herein, and no acts taken in preparation for consummation of this Plan, shall be deemed to constitute a waiver or release of any Claims by or against any of the Debtors or any other Person, to prejudice in any manner the rights of any of the Debtors or any Person in any further proceedings or to constitute an admission of any sort by any of the Debtors or any other Person.

12.10 Exemption from Transfer Taxes. Pursuant to section 1146(a) of the Bankruptcy Code, (a) the issuance, transfer or exchange of any securities, instruments or documents under the Plan, (b) the creation of any mortgage, deed of trust, Lien, pledge or other security interest under the Plan, (c) the making or assignment of any lease or sublease pursuant to the Plan, or (d) the making or delivery of any deed or other instrument of transfer under, pursuant to, or in connection with the Plan, including, without limitation, any merger agreements, agreements of consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale, assignments, and transfers of tangible property executed in connection with the Plan or the Confirmation Order shall not be subject to any stamp tax or similar tax or government assessment to the fullest extent provided for under the Bankruptcy Code.

12.11 Payment of Statutory Fees. All U.S. Trustee Fees, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on the Effective Date. From and after the Effective Date, the Debtors shall pay the fees assessed against the Debtors' estate until such time as a particular case is closed, dismissed or converted. In addition, the Debtors shall file post-confirmation quarterly reports in conformity with the U.S. Trustee guidelines until entry of an order closing or converting the cases.

12.12 Notice. All notices, requests and demands to or upon the Debtors or the Reorganized Debtors to be effective shall be in writing and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

(a) If to the Debtors:

c/o J.C. Flowers & Co. LLC
717 Fifth Avenue, 26th Floor
New York, New York 10022
Attn: Daniel Katsikas

Sally Rocker
Facsimile: +1 (212) 404-6899

with copies to:
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attn: Mark D. Collins, Esq.
Facsimile: +1 (302) 651-7701

- and –

WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Attn: Lori R. Fife, Esq.
Facsimile: +1 (212) 310-8007

- and (if to the Alberta Debtors) –

PWC CORPORATE FINANCE & RECOVERY (CAYMAN) LIMITED
P.O. Box 258
Strathvale House, George Town, Grand Cayman, KY1-1104
Cayman Islands
Attn: Ian Stokoe and David Walker
Facsimile: +1 (345) 945-4237

(b) If to the Reorganized Debtors:

- if to the Alberta Debtors, the Delaware Debtor, the Delaware LLC or the
Luxembourg Fund II Debtor –

PWC CORPORATE FINANCE & RECOVERY (CAYMAN) LIMITED
P.O. Box 258
Strathvale House, George Town, Grand Cayman, KY1-1104
Cayman Islands
Attn: Ian Stokoe and David Walker
Facsimile: +1 (345) 945-4237

with copies to:

c/o J.C. Flowers & Co. LLC
717 Fifth Avenue, 26th Floor
New York, New York 10022
Attn: Daniel Katsikas

Sally Rocker
Facsimile: +1 (212) 404-6899

- and -
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Attn: Lori R. Fife, Esq.
Facsimile: +1 (212) 310-8007

- and -
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attn: Mark D. Collins, Esq.
Facsimile: +1 (302) 651-7701

- if to the Luxembourg Co-Invest Debtor -

c/o J.C. Flowers & Co. LLC
717 Fifth Avenue, 26th Floor
New York, New York 10022
Attn: Daniel Katsikas
Sally Rocker
Facsimile: +1 (212) 404-6899

- and -
WEIL, GOTSHAL & MANGES LLP
767 Fifth Avenue
New York, New York 10153
Attn: Lori R. Fife, Esq.
Facsimile: +1 (212) 310-8007

- and -
RICHARDS, LAYTON & FINGER, P.A.
One Rodney Square
920 North King Street
Wilmington, Delaware 19801
Attn: Mark D. Collins, Esq.
Facsimile: +1 (302) 651-7701

12.13 No Waiver. Neither the failure of a Debtor to list a Claim or Interest in the Debtor's Schedules, the failure of a Debtor to object to any Claim, Administrative Expense

Claim or Interest for purposes of voting, the failure of a Debtor to object to a Claim, Administrative Expense Claim or Interest prior to the Confirmation Date or the Effective Date shall, in the absence of a legally-effective express waiver or release executed by the Debtor with the approval of the Bankruptcy Court, if required, and with any other consents or approvals required under the Plan, be deemed a waiver or release of the right of a Debtor, a Reorganized Debtor, or their respective successors, either before or after solicitation of votes on the Plan, the Confirmation Date or the Effective Date, to object to or examine such Claim, Administrative Expense Claim or Interest, in whole or in part.

Dated: ~~December 21~~ January 13, 2010 2011

HSH Alberta I L.P.
HSH Alberta II L.P.
HSH Alberta V L.P.
HSH Coinvest (Alberta) L.P.
HSH Delaware GP LLC
HSH Delaware L.P.
HSH Luxembourg Coinvest S.à r.l.
HSH Luxembourg S.à r.l.
JCF HSH (DE) GP LP

/s/ Daniel Katsikas

Name: Daniel Katsikas

Title: Authorized Signatory