

IMPORTANT: NO CHAPTER 11 CASE HAS BEEN COMMENCED AT THIS TIME. THE SOLICITATION MATERIALS ACCOMPANYING THIS PLAN OF REORGANIZATION HAVE NOT BEEN APPROVED BY THE BANKRUPTCY COURT AS CONTAINING "ADEQUATE INFORMATION" WITHIN THE MEANING OF 11 U.S.C. § 1125(a) NOR HAVE THEY BEEN APPROVED BY THE SECURITIES AND EXCHANGE COMMISSION. IN THE EVENT THAT THE DEBTORS DO FILE CHAPTER 11 CASES, THE DEBTORS EXPECT TO SEEK AN ORDER OR ORDERS OF THE BANKRUPTCY COURT, AMONG OTHER THINGS: (1) APPROVING THE SOLICITATION OF VOTES AS HAVING BEEN IN COMPLIANCE WITH 11 U.S.C. § 1126(b); AND (2) CONFIRMING THE PLAN OF REORGANIZATION PURSUANT TO 11 U.S.C. § 1129.

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

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In re:	:
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HAIGHTS CROSS COMMUNICATIONS, INC., et	:
al.,	:
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Debtors.	:
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Chapter 11
Case No. 09 – _____ ()
(Joint Administration
Requested)

**DEBTORS' JOINT PREPACKAGED PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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DEBTORS IN POSSESSION**

TABLE OF CONTENTS

Page

ARTICLE I

DEFINED TERMS, RULES OF INTERPRETATION AND COMPUTATION OF TIME

Section 1.1. Defined Terms.....	1
Section 1.2. Rules of Interpretation and Computation of Time.	13

ARTICLE II

UNCLASSIFIED CLAIMS

Section 2.1. Administrative Expense Claims.....	14
Section 2.2. Ordinary Course Liabilities.....	14
Section 2.3. Priority Tax Claims.....	14
Section 2.4. Professional Fees.....	15
Section 2.5. Prepetition Indenture Trustee Fees and Expenses.....	15

ARTICLE III

CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

Section 3.1. Classification.....	16
Section 3.2. Treatment and Voting Rights of Claims and Equity Interests.	16
Section 3.3. Nonconsensual Confirmation.....	21
Section 3.4. Special Provision Regarding Unimpaired Claims.....	21
Section 3.5. Issuances Subject to Future Dilution.....	21

ARTICLE IV

MEANS FOR IMPLEMENTATION OF THE PLAN

Section 4.1. Compromise of Controversies.....	21
Section 4.2. Guarantees.....	21
Section 4.3. Vesting of Assets.....	22
Section 4.4. Continued Corporate Existence.....	22
Section 4.5. Cancellation of Notes, Instruments, Debentures and Equity Interests.....	22
Section 4.6. Cancellation of Liens.	23
Section 4.7. New Constituent Documents.....	23
Section 4.8. Rights Offering.....	23
Section 4.9. New Officers and Directors of the Reorganized Debtors.	23
Section 4.10. Corporate Action.....	24
Section 4.11. Sources of Cash for Plan Distribution.....	24
Section 4.12. Restructuring Transactions.....	25

ARTICLE V

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Section 5.1. Assumption of Executory Contracts and Unexpired Leases.....	26
Section 5.2. Claims Based on Rejection of Executory Contracts or Unexpired Leases.	27
Section 5.3. Indemnification of Directors, Officers and Employees.	27
Section 5.4. Reserved.....	27
Section 5.5. Compensation and Benefit Programs.....	27
Section 5.6. Reserved.....	28
Section 5.7. Termination of Prepetition Equity Agreements.	28

ARTICLE VI

PROVISIONS GOVERNING DISTRIBUTIONS

Section 6.1. Date of Distributions.....	28
Section 6.2. Interest On Claims.....	28
Section 6.3. Disbursing Agent.....	28
Section 6.4. Mandatory Exchange Date.....	29
Section 6.5. Delivery of Distributions and Undeliverable or Unclaimed Distributions.	29
Section 6.6. Setoff and Recoupment.....	30
Section 6.7. Surrender of Cancelled Instruments or Securities.....	30
Section 6.8. Lost, Stolen, Mutilated or Destroyed Debt or Equity Securities.....	31
Section 6.9. Fractional Distributions.....	31
Section 6.10. Manner of Payment Under Plan of Reorganization.	31

ARTICLE VII

PROCEDURES FOR RESOLVING DISPUTED CLAIMS

Section 7.1. Prosecution of Objections to Claims.....	31
Section 7.2. Estimation of Claims.....	32
Section 7.3. No Distributions Pending Allowance.....	32
Section 7.4. Distributions After Allowance.	32

ARTICLE VIII

CONDITIONS PRECEDENT TO CONFIRMATION AND EFFECTIVE DATE

Section 8.1. Conditions Precedent to Confirmation.....	33
Section 8.2. Conditions Precedent to the Effective Date.	33
Section 8.3. Waiver of Conditions.	34
Section 8.4. Modification of Plan.....	34
Section 8.5. Effect of Withdrawal or Revocation.	34
Section 8.6. Reservation of Rights.....	34
Section 8.7. Substantial Consummation of Plan.	34

ARTICLE IX

EFFECT OF PLAN CONFIRMATION

Section 9.1. Binding Effect. 35
Section 9.2. Discharge of Claims. 35
Section 9.3. Releases. 35
Section 9.4. Exculpation and Limitation of Liability. 36
Section 9.5. Injunction. 36
Section 9.6. Term of Bankruptcy Injunction or Stays. 37
Section 9.7. Termination of Subordination Rights and Settlement of Related Claims. 37
Section 9.8. Preservation of Rights of Action. 37

ARTICLE X

RETENTION OF JURISDICTION

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.1. Payment of Statutory Fees. 39
Section 11.2. Section 1145 Exemption. 40
Section 11.3. Governing Law. 40
Section 11.4. Severability of Plan Provisions. 40
Section 11.5. Inconsistency. 40
Section 11.6. Filing of Additional Documents. 40
Section 11.7. Service of Documents. 41
Section 11.8. Section 1125(e) of the Bankruptcy Code. 42
Section 11.9. Exemption from Certain Transfer Taxes. 42
Section 11.10. Tax Reporting, Withholding and Compliance. 42
Section 11.11. Schedules and Exhibits. 43
Section 11.12. No Prejudice. 43
Section 11.13. Allocation of Payments. 43
Section 11.14. Successors and Assigns. 43
Section 11.15. Term Of Injunctions Or Stay. 43
Section 11.16. No Admissions. 43

**DEBTORS' JOINT PREPACKAGED PLAN OF REORGANIZATION
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Haights Cross Communications, Inc., Haights Cross Operating Company, Recorded Books, LLC, Triumph Learning, LLC and SNEP, LLC, debtors and debtors in possession in the above-captioned cases, hereby respectfully propose the following joint prepackaged plan of reorganization under chapter 11 of the Bankruptcy Code. The only Entities entitled to vote on the Plan are the Holders of Secured Credit Agreement Claims, Senior Note Claims and Senior Discount Note Claims. Prior to voting to accept or reject the Plan, such Holders are encouraged to read the Plan, the accompanying Disclosure Statement, and their respective exhibits and schedules, in their entirety. No materials other than the Plan, the Disclosure Statement, and their respective exhibits and schedules have been authorized by the Debtors for use in soliciting acceptances or rejections of the Plan.

Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and the restrictions on modifications to this Plan set forth in Section 8.4 hereof, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan at any time or from time to time prior to its substantial consummation.

ARTICLE I

DEFINED TERMS, RULES OF INTERPRETATION AND COMPUTATION OF TIME

Section 1.1. *Defined Terms.*

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

“Adequate Protection Payments” means all Cash payments made to the Holders of the Secured Credit Agreement Claims (other than for the reimbursement of out-of-pocket costs and expenses incurred by such Holders, including in relation to the fees and expenses of Professional Advisors) during the pendency of the Chapter 11 Cases as a form of “adequate protection” under sections 361, 362 and 363 of the Bankruptcy Code pursuant to an order of the Bankruptcy Court.

“Administrative Expense Claims” means all Claims constituting a cost or expense of administration of the Chapter 11 Cases Allowed under sections 503(b), 507(a)(1) and 507(b) of the Bankruptcy Code.

“Allowed” means, with respect to any Claim, such Claim or portion thereof: (a) as to which no objection or request for estimation has been Filed, no litigation has commenced, and the Debtors otherwise have assented to the validity thereof; (b) as to which any objection or request for estimation that has been Filed has been settled, waived, withdrawn or denied by a Final Order; or (c) that is allowed (i) as a result of the entry, whether before or after the Effective Date, of a final order of a court of competent jurisdiction (including, but not limited to, the Bankruptcy Court), (ii) pursuant to the terms of an agreement by and among the Holder of such Claim, the Requisite Plan Support Parties and the Debtors (or the Reorganized Debtors, as the case may be) or (iii) under the terms of the Plan.

“Alternative Financing” means the financing contemplated by the Alternative Financing Commitment.

“Alternative Financing Commitment” means a commitment from one or more financial institutions, reasonably acceptable in form and substance to the Requisite Plan Support Parties and the Debtors, committing such financial institutions to provide at least \$100 million of debt financing to Reorganized Hights, on terms and conditions reasonably acceptable to the Requisite Plan Support Parties and the Debtors and, in any event, not on terms and conditions less favorable than the New First Lien Notes.

“Alternative Financing Documents” means the agreements, notes, certificates, documents and instruments, and all exhibits, schedules and annexes thereto entered into in connection with the Alternative Financing, substantially in the forms set forth in the Plan Supplement, each of which shall be reasonably satisfactory, in form and substance, to the Debtors and the Requisite Plan Support Parties.

“Assets” means, with respect to any Debtor, all of such Debtor’s right, title and interest of any nature in property of any kind, wherever located, as specified in section 541 of the Bankruptcy Code.

“Ballot” means the ballot for voting to accept or reject the Plan prepared and distributed by the Debtors.

“Bankruptcy Code” means title 11, United States Code, as applicable to the Chapter 11 Cases, as now in effect or hereafter amended.

“Bankruptcy Court” means the United States Bankruptcy Court for the District of Delaware or any court with jurisdiction over the Chapter 11 Cases.

“Bankruptcy Rules” means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under section 2075, title 28, United States Code, as amended from time to time, applicable to the Chapter 11 Cases, and the local rules of the Bankruptcy Court.

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

“Cash” means legal tender of the United States of America.

“Causes of Action” means all actions, causes of action, suits, debts, dues, sums of money, accounts, reckonings, rights to legal remedies, rights to equitable remedies, rights to payment and claims, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances and trespasses of, or belonging to, the Estates, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured and whether asserted or assertable directly or indirectly or derivatively, in law, equity or otherwise.

“Chapter 11 Cases” means the Debtors’ voluntary cases filed with the Bankruptcy Court under chapter 11 of the Bankruptcy Code.

“Chapter 11 Parties” means, collectively, (a) all Persons engaged or retained by the Debtors in connection with the Chapter 11 Cases (including in connection with the preparation of, and analyses relating to, the Disclosure Statement, the Plan and the Alternative Financing Documents, if applicable), (b) the Plan Support Parties, (c) the Prepetition Agent (and any predecessor administrative agent or collateral agent under the Secured Credit Agreement), (d) the Prepetition Indenture Trustees, (e) all Persons engaged or retained by the parties listed in (b) through (d) of this definition in connection with the Chapter 11 Cases (including in connection with the preparation of, and analyses relating to, the Disclosure Statement, the Plan and the Alternative Financing Documents, if applicable), and (f) any and all affiliates, members, managers, shareholders, partners, representatives, employees, attorneys, advisors and agents of any of the foregoing.

“Claim” means a claim as defined in section 101(5) of the Bankruptcy Code against any Debtor, whether or not asserted.

“Class” means any group of Claims classified by Article III of the Plan pursuant to sections 1122 and 1129(a)(1) of the Bankruptcy Code.

“Confirmation Date” means the date on which the Confirmation Order is entered on the docket maintained by the Bankruptcy Court pursuant to Bankruptcy Rule 5003.

“Confirmation Hearing” means the hearing to be held by the Bankruptcy Court to consider confirmation of the Plan under section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

“Confirmation Order” means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

“Covered Persons” means all directors, officers and other employees of the Debtors, as of the Petition Date, other than such directors, officers and other employees who are expelled or terminated for cause between the Petition Date and the Effective Date.

“Debtors” means, collectively, Holdings, Hights, Recorded Books, LLC, Triumph Learning, LLC and SNEP, LLC, as debtors and debtors in possession in the Chapter 11 Cases.

“Disallowed” means, with respect to any Claim, such Claim or portion thereof that has been disallowed or expunged by a Final Order.

“Disbursing Agent” means the Debtors or the Reorganized Debtors, or any Person designated by the Debtors or the Reorganized Debtors (with the reasonable consent of the Requisite Plan Support Parties), in the capacity as disbursing agent under the Plan.

“Disclosure Statement” means the disclosure statement relating to the Plan (including any exhibits and schedules thereto), as such disclosure statement may be amended, supplemented, or

modified from time to time in a manner reasonably acceptable to the Requisite Plan Support Parties.

“Disputed” means, with respect to any Claim, such Claim or portion thereof as to which the Debtors or any parties in interest, including the Requisite Plan Support Parties, have interposed an objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules or that otherwise is disputed by the Debtors in accordance with applicable law, which objection has not been withdrawn or determined by a Final Order.

“DTC” means The Depository Trust Company.

“Effective Date” means the Business Day on which all conditions specified in Article VIII have been satisfied or, if capable of being waived, have been waived in accordance with Section 8.3.

“Eligible Holder” means any Holder of a Senior Discount Note Claim that is an institutional “accredited investor” as defined in Rule 501 of Regulation D under the Securities Act.

“Entity” means an “entity” as defined in section 101(15) of the Bankruptcy Code.

“Equity Interests” means all outstanding ownership interests in any of the Debtors, including any interest evidenced by common or preferred stock, membership interest, option or other right to purchase or otherwise receive any ownership interest in any of the Debtors, or any right to payment or compensation based upon any such interest, whether or not such interest is owned by the holder of such right to payment or compensation.

“Estates” means the estates of the Debtors created pursuant to section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

“Exercise Price” means an amount equal to the quotient of: (1) (A) the sum of (i) \$100,000,000 and (ii) the Senior Note Principal Amount, plus accrued but unpaid interest thereon through the Petition Date, less (B) the sum of (x) the consolidated Cash balance of the Reorganized Debtors on the Effective Date in excess of \$15 million (as estimated on the Confirmation Date and verified to the reasonable satisfaction of the Requisite Plan Support Parties), (y) the aggregate principal amount of the New First Lien Notes or Alternative Financing, as applicable, and (z) the aggregate principal amount of the New Second Lien Notes; divided by (2) 9,000,000.

“Existing Director” means any individual serving, as of the Petition Date (or at any subsequent date through the Effective Date), as a director of any of the Debtors.

“Existing Employee” means any individual employed by any of the Debtors as of the Petition Date (or at any subsequent date through the Effective Date) who is not an Existing Officer or Existing Director.

“Existing Officer” means any individual serving, as of the Petition Date (or at any subsequent date through the Effective Date), as an officer of any of the Debtors.

“Existing Personnel” means, collectively, the Existing Directors, the Existing Officers and the Existing Employees.

“Exit Warrants” means warrants for 1,000,000 shares of New Common Stock, at a price per share equal to the Exercise Price, the form of which warrants shall be attached as an exhibit to the Plan Supplement.

“File”, “Filed” or “Filing” means file, filed or filing with the Bankruptcy Court (or agent thereof) in connection with the Chapter 11 Cases.

“Final Order” means an order or judgment entered by the Bankruptcy Court: (a) which has not been reversed, stayed, modified, amended or revoked, 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 and (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; *provided, however*, that no order or judgment shall fail to be a “Final Order” hereunder solely because of the possibility that a motion pursuant to section 502(j) or 1144 of the Bankruptcy Code, Rule 59 or 60 of the Federal Rules of Civil Procedure or Bankruptcy Rule 9024 may be Filed with respect to such order or judgment.

“Foreign Subsidiary” or “Foreign Subsidiaries” means W.F. Howes Limited, a company organized under the laws of the United Kingdom, and Wavesound Pty Ltd., a company organized under the laws of Australia, each a non-debtor foreign subsidiary of Recorded Books, LLC.

“General Unsecured Claims” means all Claims that are not Administrative Expense Claims, Priority Tax Claims, Other Priority Claims, Secured Credit Agreement Claims, Other Secured Claims, Senior Note Claims, Senior Discount Note Claims, Intercompany Claims, or Claims arising out of or in connection with Prepetition Holdings Equity Interests or Surviving Equity Interests.

“Haight’s” means Haight’s Cross Operating Company.

“Holder” means the beneficial holder of any Claim or Equity Interest.

“Holdings” means Haight’s Cross Communications, Inc.

“Impaired” means, with respect to a Claim or Equity Interest, such Claim or Equity Interest that is impaired pursuant to section 1124 of the Bankruptcy Code.

“Informal Committee of Senior Notes” means that certain informal committee composed of DDJ Capital Management, LLC, Bennett Management Corporation, AIG Global Investment

Corp. and GoldenTree Asset Management, in each case on behalf of certain funds and accounts, so long as (a) the funds and/or accounts such firms manage and/or advise hold Prepetition Haight's Indebtedness and (b) such firms have not resigned from such committee.

"Intercompany Claims" means all Claims held by any Debtor or any Foreign Subsidiary against any other Debtor or Foreign Subsidiary.

"Intercreditor Agreement" means the intercreditor agreement by and among Reorganized Haight's, the New First Lien Collateral Trustee and the New Second Lien Collateral Trustee, in substantially the form attached as an exhibit to the Disclosure Statement, to be entered into on the Effective Date.

"Lenders" means the lenders party to the Secured Credit Agreement and any assignee thereof as permitted thereunder.

"Lien" means a lien as defined in section 101(37) of the Bankruptcy Code on or against any of the Debtors' property or the Estates.

"Loan Documents" means, collectively (a) the Secured Credit Agreement and (b) any other "Loan Document" as defined in the Secured Credit Agreement.

"Mandatory Exchange Date" means, with respect to any Prepetition Indenture (or any Claims related thereto or arising thereunder), any Business Day selected by the applicable Prepetition Indenture Trustee as the date on which the surrender by the holders of any and all notes issued under such Prepetition Indenture (or giving rise to such Claims) shall occur, which Business Day shall be the Effective Date, or as soon as practicable following the Effective Date, but in no event later than the third Business Day following the Effective Date.

"New Common Stock" means the common stock of Reorganized Holdings, par value \$0.01 per share, 15,000,000 shares of which shall be authorized pursuant to the Reorganized Holdings Certificate of Incorporation, which common stock shall be the sole class of voting stock of Reorganized Holdings.

"New Constituent Documents" means (a) with respect to Reorganized Holdings, the Reorganized Holdings Constituent Documents and (b) with respect to any other Reorganized Debtor, the certificate of incorporation, formation or registration (including, if applicable, certificate of name change), articles of incorporation or association, memorandum of association, memorandum of continuance, charter, by-laws, or one or more similar agreements, instruments or documents constituting the organization or formation of such Reorganized Debtor, as amended and restated as of the Effective Date, in each case (i) amended and restated to, among other things, (x) prohibit the issuance of non-voting equity securities by such Reorganized Debtor to the extent required under section 1123(a)(6) of the Bankruptcy Code and (y) otherwise give effect to the provisions of the Plan, and (ii) in form and substance satisfactory to the Requisite Plan Support Parties.

"New First Lien Collateral Trustee" means Wells Fargo Bank, N.A., as collateral trustee under the New First Lien Note Indenture, or any successor collateral trustee thereunder.

“New First Lien Note Indenture” means the indenture by and among Reorganized Haight, as issuer, Reorganized Holdings and certain direct and indirect subsidiaries of Reorganized Holdings, as guarantors, and the New First Lien Note Indenture Trustee relating to the New First Lien Notes, the preliminary form of which is attached to the Disclosure Statement as Exhibit F and the final form of which shall be included in the Plan Supplement, which indenture shall be satisfactory, in form and substance, to the Requisite Plan Support Parties.

“New First Lien Note Indenture Trustee” means Wells Fargo Bank, N.A., as indenture trustee under the New First Lien Note Indenture, or any successor indenture trustee thereunder.

“New First Lien Notes” means the first lien notes to be issued by Reorganized Haight pursuant to and in accordance with the New First Lien Note Indenture, in the original principal amount of \$100 million.

“New Officers” means the officers of the Reorganized Debtors immediately following the Effective Date.

“New Second Lien Collateral Trustee” means Wells Fargo Bank, N.A., as collateral trustee under the New Second Lien Note Indenture, or any successor collateral trustee thereunder.

“New Second Lien Note Indenture” means the indenture by and among Reorganized Haight, as issuer, Reorganized Holdings and certain direct and indirect subsidiaries of Reorganized Holdings, as guarantors, and the New Second Lien Note Indenture Trustee relating to the New Second Lien Notes, the preliminary form of which is attached to the Disclosure Statement as Exhibit G and the final form of which shall be included in the Plan Supplement, which indenture shall be satisfactory, in form and substance, to the Requisite Plan Support Parties.

“New Second Lien Note Indenture Trustee” means Wells Fargo Bank, N.A., as indenture trustee under the New Second Lien Note Indenture, or any successor indenture trustee thereunder.

“New Second Lien Notes” means the floating rate second priority secured subordinated notes to be issued by Reorganized Haight pursuant to and in accordance with the New Second Lien Note Indenture, in the original principal amount of \$80 million less the amount of any Senior Note Cash Consideration.

“Note Guarantee” has the meaning set forth in the Senior Note Indenture.

“Notice Parties” means the parties identified in Section 11.7 hereof.

“Other Priority Claims” means all Claims against any Debtor entitled to priority in right of payment under section 507(a) of the Bankruptcy Code that are not Administrative Expense Claims or Priority Tax Claims.

“Other Secured Claims” means all Secured Claims against any Debtor that are not Secured Credit Agreement Claims.

“Person” means a “person” as defined in section 101(41) of the Bankruptcy Code.

“Petition Date” means the date on which the Debtors filed their petitions for relief commencing the Chapter 11 Cases.

“Plan” means this joint prepackaged plan of reorganization under chapter 11 of the Bankruptcy Code, as may be amended, supplemented or modified from time to time in accordance with the terms hereof, and in accordance with the terms of the Bankruptcy Code and the Bankruptcy Rules.

“Plan Documents” means the agreements, documents and instruments to be entered into as of the Effective Date as contemplated by, and in furtherance of, the Plan, which agreements, documents and instruments shall be reasonably satisfactory, in form and substance, to the Requisite Plan Support Parties.

“Plan Supplement” means the compilation of documents and exhibits Filed not later than 10 days prior to the first date on which the Confirmation Hearing is scheduled to be held, as such documents and exhibits may be altered, amended, modified or supplemented from time to time in accordance with the Bankruptcy Code, the Bankruptcy Rules and the terms hereof, and which documents and exhibits shall be reasonably satisfactory, in form and substance, to the Debtors and the Requisite Plan Support Parties.

“Plan Support Agreement” means the agreement, dated as of September 3, 2009, entered into by and among the Debtors and the Plan Support Parties, as may be amended, supplemented or modified from time to time in accordance with the terms thereof.

“Plan Support Party” means any Holder of an Impaired Claim that is party to the Plan Support Agreement, including by execution of an assumption agreement in substantially the form attached to the Plan Support Agreement.

“Prepetition Agent” means The Bank of New York Mellon, in its capacity as administrative agent and collateral agent under the Secured Credit Agreement, or any successor administrative agent and collateral agent thereunder.

“Prepetition Equity Agreements” means, collectively, the Prepetition Registration Rights Agreement and the Prepetition Shareholders’ Agreement.

“Prepetition Common Stock” means the common stock of Holdings issued and outstanding as of the Petition Date with a par value \$0.0003 per share.

“Prepetition Hights Indebtedness” means, collectively, all amounts due and owing under the Senior Notes and the Secured Credit Agreement.

“Prepetition Holdings Equity Interests” means, collectively, all rights in respect of capital stock of Holdings, including but not limited to the Prepetition Common Stock, options, warrants, or rights, contractual or otherwise, to acquire or receive any such stock or ownership interests in Holdings.

“Prepetition Indentures” means, collectively, the Senior Note Indenture and the Senior Discount Note Indenture.

“Prepetition Indenture Trustees” means, collectively, the Senior Note Indenture Trustee and the Senior Discount Note Indenture Trustee.

“Prepetition Notes” means, collectively, the Senior Notes and the Senior Discount Notes.

“Prepetition Shareholders’ Agreement” means the shareholders’ agreement, dated as of August 10, 2007, by and among Holdings and the investors named therein, as amended from time to time.

“Prepetition Registration Rights Agreement” means the registration rights agreement, dated as of December 10, 1999, by and among Holdings, Haight and the Holders (as defined therein), as amended from time to time.

“Priority Tax Claims” means all Claims against any Debtor of the kind specified in section 507(a)(8) of the Bankruptcy Code.

“Professional Advisors” means, collectively, the professional advisors to (A) the Informal Committee of Senior Notes, including, without limitation, Shearman & Sterling LLP, Young Conaway Stargatt & Taylor, LLP and Peter J. Solomon Company L.P., (B) the Lenders and (C) the Debtors, including Houlihan Lokey Howard & Zukin Capital, Inc., Brown Rudnick LLP and Richards, Layton & Finger, P.A.

“Professionals” means (a) all professionals employed in the Chapter 11 Cases pursuant to sections 327, 328, or 1103 of the Bankruptcy Code or otherwise and (b) all professionals or other entities seeking compensation or reimbursement of expenses in connection with the Chapter 11 Cases pursuant to section 503(b)(4) of the Bankruptcy Code.

“Pro-Rata Share” means, with respect to any distribution on account of any Allowed Claim in any Class, a distribution equal in amount to the ratio (expressed as a percentage) that the amount of such Allowed Claim bears to the aggregate amount of all Claims, other than Disallowed Claims, in such Class.

“Purchased Shares” means the shares of New Common Stock duly acquired pursuant to the terms of the Rights Offering.

“Qualifying Committee Members” means any member of the Informal Committee of Senior Notes holding an aggregate principal amount of at least \$35 million in Prepetition Haight Indebtedness.

“Registration Rights Agreement” means the registration rights agreement containing terms substantially similar to those described in Article VIII.D. to the Disclosure Statement, a copy of which shall be included in the Plan Supplement and shall be reasonably satisfactory, in form and substance, to the Requisite Plan Support Parties.

“Releasees” means, collectively, (a) the Existing Personnel and (b) the Chapter 11 Parties.

“Releasers” means, collectively: (a) all Holders of Claims that have voted to accept the Plan or are entitled to receive, directly or indirectly, a distribution under the Plan (including Persons entitled to receive a distribution through an attorney, agent, indenture trustee or securities intermediary); and (b) all Plan Support Parties.

“Reorganized Debtor” means any Debtor or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

“Reorganized Haight” means Haight or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

“Reorganized Holdings” means Holdings or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

“Reorganized Holdings Board of Directors” means the board of directors of Reorganized Holdings.

“Reorganized Holdings By-Laws” means the amended and restated by-laws of Reorganized Holdings, in substantially the form set forth in the Plan Supplement, which shall (a) be reasonably satisfactory, in form and substance, to the Requisite Plan Support Parties and (b) become effective on the Effective Date.

“Reorganized Holdings Certificate of Incorporation” means the amended and restated certificate of incorporation of Reorganized Holdings, which shall be (a) filed with the Secretary of State of the State of Delaware on or about the Effective Date and (b) reasonably satisfactory, in form and substance, to the Requisite Plan Support Parties.

“Reorganized Holdings Constituent Documents” means, collectively, the Reorganized Holdings By-Laws and the Reorganized Holdings Certificate of Incorporation.

“Reorganized Subsidiary Debtors’ Boards of Directors” means, collectively, the boards of directors of each of the Reorganized Debtors, other than the Reorganized Holdings Board of Directors.

“Representatives” means, with respect to any Entity, any officer, director, partner, employee, agent, attorney, advisor, investment banker, financial advisor, accountant or other Professional of such Entity, and committee of which such Entity is a member, in each case in such capacity, serving on or after the Petition Date.

“Requisite Plan Support Parties” means all of the members of the Informal Committee of Senior Notes that are Qualifying Committee Members, and any assignee (pursuant to Section 6 of the Plan Support Agreement) of the Prepetition Haight Indebtedness so long as such assignee holds, directly or indirectly, (a) at least \$35 million in aggregate principal amount of Prepetition Haight Indebtedness and (b) less than \$15 million in aggregate principal amount of Senior Discount Notes.

“Restructuring Transactions” has the meaning set forth in Section 4.12.

“Rights Offering” means the offering of Senior Discount Note Rights to the Holders of Allowed Senior Discount Note Claims in accordance with the procedures set forth in the Disclosure Statement.

“Rights Offering Proceeds” means the proceeds of the Rights Offering, if any.

“Secured Claims” means all Claims against any Debtor that are secured by a Lien on, or security interest in, property of such Debtor, or that has the benefit of rights of setoff under section 553 of the Bankruptcy Code, but only to the extent of the value of the Holder’s interest in such Debtor’s interest in such property, or to the extent of the amount subject to setoff, which value shall be determined as provided in section 506 of the Bankruptcy Code.

“Secured Credit Agreement” means the Credit Agreement, dated as of August 15, 2008, by and among Haight, as borrower, Holdings and other subsidiaries of Haight, as guarantors, the administrative agent and collateral agent thereto and the other parties thereto from time to time, as amended, modified or supplemented from time to time, together with all other agreements entered into and documents delivered in connection therewith.

“Secured Credit Agreement Claims” means all Claims against any Debtor related to, arising out of, or in connection with, the Secured Credit Agreement.

“Secured Credit Agreement Principal Amount” means \$109,882,158.23 in principal amount owed as of November 30, 2009 in connection with the Secured Credit Agreement.

“Secured Tax Claim” means any Secured Claim for payment of a Tax.

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Senior Discount Note Claims” means all Claims against any Debtor related to, arising out of, or in connection with, the Senior Discount Notes and the Senior Discount Note Indenture.

“Senior Discount Note Indenture” means the indenture governing the Senior Discount Notes, among Holdings, as obligor and the Senior Discount Notes Indenture Trustee, dated as of February 2, 2004, as subsequently amended, modified or supplemented, and the agreements entered into and documents delivered in connection therewith.

“Senior Discount Note Indenture Trustee” means Wilmington Trust Company, as indenture trustee under the Senior Discount Note Indenture, or any successor indenture trustee thereunder.

“Senior Discount Note Principal Amount” means \$135 million in principal amount owed in connection with the Senior Discount Notes and the Senior Discount Note Indenture.

“Senior Discount Note Rights” means the non-transferable, non-certificated rights to subscribe for shares of New Common Stock, at a price per share equal to the Exercise Price, on the terms and subject to the conditions set forth in the Disclosure Statement.

“Senior Discount Notes” means the 12 ½% senior discount notes due 2011 issued by Holdings under the Senior Discount Note Indenture.

“Senior Note Cash Consideration” means the portion of the Cash proceeds of an Alternative Financing that is in excess of \$100 million, if any.

“Senior Note Claims” means all Claims against any Debtor related to, arising out of, or in connection with, the Senior Notes and the Senior Note Indenture.

“Senior Note Indenture” means the indenture governing the Senior Notes, among Hights, as obligor, Holdings, as parent guarantor, the subsidiary guarantors named therein and the Senior Note Indenture Trustee, dated as of August 20, 2003, as subsequently amended, modified or supplemented, and the agreements entered into and documents delivered in connection therewith .

“Senior Note Indenture Trustee” means Wells Fargo Bank, N.A., as indenture trustee under the Senior Note Indenture, or any successor indenture trustee thereunder.

“Senior Note Principal Amount” means \$138.8 million in principal amount owed in connection with the Senior Notes and the Senior Note Indenture.

“Senior Notes” means the 11 ¾% senior notes due 2011 issued by Hights under the Senior Note Indenture.

“Senior Note Stock Consideration” means the number of shares of New Common Stock equal to the difference between (x) 8,280,000 and (y) the number of any Purchased Shares.

“Setoff Claim” means any Claim with respect to which the Holder thereof has a valid right of setoff against any Debtor, which right is enforceable under section 553 of the Bankruptcy Code as determined by a Final Order or as otherwise agreed in writing by the Debtors, to the extent of the amount subject to such right of setoff.

“Surviving Equity Interests” means all Equity Interests that are not Prepetition Holdings Equity Interests.

“Tax” means: (a) any net income, alternative or add-on minimum, gross income, gross receipts, sales, use, ad valorem, value added, transfer, franchise, profits, license, property, environmental or other tax, assessment or charge of any kind whatsoever (together in each instance with any interest, penalty, addition to tax or additional amount) imposed by any federal, state, local or foreign taxing authority; or (b) any liability for payment of any amounts of the foregoing types as a result of being a member of an affiliated, consolidated, combined or unitary group, or being a party to any agreement or arrangement whereby liability for payment of any such amounts is determined by reference to the liability of any other Entity.

“Unimpaired” means, with respect to any Claim or Equity Interest, such Claim or Equity Interest that is not Impaired.

“Voting Agreement” means the voting agreement containing terms substantially similar to those described in Article VIII.F. to the Disclosure Statement, the preliminary form of which is attached to the Disclosure Statement as Exhibit E and the final form of which shall be reasonably satisfactory, in form and substance, to the Requisite Plan Support Parties.

Section 1.2. *Rules of Interpretation and Computation of Time.*

(a) For purposes of the Plan: (i) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and the neuter gender; (ii) any reference in the 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 substantially shall be in such form or substantially on such terms and conditions; (iii) any reference in the Plan to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified or supplemented; (iv) unless otherwise specified, all references in the Plan to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits of or to the Plan; (v) the words “herein” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (vi) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (vii) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (viii) any term used in capitalized form in the Plan that is not defined in the Plan but is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

(b) With respect to any consent required hereunder from the Requisite Plan Support Parties, the Debtors shall be permitted to rely solely on the written representation (including by electronic mail) of the legal counsel to the Informal Committee of Senior Notes as to whether such consent has been obtained.

(c) The Plan is the product of extensive discussions and negotiations between and among, *inter alia*, the Debtors, the Plan Support Parties, and certain other creditors and constituencies, each of whom was represented by counsel who either (i) participated in the formulation and documentation of or (ii) was afforded the opportunity to review and provide comments on, the Plan, the Disclosure Statement and the documents ancillary thereto. Accordingly, unless explicitly indicated otherwise, the general rule of contract construction known as “*contra proferentum*” shall not apply to the construction or interpretation of any provision of the Plan, the Disclosure Statement or any contract, instrument, release, indenture, or other agreement or document prepared in connection therewith.

(d) In computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

ARTICLE II

UNCLASSIFIED CLAIMS

Section 2.1. *Administrative Expense Claims.*

Each Holder of an Allowed Administrative Expense Claim shall receive, in full satisfaction and discharge thereof, Cash equal to the unpaid amount of such Allowed Administrative Expense Claim (except to the extent that such Holder agrees to less favorable treatment thereof) either on, or as soon as practicable after, the latest of (i) the Effective Date, (ii) thirty days after the date on which such Administrative Expense Claim becomes Allowed, (iii) the date on which such Administrative Expense Claim becomes due and payable and (iv) such other date as mutually may be agreed to by such Holder, the Requisite Plan Support Parties and the Debtors.

Section 2.2. *Ordinary Course Liabilities.*

(a) *Payment of Ordinary Course Liabilities.* Notwithstanding Section 2.1, Allowed Administrative Expense Claims based on liabilities incurred by a Debtor in the ordinary course of its business, including (i) Administrative Expense Claims arising from or with respect to the sale of goods or provision of services on or after the Petition Date in the ordinary course of the applicable Debtor's business, (ii) Administrative Expense Claims of governmental units for Taxes (including Tax audit Claims related to Tax years or portions thereof ending after the Petition Date), (iii) Administrative Expense Claims arising from executory contracts and unexpired leases and (iv) Intercompany Claims that are Administrative Expense Claims, will be paid by the applicable Reorganized Debtor, pursuant to the terms and conditions of the particular transaction giving rise to such Administrative Expense Claims, without further action by the Holders of such Administrative Expense Claims or further approval by the Bankruptcy Court.

(b) *No Bar Date for Ordinary Course Liabilities.* Holders of Administrative Expense Claims that are based on liabilities incurred in the ordinary course of the Debtors' businesses (other than Claims of governmental units for Taxes (and for interest and/or penalties related to such Taxes)) shall not be required to File any request for payment of such Claims. Such Administrative Expense Claims, unless objected to by the Debtors, shall be assumed and paid by the Debtors, pursuant to the terms and conditions of the particular transaction giving rise to such Administrative Expense Claims.

Section 2.3. *Priority Tax Claims.*

Each Holder of an Allowed Priority Tax Claim shall receive, in full satisfaction and discharge thereof, Cash equal to the unpaid amount of such Allowed Priority Tax Claim (except to the extent that such Holder agrees to less favorable treatment thereof) either on, or as soon as practicable after, the latest of (i) the Effective Date, (ii) thirty days after the date on which such Priority Tax Claim becomes Allowed, (iii) the date on which such Priority Tax Claim becomes due and payable and (iv) such other date as mutually may be agreed to by such Holder, the Requisite Plan Support Parties and the Debtors; *provided, however*, that the Debtors shall be authorized, at their option, and in lieu of payment in full of an Allowed Priority Tax Claim, to

make deferred Cash payments on account thereof in the manner and to the extent permitted under section 1129(a)(9)(C) of the Bankruptcy Code.

Section 2.4. *Professional Fees.*

(a) Each Professional requesting compensation pursuant to sections 330, 331 or 503(b) of the Bankruptcy Code for services rendered in connection with the Chapter 11 Cases prior to the Confirmation Date shall File an application for allowance of final compensation and reimbursement of expenses in the Chapter 11 Cases on or before the sixtieth day following the Effective Date. Without limiting the foregoing, any Debtor or Reorganized Debtor, as the case may be, may pay the charges incurred by the Debtors on and after the Confirmation Date for any Professional's fees disbursements, expenses or related support services, without application to or approval by the Bankruptcy Court.

(b) Notwithstanding Section 2.4(a), all reasonable fees and expenses of the Professional Advisors to the Informal Committee of Senior Notes that are incurred in connection with the Chapter 11 Cases (whether incurred before or after the Petition Date, but no later than the Effective Date, and in each case, subject to the terms and provisions of any applicable fee letter or other similar reimbursement agreement between Haight and such Professional Advisors) shall be deemed to be Allowed Administrative Expense Claims for purposes hereof.

Section 2.5. *Prepetition Indenture Trustee Fees and Expenses.*

The Prepetition Indenture Trustees have provided and will continue to provide necessary services under the Prepetition Indentures prior to and after the Petition Date. On, or as soon as practicable after, the Effective Date, the Debtors shall pay all reasonable fees, costs and expenses incurred by the Prepetition Indenture Trustees in the performance of their duties (including, but not limited to, the reasonable fees, costs and expenses incurred by the Prepetition Indenture Trustees' professionals (to the extent payable under the terms of the Prepetition Indentures)) prior to the Effective Date, provided (a) such fees, costs and expenses are reimbursable under the terms of the applicable Prepetition Indentures and (b) any dispute in connection with such fees, costs and expenses has been resolved by Final Order. The Reorganized Debtors shall promptly pay to the Prepetition Indenture Trustees any fees, costs and expenses reimbursable under the terms of the applicable Prepetition Indentures that are not disputed and shall attempt to resolve the disputed portion, if any, consensually. To the extent the Reorganized Debtors and the Prepetition Indenture Trustees are unable to consensually resolve any disputes regarding fees, costs or expenses and the Prepetition Indenture Trustees continue to seek payment of such disputed amount pursuant to Section 2.5, such payment shall occur following the entry of a Final Order of the Bankruptcy Court resolving such dispute. Notwithstanding Section 4.5 hereof, the Reorganized Debtors shall pay all reasonable fees, costs and expenses incurred by any Prepetition Indenture Trustee (to the extent payable under the terms of the Prepetition Indentures) after the Effective Date in connection with the distributions required pursuant to Section 6.3 or the implementation of any provisions of the Plan (including, but not limited to, the reasonable fees, costs and expenses incurred by the Prepetition Indenture Trustees' professionals). Distributions received by the Holders of Allowed Senior Note Claims and Allowed Senior Discount Note Claims, pursuant to the Plan, shall not be reduced on account of the payment of the Prepetition Indenture Trustees' fees, costs and expenses pursuant to the terms

of the Plan. Nothing in this section shall affect the rights of the Prepetition Indenture Trustees preserved under Section 4.5 hereof.

ARTICLE III

CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS

Section 3.1. *Classification.*

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including for purposes of voting, confirmation and distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that such Claim or Equity Interest qualifies within the description of such Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest has not been paid or otherwise settled prior to the Effective Date.

Claims (except for Administrative Expense Claims and Priority Tax Claims, which are not required to be classified pursuant to section 1123(a)(1) of the Bankruptcy Code) are classified as follows:

- (a) Class 1—Other Priority Claims
- (b) Class 2—Secured Credit Agreement Claims
- (c) Class 3—Other Secured Claims
- (d) Class 4—Senior Note Claims
- (e) Class 5—Senior Discount Note Claims
- (f) Class 6—General Unsecured Claims
- (g) Class 7—Intercompany Claims
- (h) Class 8—Surviving Equity Interests
- (i) Class 9—Prepetition Holdings Equity Interests

Section 3.2. *Treatment and Voting Rights of Claims and Equity Interests.*

(a) *Class 1—Other Priority Claims.*

- (i) *Impairment and Voting:* Class 1 is Unimpaired by the Plan. Each Holder of an Allowed Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, and, therefore, is not entitled to vote to accept or reject the Plan.

- (ii) *Treatment:* On, or as soon as practicable after, the Effective Date, each Holder of an Allowed Other Priority Claim shall receive Cash in an amount equal to the principal, interest and any other amounts that may be owed in respect of such Claim, so as to leave unaltered the legal, equitable and contractual rights to which such Claim entitles such Holder.

(b) *Class 2—Secured Credit Agreement Claims.*

- (i) *Impairment and Voting:* Class 2 is Impaired by the Plan. Each Holder of an Allowed Secured Credit Agreement Claim is entitled to vote to accept or reject the Plan.
- (ii) *Allowance:* The Secured Credit Agreement Claims shall be deemed Allowed, in the aggregate, in the sum of (A) the Secured Credit Agreement Principal Amount *plus* (B) the accrued and unpaid interest thereon (including paid in kind interest and default interest, as applicable) through the Effective Date *plus* (C) all fees and expenses owed and unpaid in connection with the Secured Credit Agreement, in each case as determined without accounting for any Adequate Protection Payments.
- (iii) *Treatment:* If the Debtors consummate an Alternative Financing, then on, or as soon as practicable after, the Effective Date, each Holder of Allowed Secured Credit Agreement Claims shall receive, in full satisfaction and discharge thereof, Cash in an amount equal to its Allowed Secured Credit Agreement Claims. If the Debtors are unable to consummate an Alternative Financing, then on, or as soon as practicable after, the Effective Date, each Holder of Allowed Secured Credit Agreement Claims shall receive, in full satisfaction and discharge thereof, (A) its Pro-Rata Share of the New First Lien Notes; and (B) Cash equal to the difference between (x) the amount of its Allowed Secured Credit Agreement Claims and (y) the principal amount of its Pro-Rata Share of the New First Lien Notes. All Adequate Protection Payments shall be applied against the Cash distributions contemplated under this Section 3.2(b)(iii), and provided the Confirmation Order becomes a Final Order, no Holder of Secured Credit Agreement Claims will be required to disgorge or otherwise turn over any portion of such payments.

(c) *Class 3—Other Secured Claims.*

- (i) *Impairment and Voting:* Class 3 is Unimpaired by the Plan. Each Holder of an Allowed Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, and, therefore, is not entitled to vote to accept or reject the Plan.
- (ii) *Treatment:* On, or as soon as practicable after, the Effective Date, unless otherwise agreed by the Holder of an Allowed Other Secured Claim, the Requisite Plan Support Parties and the applicable Debtor or Reorganized

Debtor, such Holder will receive treatment on account of its Allowed Other Secured Claim in the manner set forth in Option A, B or C below, at the election of the applicable Debtor. The applicable Debtor will be deemed to have elected Option B except with respect to (a) any Allowed Other Secured Claim as to which the applicable Debtor elects either Option A or Option C in one or more certifications Filed prior to the conclusion of the Confirmation Hearing and (b) any Allowed Secured Tax Claim, with respect to which the applicable Debtor will be deemed to have elected Option A.

Option A: On, or as soon as practicable after, the Effective Date, Allowed Claims in Class 3 with respect to which the applicable Debtor elects Option A will receive Cash equal to the amount of such Allowed Claim.

Option B: On, or as soon as practicable after, the Effective Date, Allowed Claims in Class 3 with respect to which the applicable Debtor elects or is deemed to have elected Option B will be reinstated pursuant to section 1124(2) of the Bankruptcy Code such that such Claims are rendered Unimpaired.

Option C: On, or as soon as practicable after, the Effective Date, a Holder of an Allowed Claim in Class 3 with respect to which the applicable Debtor elects Option C will be entitled to receive (and the applicable Debtor or Reorganized Debtor shall release and transfer to such Holder) the collateral securing such Allowed Claim.

(d) *Class 4—Senior Note Claims.*

- (i) *Impairment and Voting:* Class 4 is Impaired by the Plan. Each Holder of an Allowed Senior Note Claim is entitled to vote to accept or reject the Plan.
- (ii) *Allowance:* The Senior Note Claims shall be deemed Allowed, in the aggregate, in the sum of (A) the Senior Note Principal Amount *plus* (B) the accrued and unpaid interest thereon through the Petition Date *plus* (C) all fees and expenses owed and unpaid in connection with the Senior Notes, to the extent earned or accrued through the Petition Date.
- (iii) *Treatment if Class 5 Accepts the Plan:* On, or as soon as practicable after, the Effective Date, each Holder of an Allowed Senior Note Claim shall receive, in full satisfaction and discharge thereof, its Pro-Rata Share of (A) the New Second Lien Notes *plus* (B) the Senior Note Stock Consideration (subject to adjustment for rounding of fractional shares) *plus* (C) any Senior Note Cash Consideration *plus* (D) any Rights Offering Proceeds.

- (iv) *Treatment if Class 5 Does Not Accept the Plan:* On, or as soon as practicable after, the Effective Date, each Holder of an Allowed Senior Note Claim shall receive, in full satisfaction and discharge thereof, its Pro-Rata Share of (A) the New Second Lien Notes *plus* (B) 9,000,000 shares of New Common Stock (subject to adjustment for rounding of fractional shares), which amount shall be equal to 100% of the total number of shares of New Common Stock issued under the Plan, *plus* (C) any Senior Note Cash Consideration.

(e) *Class 5—Senior Discount Note Claims.*

- (i) *Impairment and Voting:* Class 5 is Impaired by the Plan. Each Holder of an Allowed Senior Discount Note Claim is entitled to vote to accept or reject the Plan.
- (ii) *Allowance:* If Class 5 accepts the Plan, the Senior Discount Note Claims shall be deemed Allowed, in the aggregate, in the sum of (A) the Senior Discount Note Principal Amount *plus* (B) the accrued and unpaid interest thereon through the Petition Date *plus* (C) all fees and expenses owed and unpaid in connection with the Senior Discount Notes, to the extent earned or accrued through the Petition Date.
- (iii) *Treatment if Class 5 Accepts the Plan:* On, or as soon as practicable after, the Effective Date, each Holder of an Allowed Senior Discount Note Claim shall receive, in full satisfaction and discharge thereof, its Pro-Rata Share of (A) 720,000 shares of New Common Stock (subject to adjustment for rounding of fractional shares), which amount shall be equal to approximately 8% of the total number of shares of New Common Stock issued under the Plan, *plus* (B) the Exit Warrants.
- (iv) *Treatment if Class 5 Does Not Accept the Plan:* No Holder of a Senior Discount Note Claim shall be entitled to, nor shall it receive or retain, any property or interest in property on account of such Senior Discount Note Claim; *provided, however,* that nothing herein shall affect the rights of the Senior Discount Note Indenture Trustee under Sections 2.5 and 4.5 hereof.

(f) *Class 6—General Unsecured Claims.*

- (i) *Impairment and Voting:* Class 6 is Unimpaired by the Plan. Each Holder of a General Unsecured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, and, therefore, is not entitled to vote to accept or reject the Plan.
- (ii) *Treatment:* Each Holder of an Allowed General Unsecured Claim, at the election of the applicable Debtor or Reorganized Debtor, shall (A) receive Cash equal to the principal amount of its Allowed General Unsecured Claim or (B) have the principal amount of its Allowed General Unsecured Claim reinstated pursuant to section 1124(2) of the Bankruptcy Code. The

failure of the Debtors or any other party in interest to File an objection, prior to the Effective Date, with respect to any General Unsecured Claim that is reinstated hereunder shall be without prejudice to the rights of the Reorganized Debtors or any other party in interest to contest or otherwise defend against such Claim in an appropriate forum (including the Bankruptcy Court, if applicable, in accordance with Article IX of the Plan) when and if such Claim is sought to be enforced. Any cure amount that the Debtors may be required to pay pursuant to section 1124(2) of the Bankruptcy Code on account of any such reinstated General Unsecured Claim shall be paid on, or as soon as practicable after, the latest of (x) the Effective Date, (y) within five Business Days of the date on which such General Unsecured Claim becomes Allowed, or (z) such other date as may be agreed to by and among the Holder thereof, the Requisite Plan Support Parties and the Debtors.

(g) *Class 7—Intercompany Claims.*

- (i) *Impairment and Voting:* Class 7 is Unimpaired by the Plan. Each Holder of an Allowed Intercompany Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, and, therefore, is not entitled to vote to accept or reject the Plan.
- (ii) *Treatment:* Each Allowed Intercompany Claim shall be reinstated pursuant to section 1124(2) of the Bankruptcy Code such that such Claim is rendered Unimpaired, except to the extent that such Holder agrees to less favorable treatment thereof.

(h) *Class 8—Surviving Equity Interests.*

- (i) *Impairment and Voting:* Class 8 is Unimpaired by the Plan. Each Holder of a Surviving Equity Interest is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, and, therefore, is not entitled to vote to accept or reject the Plan.
- (ii) *Treatment:* On the Effective Date, all Surviving Equity Interests shall be reinstated pursuant to section 1124(2) of the Bankruptcy Code such that such Equity Interests are rendered Unimpaired.

(i) *Class 9—Prepetition Holdings Equity Interests.*

- (i) *Impairment and Voting:* Class 9 is Impaired by the Plan. Each Holder of a Prepetition Holdings Equity Interest is deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code, and, therefore, is not entitled to vote to accept or reject the Plan.
- (ii) *Treatment:* No Holder of a Prepetition Holdings Equity Interest shall be entitled to, nor shall it receive or retain, any property or interest in property on account of such Prepetition Holdings Equity Interest.

Section 3.3. *Nonconsensual Confirmation.*

If any Impaired Class of Claims or Equity Interests entitled to vote shall not accept the Plan by the requisite majorities provided in section 1126(c) of the Bankruptcy Code, the Debtors reserve the right to amend or modify the Plan in accordance with Section 8.4 hereof or undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code or both, in each case, with the consent of the Requisite Plan Support Parties. With respect to any Class of Claims or Equity Interests that is deemed to reject the Plan, the Debtors shall request that the Bankruptcy Court confirm the Plan pursuant to section 1129(b) of the Bankruptcy Code.

Section 3.4. *Special Provision Regarding Unimpaired Claims.*

Except as otherwise provided in the Plan, nothing herein shall affect the Debtors' or the Reorganized Debtors' rights and defenses, both legal and equitable, with respect to any Unimpaired Claims, including, but not limited to, all rights with respect to legal and equitable defenses to Setoff Claims or recoupments against Unimpaired Claims.

Section 3.5. *Issuances Subject to Future Dilution.*

All of the capital stock rights described herein will be subject to dilution upon future issuances, including management awards.

ARTICLE IV

MEANS FOR IMPLEMENTATION OF THE PLAN

Section 4.1. *Compromise of Controversies*

In consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims and controversies resolved under the Plan, and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under Bankruptcy Rule 9019.

Section 4.2. *Guarantees.*

On the Effective Date, all guarantees by any Debtor of the payment, performance, or collection of another Debtor with respect to the Claims specified in Class 2, Class 4 and Class 5 shall be forever discharged, eliminated, cancelled and of no further force and effect. The Debtors hereby stipulate that upon the occurrence of the Effective Date, no Foreign Subsidiary that is a "Guarantor" under the Senior Note Indenture will guarantee or otherwise directly or indirectly provide credit support for any Indebtedness (as defined in the Senior Note Indenture) of the Company (as defined in the Senior Note Indenture) or any of its Domestic Subsidiaries (as defined in the Senior Note Indenture). Therefore, pursuant to Section 10.05(d) of the Senior Note Indenture, upon the occurrence of the Effective Date, each such Foreign Subsidiary shall be released and relieved of any and all obligations under its Note Guarantee. As promptly as

practicable after the Effective Date, the Senior Note Indenture Trustee shall execute any and all documents required in order to evidence such release.

Section 4.3. *Vesting of Assets.*

Except as otherwise provided in the Plan or in any Plan Document, on the Effective Date, title to all Assets of any Debtor shall vest in such Reorganized Debtor, free and clear of all Claims, liens, encumbrances and other interests. Surviving Equity Interests shall be reinstated pursuant to section 1124(2) of the Bankruptcy Code, and the legal, equitable and contractual rights to which the Holders of such Allowed Surviving Equity Interests are entitled shall remain unaltered. From and after the Effective Date, the Reorganized Debtors may operate their businesses and use, acquire and dispose of property and settle and compromise Claims without supervision by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules, other than those restrictions expressly imposed by the Plan and the Confirmation Order. Without limiting the generality of the foregoing, the Debtors may, without application to or approval by the Bankruptcy Court, pay the fees and expenses of Professionals and other Professional Advisors that they incur after the Effective Date.

Section 4.4. *Continued Corporate Existence.*

Except as otherwise provided in Section 4.12, each of the Debtors, as Reorganized Debtors, shall continue to exist on and after the Effective Date as a separate legal Entity with all of the powers available to such legal Entity under applicable law and pursuant to the applicable New Constituent Documents, without prejudice to any right to alter or terminate such existence (whether by merger or otherwise) in accordance with such applicable law. On and after the occurrence of the Effective Date, the Reorganized Debtors shall be authorized to operate their respective businesses, and to use, acquire or dispose of Assets without supervision or approval by the Bankruptcy Court, and free from any restrictions of the Bankruptcy Code or the Bankruptcy Rules.

Section 4.5. *Cancellation of Notes, Instruments, Debentures and Equity Interests.*

So long as the treatments provided for in, and the distributions contemplated by, Article III are effectuated or made as contemplated herein, upon the Effective Date, each of (a) the Senior Notes, (b) the Senior Discount Notes, (c) the Prepetition Indentures, (d) the Prepetition Holdings Equity Interests, (e) the Secured Credit Agreement and (f) the Loan Documents and (g) any other notes, bonds, indentures, certificates or other instruments or documents evidencing or creating any Claims or Equity Interests that are Impaired hereunder, shall be cancelled and deemed terminated, and shall represent only the right to receive the distributions, if any, to which the Holders thereof are entitled under the Plan; *provided, however*, that the provisions of the Prepetition Indentures granting the Prepetition Indenture Trustees (1) charging liens or other rights against distributions payable to holders of the Prepetition Notes, to the extent that the Prepetition Indenture Trustees do not receive payments of their fees, costs and expenses payable pursuant to Section 2.5 and (2) ability to make distributions to holders of Prepetition Notes as set forth in the Prepetition Indentures and the Plan, shall survive the cancellation of the Prepetition Indentures and remain in full force and effect. Except as otherwise provided in Section 6.3, as of

the Effective Date, the Prepetition Indenture Trustees shall have no further obligations under their respective Prepetition Indentures.

Section 4.6. *Cancellation of Liens.*

Upon the Effective Date, any Lien securing any Secured Claim (other than a Lien with respect to a Claim that is reinstated pursuant to Section 3.2(c)) shall be deemed released, and the Holder of such Secured Claim shall be authorized and directed to release any collateral or other property of any Debtor (including any cash collateral) held by such Holder and to take such actions as may be requested by the Debtors (or the Reorganized Debtors, as the case may be) to evidence the release of such Lien, including the execution, delivery and filing or recording of such releases as may be requested by the Debtors (or the Reorganized Debtors, as the case may be).

Section 4.7. *New Constituent Documents.*

On the Effective Date, the Reorganized Debtors shall, in consultation with the Requisite Plan Support Parties, (a) make any and all filings that may be required in connection with the New Constituent Documents with the appropriate governmental offices and/or agencies and (b) take any and all other actions that may be required to render the New Constituent Documents effective.

Section 4.8. *Rights Offering.*

So long as Class 5 votes to accept the Plan, each Eligible Holder that has voted to accept the Plan and has duly paid its Cash consideration therefor on the terms and subject to the conditions of the Rights Offering shall receive the Purchased Shares allocable to it under the Rights Offering.

Section 4.9. *New Officers and Directors of the Reorganized Debtors.*

(a) *New Officers.* Pursuant to section 1129(a)(5) of the Bankruptcy Code, the identity and affiliations of each of the New Officers (and, to the extent such Person is an insider, the nature of any compensation for such Person) shall be disclosed in the Plan Supplement.

(b) *Initial Reorganized Holdings Board of Directors.* Pursuant to section 1129(a)(5) of the Bankruptcy Code, the identity and affiliations of each proposed member of the initial Reorganized Holdings Board of Directors (and, to the extent such Person is an insider, the nature of any compensation for such Person) shall be disclosed in the Plan Supplement. The initial Reorganized Holdings Board of Directors shall consist of seven directors. As long as the Class composed of Senior Discount Note Claims has voted to accept the Plan, one director shall be appointed by Holders of a majority in principal amount of Senior Discount Note Claims and the remaining directors shall be appointed by the Requisite Plan Support Parties. Notwithstanding the foregoing, in the event that any Holder of an Allowed Senior Discount Note Claim acquires more than 14% of the issued and outstanding shares of New Common Stock pursuant to the terms of the Plan and the Rights Offering, appointment rights shall be modified as described in Article VIII.C.3 to the Disclosure Statement. Each member of the initial Reorganized Holdings Board of Directors (other than the initial chief executive officer of Reorganized Holdings) shall

assume such position on the Effective Date and shall serve from and after the Effective Date until the first annual meeting of the holders of the New Common Stock. Thereafter, Reorganized Holdings Board of Directors will be elected in accordance with the Reorganized Holdings Constituent Documents and applicable non-bankruptcy law. Any subsequent Reorganized Holdings Board of Directors shall be elected, classified, and composed in a manner consistent with the Reorganized Holdings Constituent Documents and applicable non-bankruptcy law.

(c) *Initial Reorganized Subsidiary Debtors' Boards of Directors.* The proposed members of each of the initial Reorganized Subsidiary Debtors' Boards of Directors shall be disclosed in the Plan Supplement. The classification and composition of each Reorganized Subsidiary Debtor's Board of Directors shall be consistent with the applicable New Constituent Documents and applicable non-bankruptcy law, and shall be subject to the reasonable consent of the Requisite Plan Support Parties.

(d) The New Officers and the boards of directors of the Reorganized Debtors shall not be liable to any Person for any Claim that arose prior to the Effective Date in connection with such directors' or officers' service to the Reorganized Debtors, in their capacity as director or officer.

Section 4.10. *Corporate Action.*

Upon the Effective Date, by virtue of the solicitation of votes in favor of the Plan and entry of the Confirmation Order, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including (a) the adoption of the New Constituent Documents, (b) the selection of the directors and officers for the Reorganized Debtors, (c) the issuance of the New First Lien Notes (or the consummation of the Alternative Financing), (d) the issuance of the New Second Lien Notes (e) the issuance of the New Common Stock, (f) the issuance of the Exit Warrants, (g) the execution of and entry into the Registration Rights Agreement, and (h) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan involving the corporate structure of the Debtors or the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan, shall be deemed to have occurred and shall be in effect, without any requirement of further action by the security holders, directors or officers of the Debtors or the Reorganized Debtors. Upon the Effective Date, the appropriate officers of the Reorganized Debtors and members of the boards of directors of the Reorganized Debtors shall be authorized and 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, including (i) the New First Lien Note Indenture (or the Alternative Financing Documents), (ii) the New Second Lien Note Indenture, (iii) the Registration Rights Agreement, and (iv) any and all other agreements, documents, securities and instruments relating to the foregoing. The authorizations and approvals contemplated in this Section 4.10 shall be effective notwithstanding any requirements under any applicable non-bankruptcy law.

Section 4.11. *Sources of Cash for Plan Distribution.*

Except as otherwise provided in the Plan or Confirmation Order, all Cash required for the payments to be made hereunder shall be obtained from the Debtors' and the Reorganized

Debtors' operations and Cash balances, the proceeds of any Alternative Financing, and any Rights Offering Proceeds.

Section 4.12. *Restructuring Transactions.*

From the Confirmation Date through the Effective Date, the Debtors, subject to the reasonable consent of the Requisite Plan Support Parties, shall be authorized to enter into such transactions and take such other actions as may be necessary or appropriate to effect a corporate restructuring of their businesses, to otherwise simplify the overall corporate structure of the Debtors, or to reincorporate certain of the Debtors under the laws of jurisdictions other than the laws of which such Debtors currently are incorporated, which restructuring may include one or more mergers, consolidations, dispositions, liquidations or dissolutions, as may be determined by the Debtors (subject to the reasonable consent of the Requisite Plan Support Parties) to be necessary or appropriate (collectively, the "Restructuring Transactions"). In effecting the Restructuring Transactions, the Debtors shall be permitted to (a) execute and deliver appropriate agreements or other documents of merger, consolidation, restructuring, disposition, liquidation or dissolution containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable state law and such other terms to which the applicable entities may agree, (b) execute and deliver appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, duty or obligation on terms consistent with the terms of the Plan and having such other terms to which the applicable entities may agree, (c) file appropriate certificates or articles of merger, consolidation or dissolution pursuant to applicable state law and (d) take all other actions that the applicable entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable state law in connection with such transactions. The Restructuring Transactions may include one or more mergers, consolidations, restructurings, dispositions, liquidations or dissolutions as may be determined by the Debtors and the Requisite Plan Support Parties to be necessary or appropriate to result in substantially all of the respective assets, properties, rights, liabilities, duties and obligations of certain of the Debtors vesting in one or more surviving, resulting or acquiring corporations. In each case in which the surviving, resulting or acquiring corporation in any such transaction is a successor to a Debtor, such surviving, resulting or acquiring corporation will perform the obligations of such Debtor pursuant to the Plan to pay or otherwise satisfy the Allowed Claims against such Debtor, except as provided in any contract, instrument or other agreement or document effecting a disposition to such surviving, resulting or acquiring corporation, which may provide that another Debtor will perform such obligations.

Section 4.13. *Voting Agreement.*

All Persons that are entitled to receive shares of New Common Stock under the terms of the Plan or upon exercise of the Exit Warrants shall be required to become parties to the Voting Agreement, and such Persons shall not be deemed to own such shares or receive certificates therefor unless and until they have executed and returned their respective signature pages to the Voting Agreement. To the extent that any such Person fails to execute and return its signature page(s) to the Voting Agreement within one year following the Effective Date, the shares of New Common Stock that such Person otherwise would be entitled to receive shall be deemed

undeliverable (pursuant to Section 6.5(b) or otherwise) and shall be forfeited to the Reorganized Debtors.

ARTICLE V

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

Section 5.1. *Assumption of Executory Contracts and Unexpired Leases.*

(a) Except as otherwise provided herein, or in any contract, instrument, release, indenture or other agreement or document entered into in connection herewith, as of the Effective Date, the Debtors shall be deemed to have assumed each executory contract and unexpired lease to which they are parties (including, but not limited to, non-exclusive or exclusive patent, trademark, copyright or other intellectual property licenses), unless such contract or lease (i) was assumed or rejected by the Debtors prior to such date, (ii) expired or terminated pursuant to its own terms prior to such date, (iii) is the subject of a motion to reject Filed on or before the Confirmation Date or (iv) is set forth in a schedule, Filed as part of the Plan as an executory contract or unexpired lease to be rejected. The Confirmation Order shall constitute an order of the Bankruptcy Court under sections 365 and 1123 of the Bankruptcy Code approving the contract and lease assumptions or rejections described above, as of the Effective Date.

(b) Each executory contract and unexpired lease assumed pursuant to this Article V shall revert in, and be fully enforceable by, the Reorganized Debtors in accordance with the terms thereof, except as otherwise modified by the provisions of the Plan, or by any order of the Bankruptcy Court.

(c) Each executory contract and unexpired lease assumed pursuant to this Article V and related to the use, ability to acquire, or occupancy of real property will include (i) all modifications, amendments, supplements, restatements, or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affect such executory contract or unexpired lease, and (ii) all executory contracts or unexpired leases and other rights appurtenant to the property, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, powers, uses, reciprocal easement agreements, vaults, tunnel or bridge agreements or franchises, and any other equity interests in real estate or rights in rem related to such premises, unless any of the foregoing agreements has been rejected pursuant to an order of the Bankruptcy Court or is the subject of a motion to reject Filed on or before the Confirmation Date.

(d) Any monetary amount by which any executory contract or unexpired lease to be assumed pursuant to the Plan is in default shall be satisfied, in accordance with section 365(b)(1) of the Bankruptcy Code, by the Debtors. If there is a dispute regarding (i) the nature or amount of any cure, (ii) the ability of the Debtors or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed, or (iii) any other matter pertaining to assumption, cure shall occur following the entry of a Final Order of the Bankruptcy Court resolving such dispute and approving the assumption or assumption and assignment, as the case may be.

Section 5.2. Claims Based on Rejection of Executory Contracts or Unexpired Leases.

All proofs of claim with respect to Claims arising from the rejection of executory contracts or unexpired leases, if any, must be Filed within 30 days after the later of (a) the date of the order of the Bankruptcy Court approving such rejection and (b) the date of the Confirmation Order. Any Claim arising from the rejection of an executory contract or unexpired lease for which proof of such Claim is not Filed within such time period shall forever be barred from assertion against the Debtors or the Reorganized Debtors, the Estates and their property, unless otherwise ordered by the Bankruptcy Court. Any Allowed Claim arising from the rejection of executory contracts or unexpired leases for which proof of such Claim timely has been Filed shall be, and shall be treated as, an Allowed General Unsecured Claim under the terms hereof, subject to any limitation under section 502(b) of the Bankruptcy Code or otherwise.

Section 5.3. Indemnification of Directors, Officers and Employees.

Any obligations or rights of the Debtors or Reorganized Debtors to defend, indemnify, reimburse, or limit the liability of Covered Persons pursuant to any applicable certificates of incorporation, by-laws, policy of providing employee indemnification, state law, or specific agreement in respect of any claims, demands, suits, causes of action, or proceedings against such Covered Persons based upon any act or omission related to such Covered Persons' service with, for, or on behalf of the Debtors prior to the Effective Date, shall be treated as if they were executory contracts that are assumed under the Plan and shall survive the Effective Date and remain unaffected hereby, and shall not be discharged, irrespective of whether such defense, indemnification, reimbursement, or limitation of liability is owed in connection with an occurrence before or after the Petition Date and shall be fully enforceable by the Reorganized Debtors and the Covered Persons. Without limiting the generality of the foregoing: (i) the Debtors shall assume all of the directors' and officers' liability insurance policies existing as of the Petition Date and (ii) on or before the Effective Date, the Debtors shall purchase tail coverage (solely to the extent such tail coverage does not already exist) for a period of six (6) years under a directors' and officers' insurance policy for current and former directors and officers covering claims for, among other things, breach of fiduciary duties. The Debtors are authorized to purchase such tail coverage and, subject to the Order(s) entered in these Chapter 11 Cases authorizing the Debtors' use of cash collateral, to pay all amounts with respect thereto, including premiums, payments to insurance brokers and payments of deductible and reserve funding, if applicable.

Section 5.4. Reserved.

Section 5.5. Compensation and Benefit Programs.

Except and to the extent previously assumed by an Order of the Bankruptcy Court, on or before the Confirmation Date, all employment and severance policies, and compensation and benefit plans, policies and programs of the Debtors applicable to their employees, retirees and non-employee directors, including all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, and life, accidental death and dismemberment insurance plans, including benefit plans and programs subject to sections 1114 and 1129(a)(13) of the Bankruptcy Code, entered into before or after the Petition Date and not since terminated, shall be deemed to

be, and shall be treated as if they were, executory contracts that are to be assumed under this Plan. The Debtors' obligations under such plans and programs shall survive confirmation of this Plan, except for (i) executory contracts or benefit plans specifically rejected pursuant to this Plan (to the extent such rejection does not violate sections 1114 and 1129(a)(13) of the Bankruptcy Code) and (ii) such executory contracts or employee benefit plans as have previously been rejected, are the subject of a motion to reject as of the Confirmation Date, or have been specifically waived by the beneficiaries of any employee benefit plan or contract. In addition, the Debtors may, prior to the Confirmation Date, enter into employment agreements with key employees that may become effective on or prior to the Effective Date and survive consummation of this Plan. Any such agreements will be annexed to the Plan Supplement or otherwise Filed with the Bankruptcy Court.

Section 5.6. *Reserved.*

Section 5.7. *Termination of Prepetition Equity Agreements.*

Upon the Effective Date, each Prepetition Equity Agreement shall be deemed terminated and of no further force and effect, and any Claim in respect thereof shall be treated as a Prepetition Holdings Equity Interest hereunder.

ARTICLE VI

PROVISIONS GOVERNING DISTRIBUTIONS

Section 6.1. *Date of Distributions.*

Except as otherwise provided in the Plan, any distribution to be made hereunder (and in connection with the Rights Offering) shall be made on the Effective Date, or as soon as practicable thereafter. Any payment or act required to be made or done hereunder on a day that is not a Business Day shall be made on the next succeeding Business Day.

Section 6.2. *Interest On Claims.*

Except for interest, fees and expenses owed and owing to the Lenders pursuant to the Loan Documents, unless otherwise specifically provided by this Plan or the Confirmation Order, or by applicable bankruptcy law, post-petition interest shall not accrue and not be paid on Allowed Claims when due under the contract, agreement, or other instrument governing the terms and conditions of the obligation comprising such Allowed Claim. Post-petition interest shall not accrue and not be paid upon any Disputed Claim in respect of the period from the Effective Date to the date a final distribution is made thereon, if and after such Disputed Claim becomes an Allowed Claim.

Section 6.3. *Disbursing Agent.*

(a) *General.* Except as otherwise provided in the Plan, all distributions under the Plan shall be made by the Reorganized Debtors, as Disbursing Agent. The Reorganized Debtors shall be permitted, without further order of the Bankruptcy Court, to employ or contract with any Entities to assist in or make the distributions required hereunder.

(b) *Prepetition Agent.* The Prepetition Agent shall be deemed to be the Holder of all Secured Credit Agreement Claims for purposes of distributions to be made hereunder, and all distributions on account of Allowed Secured Credit Agreement Claims shall be made to the Prepetition Agent. The Prepetition Agent shall hold such distributions for the benefit of the Holders of Allowed Secured Credit Agreement Claims, and, as soon as practicable following such Holders' compliance with the requirements set forth in Section 6.7, shall deliver such distributions to such Holders.

(c) *Senior Note Indenture Trustee.* The Senior Note Indenture Trustee shall be deemed to be the Holder of all Senior Note Claims for purposes of distributions to be made hereunder, and all distributions on account of Allowed Senior Note Claims shall be made to the Senior Note Indenture Trustee (or in accordance with the instructions provided by the Senior Note Indenture Trustee). The Senior Note Indenture Trustee (or the recipient of such distributions pursuant to any instructions provided by the Senior Note Indenture Trustee) shall hold all such distributions for the benefit of the Holders of Allowed Senior Note Claims as of the Mandatory Exchange Date, and, as soon as practicable following such Holders' compliance with the requirements set forth in Section 6.7, shall deliver such distributions to such Holders.

(d) *Senior Discount Note Indenture Trustee.* The Senior Discount Note Indenture Trustee shall be deemed to be the Holder of all Senior Discount Note Claims for purposes of distributions to be made hereunder (and in connection with the Rights Offering), and all distributions, if any, on account of Allowed Senior Discount Note Claims (including any shares of New Common Stock to be distributed in connection with the Rights Offering) shall be made to the Senior Discount Note Indenture Trustee (or in accordance with the instructions provided by the Senior Discount Note Indenture Trustee). The Senior Discount Note Indenture Trustee (or the recipient of such distributions pursuant to any instructions provided by the Senior Discount Note Indenture Trustee) shall hold all such distributions for the benefit of the Holders of Allowed Senior Discount Note Claims as of the Mandatory Exchange Date, and, as soon as practicable following such Holders' compliance with the requirements set forth in Section 6.7, shall deliver such distributions to such Holders.

Section 6.4. *Mandatory Exchange Date.*

As of the Mandatory Exchange Date relating to any Prepetition Indenture, the transfer register for such Prepetition Indenture shall be closed and the transfer of the Prepetition Notes issued thereunder, or any interest therein, shall be prohibited. Neither the Disbursing Agent nor the Prepetition Indenture Trustee under such Prepetition Indenture shall have any obligation to recognize the transfer or sale of, or any participation in, any Allowed Claims relating to such Prepetition Indenture that occurs after such Mandatory Exchange Date, and shall be entitled for all purposes herein to recognize and make distributions only to Holders of such Claims as of the Mandatory Exchange Date.

Section 6.5. *Delivery of Distributions and Undeliverable or Unclaimed Distributions.*

(a) *General.* Any distribution to be made hereunder to a Holder of an Allowed Claim shall be made to the address of such Holder as set forth in the books and records of the Debtors or their agents, or in a letter of transmittal, unless the Debtors have been notified in writing of a

change of address, including by the Filing of a proof of claim by such Holder that contains an address for such Holder that is different from the address reflected on such books and records or letter of transmittal.

(b) *Undeliverable Distributions.* In the event that any distribution or notice provided in connection with the Chapter 11 Cases to any Holder of an Allowed Claim is returned to the Disbursing Agent as undeliverable or otherwise is unclaimed, the Disbursing Agent shall make no further distribution to such Holder unless and until such Disbursing Agent is notified in writing of such Holder's then current address. On, or as soon as practicable after, the date on which a previously undeliverable or unclaimed distribution becomes deliverable and claimed, the Disbursing Agent shall make such distribution without interest thereon. Any Holder of an Allowed Claim that fails to assert a Claim hereunder for an undeliverable or unclaimed distribution within one year after the Effective Date shall be deemed to have forfeited its Claim for such undeliverable or unclaimed distribution and shall forever be barred and enjoined from asserting such Claim against any of the Debtors, the Estates, or the Reorganized Debtors or their property. Any Cash amounts in respect of undeliverable or unclaimed distributions for which a Claim is not made within such one-year period shall be forfeited to the Reorganized Debtors. Any securities issued by the Debtors in respect of undeliverable or unclaimed distributions for which a Claim is not made within such one-year period shall be cancelled and extinguished. Nothing contained herein shall require, or be construed to require, the Disbursing Agent to attempt to locate any Holder of an Allowed Claim.

Section 6.6. *Setoff and Recoupment.*

The Reorganized Debtors shall be permitted, but not required, to set off against any Claim (other than the Secured Credit Agreement Claims, the Senior Note Claims and the Senior Discount Note Claims, which Claims shall not be subject to setoff, recoupment or reduction of any kind), or the distributions to be made hereunder on account of such Claim, any claims of any nature whatsoever the Debtors have against the Holder of such Claim; *provided, however*, that neither the failure to exercise such setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Reorganized Debtors of any such claim the Reorganized Debtors may have against such Holder.

Section 6.7. *Surrender of Cancelled Instruments or Securities.*

(a) Any Holder of any Claim evidenced by the instruments, securities or other documentation cancelled under Section 4.5 (including the Prepetition Agent and the Prepetition Indenture Trustees) shall surrender such applicable instruments, securities or other documentation to the Reorganized Debtors, in accordance with written instructions to be provided to such Holder by the Reorganized Debtors, unless waived in writing by the Debtors or the Reorganized Debtors. With respect to any global note relating to any Prepetition Indenture that is held in the name of DTC, DTC shall surrender the applicable instrument to the applicable Prepetition Indenture Trustee, and such Prepetition Indenture Trustee shall surrender such global note to the Reorganized Debtors. Any distribution required to be made hereunder on account of any such Claim shall be treated as an undeliverable distribution under Section 6.5(b) pending the satisfaction of the terms of this Section 6.7(a).

(b) Subject to Section 6.8, any Holder of any Claim evidenced by the instruments, securities or other documentation cancelled under Section 4.5 that fails to surrender such applicable instruments, securities or other documentation in accordance with Section 6.7(a) within two years after the Effective Date shall have such Claim, and the distribution on account of such Claim, discharged, and shall forever be barred from asserting such Claim against any of the Reorganized Debtors or their respective property.

Section 6.8. Lost, Stolen, Mutilated or Destroyed Debt or Equity Securities.

In addition to any requirements under any applicable agreement, any Holder of any Claim evidenced by the instruments, securities or other documentation cancelled under Section 4.5 (including the Prepetition Agent and the Prepetition Indenture Trustees), which instruments, securities or other documentation have been lost, stolen, mutilated or destroyed shall, in lieu of surrendering such instruments, securities or other documentation, deliver to the Reorganized Debtors (a) evidence reasonably satisfactory to the Reorganized Debtors and the Requisite Plan Support Parties of such loss, theft, mutilation or destruction and (b) such security or indemnity as may be required by the Reorganized Debtors to hold the Reorganized Debtors harmless from any damages, liabilities or costs incurred in treating such Entity as the Holder of such Allowed Claim. Such Holder shall, upon compliance with this Article VI, be deemed to have surrendered such instruments, securities or other documentation for all purposes hereunder.

Section 6.9. Fractional Distributions.

Notwithstanding anything contained herein to the contrary, no distributions of fractional shares or fractions of dollars (whether in the form of Cash or notes) shall be made hereunder on account of Claims in Classes 2, 3, 4 and 5, and for purposes of distribution hereunder on account of such Claims, fractional shares and fractions of dollars (whether in the form of Cash or notes) shall be rounded to the nearest whole unit (with any amount equal to or less than one-half share or one-half dollar, as applicable, to be rounded down).

Section 6.10. Manner of Payment Under Plan of Reorganization.

The Disbursing Agent shall be authorized to make any Cash payment required to be made hereunder by check or wire transfer, at its discretion.

ARTICLE VII

PROCEDURES FOR RESOLVING DISPUTED CLAIMS

Section 7.1. Prosecution of Objections to Claims.

Holders of Claims and Equity Interests need not File proofs of claim and shall be subject to the Bankruptcy Court process only to the extent provided in the Plan. On and after the Effective Date, except as otherwise provided herein, all valid Claims shall be paid in the ordinary course of business of the Reorganized Debtors. If the Debtors dispute any Claim, such dispute shall be determined, resolved or adjudicated, as the case may be, as if the Chapter 11 Cases had not commenced, *provided, however*, that the Debtors may elect, at their sole discretion, to object under section 502 of the Bankruptcy Code with respect to any proof of claim filed by or on

behalf of a Holder of a Claim, *provided further however*, that before the Effective Date the Debtors shall not take any action pursuant to this Section 7.1 without the reasonable consent of the Requisite Plan Support Parties.

Section 7.2. Estimation of Claims.

The Debtors (or the Reorganized Debtors, as the case may be) and any parties in interest, including the Requisite Plan Support Parties, shall be permitted, at any time, to request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code, regardless of whether the Debtors (or the Reorganized Debtors, as the case may be) or any parties in interest, including the Requisite Plan Support Parties, previously had objected to such Claim or whether the Bankruptcy Court had ruled on such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during any litigation concerning any objection to such Claim, including during the pendency of any appeal relating to such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If such estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors (or the Reorganized Debtors, as the case may be), or, prior to the Effective Date, any parties in interest, including the Requisite Plan Support Parties, may elect to pursue any supplemental proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

Section 7.3. No Distributions Pending Allowance.

Notwithstanding any other provision hereof, if any portion of a Claim is a Disputed Claim, no payment or distribution provided hereunder shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

Section 7.4. Distributions After Allowance.

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the holder of such Allowed Claim in accordance with the provisions of this Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Disbursing Agent shall provide to the holder of such Claim the distribution (if any) to which such holder is entitled under this Plan as of the Effective Date, without any interest to be paid on account of such Claim.

ARTICLE VIII

CONDITIONS PRECEDENT TO CONFIRMATION AND EFFECTIVE DATE

Section 8.1. *Conditions Precedent to Confirmation.*

The Confirmation Order shall not be entered unless and until such Confirmation Order is in form and substance reasonably satisfactory to the Debtors and the Requisite Plan Support Parties.

Section 8.2. *Conditions Precedent to the Effective Date.*

The Effective Date shall not occur unless and until each of the following conditions has occurred or has been waived in accordance with the terms herein:

(a) the Confirmation Order shall (i) have been entered in form and substance reasonably satisfactory to the Debtors and the Requisite Plan Support Parties, (ii) not have been amended or otherwise modified after its entry in any manner that is not reasonably satisfactory to the Debtors and the Requisite Support Parties and (iii) have become a Final Order;

(b) the execution and delivery of (i) the New First Lien Note Indenture (or Alternative Financing Documents), (ii) the New Second Lien Note Indenture, (iii) the New Constituent Documents, (iv) the Intercreditor Agreement, (v) all other documents and agreements necessary to implement the terms of the Plan and (vi) all other Plan Documents to be executed as of the Effective Date;

(c) the Reorganized Holdings Certificate of Incorporation shall have been duly filed with the Delaware Secretary of State;

(d) all authorizations, consents and approvals determined by the Debtors or the Requisite Plan Support Parties to be necessary to implement the terms of the Plan shall have been obtained;

(e) there shall be no order, opinion, ruling or other decision issued or entered by any governmental entity or any court of competent jurisdiction staying, restraining, enjoining or otherwise prohibiting or making illegal the consummation of any of the transactions contemplated by the Plan;

(f) there shall be no circumstance that would give rise to a default or an event of default (or reasonably could be expected with the passage of time to give rise to a default or an event of default) under any of the Plan Documents;

(g) all Plan Documents and the transactions contemplated thereby shall be consistent in all material respects with the Disclosure Statement, and all other documents material to the consummation of the transactions contemplated under the Plan shall be in form and substance reasonably acceptable to the Debtors and Requisite Plan Support Parties; and

(h) all other actions necessary to implement the terms of the Plan shall have been taken.

Section 8.3. *Waiver of Conditions.*

Any condition set forth in this Article VIII may be waived, in whole or in part, at any time by the Debtors, with the reasonable consent of the Requisite Plan Support Parties (not to be conditioned or delayed), without notice or leave or order of the Bankruptcy Court.

Section 8.4. *Modification of Plan.*

The Debtors, with the reasonable consent of the Requisite Plan Support Parties, may alter, amend, or modify the Plan or any Exhibits thereto under section 1127(a) of the Bankruptcy Code at any time prior to the Confirmation Date. After the Confirmation Date and prior to substantial consummation of the Plan, as defined in section 1101(2) of the Bankruptcy Code, the Debtors may, under section 1127(b) of the Bankruptcy Code, institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, or the Confirmation Order, and such matters as may be necessary to carry out the purposes and effects of the Plan so long as such proceedings do not materially adversely affect the treatment of Holders of Claims or Equity Interests under the Plan; *provided, however*, that prior notice of such proceedings shall be served in accordance with the Bankruptcy Rules or order of the Bankruptcy Court.

Section 8.5. *Effect of Withdrawal or Revocation.*

The Debtors reserve the right to revoke or withdraw the Plan at any time prior to the Confirmation Date. If the Plan is so revoked or withdrawn, or if the Effective Date fails to occur, then the Plan shall be deemed null and void in its entirety, and of no force or effect. In such event, nothing contained herein shall be deemed to constitute a waiver or release of (a) any Claims or rights of the Informal Committee of Senior Notes or any Plan Support Party or (b) any Claim against or Equity Interest in any Debtor or any other Entity, or to prejudice in any manner, in any further proceedings involving any Debtor, the rights of (i) any Debtor or any other Entity or (ii) the Informal Committee of Senior Notes or any Plan Support Party.

Section 8.6. *Reservation of Rights.*

The Plan shall have no force or effect unless and until the Confirmation Order is entered. Prior to the Effective Date, none of the Filing of the Plan, any statement or provision contained in the Plan, or action taken by the Debtors with respect to the Plan shall be, or shall be deemed to be, an admission or waiver of any rights of any Debtor or any other party with respect to any Claims or Equity Interests or any other matter.

Section 8.7. *Substantial Consummation of Plan.*

Substantial consummation of the Plan under Bankruptcy Code section 1101(2) shall be deemed to occur on the Effective Date.

ARTICLE IX

EFFECT OF PLAN CONFIRMATION

Section 9.1. *Binding Effect.*

On and after the Confirmation Date, the provisions of this Plan shall bind any Holder of a Claim against, or Equity Interest in, the Debtors and such Holder's respective successors and assigns, whether or not the Claim or Equity Interest of such Holder is Impaired under the Plan and whether or not such holder has accepted the Plan. This Plan shall also be binding upon the Debtors and their respective successors and assigns, including, without limitation, the Reorganized Debtors.

Section 9.2. *Discharge of Claims.*

Except as otherwise provided in Article III, upon the Effective Date, all existing Claims and Equity Interests shall be, and shall be deemed to be, discharged and terminated.

Section 9.3. *Releases.*

(a) *Releases By the Debtors.* For good and valuable consideration, the adequacy of which is hereby confirmed, upon the Effective Date, the Debtors, the Reorganized Debtors and any successors, in their individual capacities and as debtors in possession, shall be deemed, to the fullest extent permitted by applicable law, forever to release, waive and discharge the Releasees from all claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of the Debtors or Reorganized Debtors to enforce the terms of the Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered in connection with the Plan), 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 in part on any act, omission, transaction, event or other occurrence taking place on or before the Effective Date in any way relating to the Debtors, the Reorganized Debtors or any successors or their property, the Chapter 11 Cases, the Plan or the Disclosure Statement, and that could have been asserted by or on behalf of the Debtors, the Estates or the Reorganized Debtors; *provided, however*, that the foregoing shall not release, waive or discharge any claim or obligation relating to or arising out of (i) the willful misconduct, gross negligence, intentional fraud or criminal conduct of any Releasee or (ii) any continuing contractual obligation owed by any Releasee to or for the benefit of the Debtors.

(b) *Releases By Holders of Claims.* For good and valuable consideration, the adequacy of which is hereby confirmed, upon the Effective Date, each Releasor, in consideration for the obligations of the Debtors and the Reorganized Debtors under the Plan and the Cash and other contracts, instruments, releases, agreements or documents to be delivered in connection with the Plan, shall be deemed forever to release, waive and discharge the Releasees from all claims, obligations, suits, judgments, damages, demands, debts, rights, causes of action and liabilities (other than the rights to enforce the obligations of the Debtors and the Reorganized Debtors under the Plan and the contracts, instruments, releases, indentures, and other agreements or

documents delivered in connection with the Plan), 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 in part on any act, omission, transaction, event or other occurrence taking place on or before the Effective Date in any way relating to the Debtors, the Reorganized Debtors or any successors or their property, the Chapter 11 Cases, the Plan or the Disclosure Statement; *provided, however*, that the foregoing shall not release, waive or discharge any claim or obligation relating to or arising out of (x) the willful misconduct, gross negligence, intentional fraud or criminal conduct of any Releasee or (y) any continuing contractual obligation owed by any Releasee to or for the benefit of such Releasor.

(c) Nothing contained in paragraphs (a) and (b) of this Section 9.3 shall limit, abridge, or otherwise affect the rights of Covered Persons pursuant to Section 5.3.

Section 9.4. *Exculpation and Limitation of Liability.*

None of the Debtors, the Reorganized Debtors, the Releasees or any official committee appointed in the Chapter 11 Cases, or any of their respective present or former members, partners, officers, directors, managers, employees, advisors, attorneys, or agents, shall have or incur any liability to, or be subject to any right of action by, any Holder of a Claim or Equity Interest, or any other party in interest in the Chapter 11 Cases, or any of their respective agents, employees, representatives, financial advisors, attorneys or agents acting in such capacity, or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to or arising out of, the Chapter 11 Cases, formulation, negotiation or implementation of the Plan, the solicitation of acceptances of the Plan, the pursuit of confirmation of the Plan, the confirmation of the Plan, the administration of the Plan or the property to be distributed under the Plan, except for their gross negligence, willful misconduct, fraud or criminal conduct as determined by a final order entered by a court of competent jurisdiction; *provided, however*, that the foregoing shall apply to the members of any official committee solely to the extent that any such act or omission constituted an exercise of any such Person's fiduciary duties acting as an official committee member. Without limiting the generality of the foregoing, the Debtors, the Reorganized Debtors, the Releasees or any official committee appointed in the Chapter 11 Cases shall, in all respects, be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan.

Section 9.5. *Injunction.*

(a) *General.* All Entities who have held, hold or may hold Claims or Equity Interests (other than the Claims that are reinstated under Section 3.2) and all other parties in interest in the Chapter 11 Cases, along with their respective current and former employees, agents, officers, directors, principals and affiliates, permanently are enjoined, from and after the Effective Date, from (i) commencing or continuing in any manner any action or other proceeding of any kind against the Debtors or the Reorganized Debtors, (ii) enforcing, attaching, collecting or recovering by any manner or means of any judgment, award, decree or order against the Debtors or Reorganized Debtors, (iii) creating, perfecting, or enforcing any encumbrance of any kind

against the Debtors or Reorganized Debtors, or (iv) asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the Debtors or Reorganized Debtors or against the property or interests in property of the Debtors or Reorganized Debtors, on account of such Claims or Equity Interests; *provided, however*, that nothing contained herein shall preclude such Entities from exercising their rights pursuant to and consistent with the terms hereof and the contracts, instruments, releases, indentures and other agreements and documents delivered under or in connection with the Plan.

(b) *Injunction Against Interference With Plan.* Upon entry of the Confirmation Order, all Holders of Claims and Equity Interests and their respective current and former employees, agents, officers, directors, principals and affiliates shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan. Each Holder of an Allowed Claim, by accepting distributions pursuant to the Plan, shall be deemed to have consented to the injunction provisions set forth in this Section 9.5.

Section 9.6. Term of Bankruptcy Injunction or Stays.

All injunctions or stays provided for in the Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, and in existence as of the Confirmation Date, shall remain in full force and effect until the Effective Date.

Section 9.7. Termination of Subordination Rights and Settlement of Related Claims.

The classification and manner of satisfying all Claims and Equity Interests under the Plan take into consideration all subordination rights, whether arising by contract or under general principles of equitable subordination, section 510(b) or 510(c) of the Bankruptcy Code, or otherwise. All subordination rights that a Holder of a Claim or Equity Interest may have with respect to any distribution to be made under the Plan shall be discharged and terminated, and all actions related to the enforcement of such subordination rights shall be enjoined permanently. Accordingly, distributions under the Plan to Holders of Allowed Claims will not be subject to payment of a beneficiary of such terminated subordination rights, or to levy, garnishment, attachment or other legal process by a beneficiary of such terminated subordination rights.

Section 9.8. Preservation of Rights of Action.

Subject to Sections 9.3 and 9.4, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors shall retain and have the exclusive right to enforce, after the Effective Date, any claims, rights and Causes of Action that the Debtors or the Estates may hold against any Entity, including all claims relating to transactions under section 549 of the Bankruptcy Code, all transfers recoverable under section 550 of the Bankruptcy Code, all Causes of Action against any Entity on account of indebtedness and any other Causes of Action in favor of the Reorganized Debtors or their Estates. The Reorganized Debtors shall be permitted to pursue such retained claims, rights or Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors.

ARTICLE X

RETENTION OF JURISDICTION

Pursuant to sections 105(c) and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order or the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, and related to, the Plan, the Confirmation Order and the Chapter 11 Cases to the fullest extent permitted by law, including jurisdiction to:

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

(b) Grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or the Plan for periods ending on or before the Confirmation Date; *provided, however,* that from and after the Confirmation Date, the payment of fees and expenses of the Reorganized Debtors, including fees and expenses of counsel, shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

(c) Resolve any matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which the Debtors are party or with respect to which any Debtor or Reorganized Debtor may be liable, and hear, determine and, if necessary, liquidate, any Claims arising therefrom;

(d) Ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

(e) Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, and grant or deny any applications involving the Debtors that may be pending on the Effective Date;

(f) Enter such orders as may be necessary or appropriate to 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 Rights Offering, or the Confirmation Order;

(g) Resolve any cases, controversies, suits or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan or any contract, instrument, release, or other agreement or document that is executed or created pursuant to the Plan, or any Entity's rights arising from or obligations incurred in connection with the Plan or such other documents;

(h) Modify the Plan before or after the Effective Date under section 1127 of the Bankruptcy Code or modify the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan, the Rights Offering or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, 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 Rights Offering or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan, in each case subject to the reasonable consent of the Requisite Plan Support Parties;

(i) Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the consummation, implementation, or enforcement of the Plan or the Confirmation Order;

(j) Hear and determine any rights, claims or Causes of Action held or reserved by, or accruing to, the Debtors or the Reorganized Debtors pursuant to the Bankruptcy Code, the Confirmation Order or, in the case of the Debtors, any other applicable law;

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

(l) Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated, or distributions pursuant to the Plan are enjoined or stayed;

(m) Determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture or other agreement or document created in connection with the Plan, the Rights Offering, or the Confirmation Order;

(n) Enter an order of final decree closing the Chapter 11 Cases;

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

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

(q) Hear and resolve all matters related to the property of the Estates from and after the Confirmation Date; and

(r) Hear and resolve such other matters as may be provided in the Confirmation Order or as may be authorized by the Bankruptcy Code.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 11.1. Payment of Statutory Fees.

All fees payable under section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid on or before the Effective Date.

Section 11.2. *Section 1145 Exemption.*

Pursuant to section 1145(a) of the Bankruptcy Code, the Exit Warrants, shares of New Common Stock (except those issued in the Rights Offering), shares of New Common Stock issuable upon exercise and payment under the Exit Warrants, the New First Lien Notes and the New Second Lien Notes issued under the Plan shall be exempt from registration under section 5 of the Securities Act and may be resold by holders thereof without registration, unless the holder is an “underwriter” (as defined in section 1145(b)(1) of the Bankruptcy Code) with respect to such securities, in each case, subject to the terms thereof, applicable securities laws, the Reorganized Holdings Constituent Documents and the Registration Rights Agreement, as applicable.

Section 11.3. *Governing Law.*

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law, rule or regulation is applicable, or to the extent that an exhibit or supplement to the Plan provides otherwise, the Plan shall be governed by and construed in accordance with the laws of the State of Delaware, without giving effect to the principles of conflict of laws thereof that would require application of the law of another jurisdiction.

Section 11.4. *Severability of Plan Provisions.*

If, prior to the entry of the Confirmation Order, any term or provision of the Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court, at the request of the Debtors (with the reasonable consent of the Requisite Plan Support Parties) shall have the power to alter and interpret such term or provision to render it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void or unenforceable, and such term or provision shall then be applicable as so altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remaining terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

Section 11.5. *Inconsistency.*

In the event of any inconsistency among the Plan, the Disclosure Statement, the Plan Documents, any exhibit or schedule to the Plan, or any other instrument or document created or executed pursuant to the Plan, the provisions of the Plan shall govern.

Section 11.6. *Filing of Additional Documents.*

The Debtors (or the Reorganized Debtors, as the case may be), with the reasonable consent of the Requisite Plan Support Parties, shall File such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

Section 11.7. *Service of Documents.*

All notices, requests and demands provided for or required herein, in order to be deemed 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:

If to the Debtors or the Reorganized Debtors:

Hights Cross Communications, Inc.
10 New King Street
Suite 102
White Plains, NY 10604
Telephone: (914) 289-9480
Facsimile: (914) 289-9481
Attn: Mark Kurtz, Senior Vice President and Chief Financial Officer

with copies to:

Brown Rudnick LLP
One Financial Center
Boston, MA 02111
Telephone: (617) 856-8200
Facsimile: (617) 856-8201
Attn: Steven D. Pohl

and

Richards, Layton & Finger, P.A.
One Rodney Square
920 North King Street
Wilmington, DE 19801
Telephone: (302) 651-7700
Facsimile: (302) 651-7701
Attn: Daniel J. DeFranceschi

If to any Plan Support Party or the Informal Committee of Senior Notes:

Shearman & Sterling LLP
599 Lexington Avenue
New York, NY 10022
Telephone: (212) 848-4000
Facsimile: (212) 848-7179
Attn: Andrew V. Tenzer, Esq. and Michael H. Torkin, Esq.

with copies to:

Young Conaway Stargatt & Taylor, LLP
The Brandywine Building
P.O. Box 391
1000 West Street, 17th Floor
Wilmington, DE 19801
Attn: Pauline K. Morgan, Esq.

Section 11.8. *Section 1125(e) of the Bankruptcy Code.*

As of the Confirmation Date, (a) the Debtors shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including section 1125(e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation and (b) the Debtors, the Plan Support Parties, the Informal Committee of Senior Notes and each of their respective affiliates, agents, directors, officers, employees, advisors and attorneys shall be deemed to have participated in good faith, and in compliance with the applicable provisions of the Bankruptcy Code, in the offer and issuance of any securities under the Plan, and therefore, are not, and on account of such offer, issuance and solicitation shall not be, liable at any time for any violation of any applicable law, rule or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of any securities under the Plan.

Section 11.9. *Exemption from Certain Transfer Taxes.*

Pursuant to section 1146(a) of the Bankruptcy Code, no stamp tax, recording tax, personal property tax, real estate transfer tax, sales or use tax or other similar tax shall result from, or be levied on account of, (a) the issuance, transfer or exchange of notes or equity securities, (b) the creation of any mortgage, deed of trust, lien, pledge or other security interest, (c) the making or assignment of any lease or sublease, or (d) the making or delivery of any deed or other instrument of transfer, under, in furtherance of or in connection with, the Plan, including any merger agreements, agreements of consolidation, restructuring, disposition, liquidation or dissolution, deeds, bills of sale, and transfers of tangible property. Unless the Bankruptcy Court orders otherwise, all sales, transfers and assignments of owned and leased property approved by the Bankruptcy Court on or before the Effective Date shall be deemed to have been in furtherance of, or in connection with, the Plan.

Section 11.10. *Tax Reporting, Withholding and Compliance.*

The Reorganized Debtors shall be authorized to request an expedited determination under section 505(b) of the Bankruptcy Code for all tax returns filed for, or on behalf of, the Debtors for any and all taxable periods ending after the Petition Date through, and including, the Effective Date. In connection with this Plan and all distributions hereunder, the Disbursing Agent shall, to the extent applicable, comply with all tax withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. The Disbursing Agent shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements.

Section 11.11. *Schedules and Exhibits.*

Other than for purposes of Section 11.5, all exhibits and schedules to the Plan, including the Plan Supplement, are incorporated into and are a part of the Plan as if fully set forth herein.

Section 11.12. *No Prejudice.*

If the Confirmation Order is vacated or the Effective Date has not occurred within one year of the last day of the Confirmation Hearing, then (a) the Confirmation Order shall be vacated, (b) the Plan shall be null and void in all respects, (c) no distributions under the Plan shall be made, (d) the Debtors and all holders of Claims and Equity Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date and (e) nothing contained in the Plan or the Disclosure Statement shall: (i) be deemed to constitute a waiver or release of (x) any Claims by the Informal Committee of Senior Notes or the Plan Support Parties or (y) any Claims against, or Equity Interests in, the Debtors; (ii) prejudice in any manner the rights of the Debtors, the Informal Committee of Senior Notes or the Plan Support Parties; or (iii) constitute an admission, acknowledgment, offer or undertaking by the Debtors, the Informal Committee of Senior Notes or the Plan Support Parties, in any respect.

Section 11.13. *Allocation of Payments.*

To the extent that any Allowed Claim entitled to distribution hereunder is comprised of indebtedness and accrued but unpaid interest thereon, such distribution shall, for all income tax purposes, be allocated to the principal amount of such Claim first, and then, to the extent that the consideration exceeds such principal amount, to the portion of such Claim representing accrued but unpaid interest.

Section 11.14. *Successors and Assigns.*

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 permitted heir, executor, administrator, successor or assign of such Entity.

Section 11.15. *Term Of Injunctions Or Stay*

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays provided for in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code or otherwise, and extant on the Confirmation Date (excluding any injunctions or stays contained in this Plan or the Confirmation Order), shall remain in full force and effect until the Effective Date.

Section 11.16. *No Admissions*

Notwithstanding anything herein to the contrary, nothing contained in the Plan shall be deemed as an admission by the Debtors with respect to any matter set forth herein including, without limitation, liability on any Claim.

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Dated: Wilmington, Delaware
_____, 2009

HAIGHTS CROSS COMMUNICATIONS, INC.

By: _____
Name:
Title:

HAIGHTS CROSS OPERATING COMPANY

By: _____
Name:
Title:

RECORDED BOOKS, LLC

By: _____
Name:
Title:

TRIUMPH LEARNING, LLC

By: _____
Name:
Title:

SNEP, LLC

By: _____
Name:
Title:

COUNSEL:

BROWN RUDNICK LLP
Steven D. Pohl
One Financial Center
Boston, MA 02111
Telephone: (617) 856-8200
Facsimile: (617) 856-8201

- and -

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