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

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|   |   |                        |
|---|---|------------------------|
| In re:  | ) | Chapter 11             |
|   | ) |                        |
| HAWAIIAN TELCOM<br>COMMUNICATIONS, INC., <u>et al.</u> , <sup>1</sup> | ) | Case No. 08-02005 (LK) |
|   | ) |                        |
| Debtors.  | ) | Jointly Administered   |
|   | ) |                        |

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**PROPOSED DISCLOSURE STATEMENT FOR THE JOINT  
CHAPTER 11 PLAN OF REORGANIZATION OF HAWAIIAN  
TELCOM COMMUNICATIONS, INC. AND ITS DEBTOR AFFILIATES**

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Dated: **August 23, 2009**

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<sup>1</sup> The Debtors, together with the last four digits of each Debtor's federal tax identification number, are: Hawaiian Telcom Communications, Inc. (0376); Hawaiian Telcom Holdco, Inc. (9868); Hawaiian Telcom, Inc. (9500); Hawaiian Telcom Services Company, Inc. (5722); Hawaiian Telcom IP Service Delivery Investment, LLC (9423); Hawaiian Telcom IP Service Delivery Research, LLC (9685); Hawaiian Telcom IP Video Investment, LLC (9295); and Hawaiian Telcom IP Video Research, LLC (9571). The location of the Debtors' corporate headquarters and the service address for all Debtors is: 1177 Bishop Street, Honolulu, HI 96813.



**THE DEBTORS PROVIDE NO ASSURANCE THAT THE DISCLOSURE STATEMENT AND THE EXHIBITS THERETO THAT ARE ULTIMATELY APPROVED IN THESE CHAPTER 11 CASES (A) WILL CONTAIN ANY OF THE TERMS IN THIS CURRENT DOCUMENT OR (B) WILL NOT CONTAIN DIFFERENT, ADDITIONAL OR MATERIAL TERMS THAT DO NOT APPEAR IN THIS CURRENT DOCUMENT.**

**THE INFORMATION CONTAINED IN THIS DISCLOSURE STATEMENT, THE PLAN AND ANY EXHIBITS ATTACHED HERETO IS HIGHLY SPECULATIVE, AND PERSONS SHOULD NOT RELY ON SUCH DOCUMENTS IN MAKING INVESTMENT DECISIONS WITH RESPECT TO (A) THE DEBTORS OR (B) ANY OTHER ENTITIES THAT MAY BE AFFECTED BY THESE CHAPTER 11 CASES.**

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## **EXHIBITS**

- Exhibit A** Joint Chapter 11 Plan of Reorganization of  
Hawaiian Telcom Communications, Inc. and its Debtor Affiliates
- Exhibit B** (Proposed) Disclosure Statement Order
- Exhibit C** The Reorganized Debtors' Financial Projections
- Exhibit D** The Reorganized Debtors' Valuation
- Exhibit E** Liquidation Analysis

## I. GLOSSARY

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

### A. Defined Terms

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

1. “*Administrative Claim*” means a claim for costs and expenses of administration of the Debtors’ estates under sections 503(b) and 507(a)(2) of the Bankruptcy Code, including, without limitation, for: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Debtors’ respective estates and operating their businesses; (b) allowed claims of professionals in these chapter 11 cases; (c) amounts owing pursuant to the Cash Collateral Order; and (d) amounts owing to the Debtors’ employees pursuant to that certain Order Authorizing the Debtors to Honor Their Annual Performance Compensation Program for Calendar Year 2008, dated April 23, 2009 [Docket No. 678]. Any fees or charges assessed against the Debtors’ estates pursuant to section 1930 of chapter 123 of title 28 of the United States Code shall be excluded

from the definition of Administrative Claim and shall be paid in accord with Article XIV.H of the Plan.

2. “*Bankruptcy Code*” means title 11 of the United States Code, as may be amended from time to time.

3. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Hawaii, having jurisdiction over these chapter 11 cases and, to the extent of the withdrawal of any reference under section 157 of title 28 of the United States Code and/or the General Order of the District Court pursuant to section 151 of title 28 of the United States Code, the United States District Court for the District of Hawaii.

4. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, as applicable to these chapter 11 cases and the general, local and chambers rules of the Bankruptcy Court.

5. “*Cash Collateral Order*” means the Final Order (I) Authorizing Use of Cash Collateral Pursuant to Section 363 of Bankruptcy Code, and (II) Providing Adequate Protection to Prepetition Secured Parties Pursuant to Sections 361, 362 and 363 of Bankruptcy Code, dated January 16, 2009 [Docket No. 291], together with each of the subsequent extensions thereto.

6. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of these chapter 11 cases, within the meaning of Bankruptcy Rules 5003 and 9021.

7. “*Confirmation Hearing*” means the hearing before the Bankruptcy Court on the motion for entry of the Confirmation Order.

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

9. “*Claims and Solicitation Agent*” means Kurtzman Carson Consultants LLC in its capacity as Claims and Solicitation Agent appointed by the Bankruptcy Court in these chapter 11 cases to, without limitation, tally and receive proofs of claim, maintain an official claims docket for these chapter 11 cases and to assist in the solicitation process by tallying ballots and preparing the voting report with respect to claims other than debt securities.



10. “*Credit Agreement*” means that certain Amended and Restated Credit Agreement, dated as of June 1, 2007, as may have been amended, supplemented or otherwise modified from time to time, among Hawaiian Telcom Holdco, Inc.; Hawaiian Telcom Communications, Inc., as borrower; the lenders party thereto and Lehman Commercial Paper Inc., as administrative agent and collateral agent; Lehman Brothers Inc. and J.P. Morgan Securities Inc., as joint lead arrangers and joint bookrunners; JPMorgan Chase Bank, N.A., as syndication agent; and Cobank, ACB and Wachovia Bank, N.A., as co-documentation agents.

11. “*Creditors’ Committee*” means the Official Committee of Unsecured Creditors, appointed pursuant to section 1102 of the Bankruptcy Code by the United States Trustee for the District of Delaware on December 12, 2008 and reconstituted by the United States Trustee for the District of Hawaii on January 28, 2009, as may be reconstituted from time to time.

12. “*Debtors*” means, collectively, Hawaiian Telcom Communications, Inc.; Hawaiian Telcom Holdco, Inc.; Hawaiian Telcom, Inc.; Hawaiian Telcom Services Company, Inc.; Hawaiian Telcom IP Service Delivery Investment, LLC; Hawaiian Telcom IP Service Delivery Research, LLC; Hawaiian Telcom IP Video Investment, LLC; and Hawaiian Telcom IP Video Research, LLC.

13. “*Eligible Senior Notes Claim Holder*” means each holder of an allowed Senior Notes claim on August 14, 2009 who timely certifies, in accordance with the procedures set forth under the Rights Offering, that it is: (a) a qualified institutional buyer as defined in Rule 144A under the Securities Act of 1933, as amended; or (b) an accredited investor as defined in Rule 501 under the Securities Act of 1933, as amended, and who has timely delivered an investor certificate certifying to that effect.

14. “*Effective Date*” means the date that is the first business day after the Confirmation Date on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions precedent to the Effective Date have been satisfied or waived.

15. “*Guarantee Agreement*” means that certain Amended and Restated Guarantee and Collateral Agreement, dated as of June 1, 2007, as may have been amended, supplemented or otherwise modified from time to time, among Hawaiian Telcom Holdco, Inc., Hawaiian Telcom Communications, Inc., the subsidiaries of

Hawaiian Telcom Communications, Inc. identified therein and Lehman Commercial Paper Inc., as collateral agent.

16. “*HPUC*” means the Hawaii Public Utilities Commission.

17. “*LIBOR*” means the London Interbank Offered Rate.

18. “*Management Equity Incentive Program*” means that certain management compensation incentive program and all documents entered into in connection therewith, establishing a reserve of 10% of New Common Stock on a fully diluted basis in stock, restricted stock, stock options, stock appreciation rights or other equity alternatives to be implemented by the board of directors of Reorganized Hawaiian Telcom Holdco, of which [\_\_]% will be in the form of stock, restricted stock, stock options, stock appreciation rights or other equity alternatives to be allocated within 30 days following the Effective Date, substantially in the form contained in the Plan Supplement.

19. “*New Common Stock*” means 10,000,000 shares of common stock in Reorganized Hawaiian Telcom Holdco, par value of \$0.01 per share, to be authorized and issued pursuant to the Plan.

20. “*New Term Loan*” means that certain senior secured term loan with a first priority lien on all assets of the Reorganized Debtors in the original principal amount of \$300,000,000 bearing interest in all cases equal to the greater of LIBOR and 3.0% *plus* (a) for the period from the Effective Date through the end of calendar year 2010, 3.0% per annum and, for the period from July 1, 2010 to December 31, 2010, an incremental 3.0% per annum which shall be payable in kind or as otherwise provided in the New Term Loan; (b) for the calendar year 2011, 4.5% per annum and an incremental 1.5% per annum which shall be payable in kind or as otherwise provided in the New Term Loan; and (c) for the calendar year 2012 and at all times thereafter 6.0% per annum; with customary carve-outs and baskets, including a basket for a first-out senior secured revolving credit facility with a first priority lien on all assets of the Reorganized Debtors in the original principal amount of \$30,000,000, bearing interest at a rate consistent with market terms; and all other documents entered into in connection therewith, substantially in the form contained in the Plan Supplement.

21. “*New Warrants*” means warrants to acquire 12.75% of the New Common Stock (subject to dilution on account of the Management Equity

Incentive Plan) at a 12.5% discount to the Plan Equity Value and with an expiry date of five years from the Effective Date.

22. “*New Warrant Agreement*” means that certain warrant agreement, dated as of the Effective Date and substantially in the form to be included in the Plan Supplement, pursuant to which Reorganized Hawaiian Telcom Holdco shall issue New Warrants to holders of Allowed Senior Notes Claims.

23. “*Petition Date*” means December 1, 2008.

24. “*Plan*” means the Debtors’ joint chapter 11 plan of reorganization as may be altered, amended, modified or supplemented from time to time, including, without limitation, the Plan Supplement and all exhibits, supplements, appendices and schedules.

25. “*Plan Equity Value*” means \$160 million.

26. “*Plan Supplement*” means the supplement or supplements to the Plan containing certain documents relevant to the implementation of the Plan, which documents shall be in a form and substance reasonably satisfactory to the Senior Secured Parties, to be filed with the Bankruptcy Court no later than five days before the Voting Deadline.

27. “*Priority Tax Claims*” means any and all Claims of a governmental unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

28. “*Releasing Parties*” means (a) all present and former directors and officers of the Debtors who were directors or officers on or after the Petition Date; (b) any other entity who serves or served as a member of the management of the Debtors on or after the Petition Date; (c) all present and former members of the Creditors’ Committee; (d) all present and former directors and officers and other entities who serve or served as members of the management of any present or former member of the Creditors’ Committee; (e) Lehman Commercial Paper Inc. as administrative and collateral agent under the Credit Agreement and the Senior Secured Parties; and (f) all advisors, consultants or professionals of or to the Debtors, the Creditors’ Committee and members of the Creditors’ Committee, Lehman Commercial Paper Inc. as administrative agent under the Credit Agreement and the Senior Secured Parties.

29. “*Reorganized Debtors*” means the Debtors, including, without limitation, or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date, and includes Reorganized Hawaiian Telcom Holdco.

30. “*Reorganized Hawaiian Telcom Holdco*” means Hawaiian Telcom Holdco, Inc., including, without limitation, any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

31. “*Rights Offering*” means that certain rights offering by Reorganized Hawaiian Telcom Holdco pursuant to which Eligible Senior Notes Claim Holders shall have the right to purchase New Common Stock in the aggregate amount of up to \$50,000,000 based upon the Plan Equity Value; provided that the Rights Offering is subject to a minimum participation of \$1,000,000.

32. “*Securities Voting Agent*” means Financial Balloting Group LLC in its capacity as agent appointed by the Bankruptcy Court in these chapter 11 cases to tally ballots and prepare the voting report in respect of debt securities.

33. “*Senior Notes*” means (a) the senior fixed rate notes issued pursuant to the Senior Notes Indenture in the aggregate principal amount of \$200 million bearing interest at a rate of 9.75% per year and (b) the senior floating rate notes issued pursuant to the Senior Notes Indenture in the aggregate principal amount of \$150 million bearing interest at a rate reset and payable semi-annually at LIBOR, plus 5.5%.

34. “*Senior Notes Indenture*” means that certain indenture, dated as of May 2, 2005, with respect to the Senior Notes.

35. “*Senior Notes Indenture Trustee*” means U.S. Bank National Association, in its capacity as indenture trustee under the Senior Notes Indenture.

36. “*Senior Secured Obligations*” means: (a) the obligations owing to the secured lenders under the Credit Agreement; and (b) the obligations owing to Goldman Sachs Bank USA (as successor to Goldman Sachs Capital Markets, L.P.) and JPMorgan Chase Bank, N.A. under the Swap Agreements.

37. “*Senior Secured Parties*” means the lender parties under the Credit Agreement and Goldman Sachs Bank USA (as successor to Goldman Sachs Capital Markets, L.P.) and JPMorgan Chase Bank, N.A. as swap counterparties under the Swap Agreements.

38. “*Subordinated Notes Indenture*” means the indenture, dated as of May 2, 2005, with respect to the subordinated notes in the aggregate principal amount of \$150 million bearing interest at a rate of 12.5% per year.

39. “*Subscription Purchase Price*” means \$16.00 per share, based upon the Plan Equity Value.

40. “*Subscription Right*” means the right to subscribe for one share of New Common Stock at the Subscription Purchase Price and on the terms and subject to the conditions set forth in Article VI of the Plan.

41. “*Swap Agreements*” means: (a) the obligations owing under that certain ISDA Master Agreement (Multicurrency-Cross Border), dated October 24, 2007, between Goldman Sachs Bank USA (as successor to Goldman Sachs Capital Markets, L.P.) and Hawaiian Telcom Communications, Inc. and guaranteed by Goldman Sachs Group, Inc.; and (b) the obligations owing under that certain ISDA Master Agreement dated as of June 16, 2005, as amended and supplemented from time to time, between JPMorgan Chase Bank, N.A. and Hawaiian Telcom Communications, Inc.

42. “*Unsecured Claims Fund*” means cash in an aggregate amount equal to the value of the unencumbered assets, as determined by the Bankruptcy Court or as otherwise agreed upon by the Debtors, the Senior Secured Parties and the Creditors’ Committee *less* (a) the amount of allowed Administrative Claims, professional fee claims, Priority Tax Claims and priority non-tax claims and (b) an amount equal to the value of the New Warrants and Subscription Rights offered to holders of Class 5 Senior Notes Claims pursuant to Article VI of the Plan; *provided, however*; that the Unsecured Claims Fund shall not exceed \$500,000.

## II. INTRODUCTION

Hawaiian Telcom Communications, Inc. and its Debtor affiliates are seeking to obtain Bankruptcy Court approval of the Plan. A copy of the Plan is attached as **Exhibit A** to this Disclosure Statement.

Prior to soliciting acceptances of a proposed plan of reorganization, section 1125 of the Bankruptcy Code requires a debtor to prepare a disclosure statement containing information of a kind, and in sufficient detail, to enable a hypothetical reasonable investor to make an informed judgment regarding acceptance of a

chapter 11 plan. This Disclosure Statement is being submitted in accordance with such requirements.

This Disclosure Statement includes, without limitation, information about:

- how the Plan treats holders of claims against, and equity interests in, the Debtors and the conditions to distribution and the Effective Date under the Plan (Section III);
- who is entitled to vote on the Plan and how to vote on the Plan (Section IV);
- certain financial information about the Debtors, including their financial projections for calendar years 2009 through 2013 (Section V);
- the Debtors' businesses (Section VI);
- the reasons why the Debtors commenced these chapter 11 cases (Section VII);
- significant events and participants in the Debtors' chapter 11 cases (Section VIII);
- how distributions under the Plan will be made, the manner in which disputed claims will be resolved and other significant aspects of the Plan (Section IX);
- certain factors creditors should consider before voting (Section X);
- the procedure for confirming the Plan (Section XI);
- alternatives to confirmation of the Plan (Section XII); and
- certain tax consequences of the Plan (Section XIII).

Please note that if there is any inconsistency between the Plan and the descriptions of the Plan in the Disclosure Statement, the terms of the Plan shall govern. All capitalized terms used but not otherwise defined herein shall have the meaning ascribed to them in the Plan.

The Disclosure Statement and the Plan are the only materials creditors should use to determine whether to vote to accept or reject the Plan.

**The last day to vote to accept or reject the Plan is September 30, 2009, unless the Debtors extend the voting deadline. To be counted as a vote to accept or reject the Plan, the Claims and Solicitation Agent or the Securities Voting Agent, as applicable, must actually receive your ballot on or before this date.**

**The voting record date for determining which creditors may vote on the Plan is August 14, 2009.**

The Debtors believe the Plan is in the best interests of all holders of claims and urge all holders of claims entitled to vote to accept the Plan and to evidence such acceptance by returning their ballots or master ballots so they will be received by the Claims and Solicitation Agent or the Securities Voting Agent, as applicable, no later than September 30, 2009.

This Disclosure Statement was not filed with the Securities and Exchange Commission or any state authority and neither the Securities and Exchange Commission nor any state authority has passed upon the accuracy or adequacy of this Disclosure Statement or upon the merits of the Plan.

### **III. TREATMENT OF HOLDERS OF CLAIMS AND EQUITY INTERESTS UNDER THE PLAN**

The Plan governs the treatment of claims against, and equity interests in, each of the Debtors in these chapter 11 cases. The table in Section III.B below summarizes the treatment for each class. The table is followed by a description of the types of claims or equity interests in each class and a description of the property to be distributed under the Plan.

#### **A. Outline of the Plan**

In developing the Plan, the Debtors gave due consideration to various exit alternatives, including proposals from third parties, and engaged in significant negotiations with representatives and/or professionals of the senior secured lenders under the Credit Agreement, whom the Debtors believe will be the main economic stakeholders in Reorganized Hawaiian Telcom Holdco.

The Plan provides for a significantly deleveraged capital structure, will maximize the value of the Debtors' estates for all stakeholders, and will position the Debtors to meet the ever-evolving telecommunications needs of the State of Hawaii in a highly-competitive market. In addition, the Debtors are confident that the proposed plan satisfies regulatory requirements and is in the best interests of the State of Hawaii. The Debtors believe acceptance of the Plan is a key step in enabling them to achieve their long-term goal of becoming the preferred one-stop provider of communications services and products for business and residential customers throughout Hawaii.

The Plan contemplates that the Debtors will emerge with a minimum of \$45 million in cash and that the senior secured lenders under the Credit Agreement will own the vast majority of Reorganized Hawaiian Telcom Holdco. Holders of the Senior Notes will obtain minority ownership in Reorganized Hawaiian Telcom Holdco through new warrants and a rights offering. Unsecured creditors shall receive cash in an amount equal to their *pro rata* share of the Unsecured Claims Fund. Equity interests in Hawaiian Telcom Holdco, Inc. (other than intercompany interests) will be extinguished.

## **B. Summary of Classification and Treatment**

The following table divides the claims against, and equity interests in, the Debtors into separate classes and summarizes the treatment for each class. The table also identifies those classes entitled to vote on the Plan based on rules set forth in the Bankruptcy Code. Finally, the table indicates an estimated recovery for each class. The recoveries set forth below are projected recoveries and are therefore subject to change. The allowance of claims may be subject to litigation or other adjustments, and actual allowed claim amounts may differ materially from these estimated amounts.

The Plan constitutes a separate plan of reorganization for each Debtor. Except for the claims addressed in Section III.E below (or as otherwise set forth herein), all claims against a particular Debtor are placed in classes for each of the Debtors. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtors have not classified Administrative Claims and Priority Tax Claims.



**SUMMARY OF TREATMENT AND EXPECTED RECOVERIES**

| <b><u>Class</u></b> | <b><u>Type of Claim or Interest</u></b> | <b><u>Treatment</u></b>   | <b><u>Entitled to Vote</u></b> | <b><u>Projected Recovery Under Plan</u></b> | <b><u>Projected Recovery Under Chapter 7 Liquidation</u></b> |
|---------------------|---|---|--------------------------------|---|--|
|                     | Administrative Claims                   | Payment in full in cash on the Effective Date.  | No                             | 100%  | 84-100%  |
|                     | Priority Tax Claims                     | Payment in full in cash on the Effective Date.  | No                             | 100%  | 0-100%   |
| 1                   | Priority Non-Tax Claims                 | Payment in full in cash on the later of the Effective Date or the date such claim becomes allowed.  | No<br>(presumed to accept)     | 100%  | 0-100%   |
| 2                   | Secured Tax Claims                      | Receipt in full in (a) cash on the Effective Date, (b) cash commencing on the Effective Date and continuing over a period not to exceed five years from the Petition Date, with interest or (c) regular cash payments in a manner not less favorable than the most favored non-priority unsecured claim provided for in the Plan. | No<br>(presumed to accept)     | 100%  | 56-65%   |

**SUMMARY OF TREATMENT AND EXPECTED RECOVERIES**

| <b><u>Class</u></b> | <b><u>Type of Claim or Interest</u></b> | <b><u>Treatment</u></b>   | <b><u>Entitled to Vote</u></b> | <b><u>Projected Recovery Under Plan</u></b> | <b><u>Projected Recovery Under Chapter 7 Liquidation</u></b> |
|---------------------|---|---|--------------------------------|---|--|
| 3                   | Senior Secured Claims                   | Receipt of (a) <i>pro rata</i> share of New Term Loan and (b) <i>pro rata</i> share of 100% (after accounting for the reduction of such holder's Senior Secured Obligations as a result of the receipt of such holder's <i>pro rata</i> share of the New Term Loan) of New Common Stock, subject to dilution. | Yes                            | 75-80%                                      | 56-65%   |
| 4                   | Other Secured Claims                    | Either (a) reinstatement of allowed Other Secured Claim, (b) payment in full in cash on the later of the Effective Date or the date such claim becomes allowed, with interest, or (c) release of the collateral securing such claim, with interest.   | No<br>(presumed to accept)     | 100%  | 56-65%   |
| 5                   | Senior Notes Claims                     | Receipt of (a) <i>pro rata</i> share of New Warrants and (b) <i>pro rata</i> share of Subscription Rights.  | Yes                            | 2-3%  | 0-0.9%   |

**SUMMARY OF TREATMENT AND EXPECTED RECOVERIES**

| <b><u>Class</u></b> | <b><u>Type of Claim or Interest</u></b>                                      | <b><u>Treatment</u></b>  | <b><u>Entitled to Vote</u></b> | <b><u>Projected Recovery Under Plan</u></b> | <b><u>Projected Recovery Under Chapter 7 Liquidation</u></b> |
|---------------------|--|--|--------------------------------|---|--|
| 6                   | Subordinated Notes Claims  | Holders of Subordinated Notes Claims shall not receive or retain any property under the Plan.  | No<br>(deemed to reject)       | None  | None   |
| 7                   | Hawaiian<br>Telcom<br>Communications,<br>Inc. General<br>Unsecured<br>Claims | Payment in cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | N/A <sup>2</sup>                            | None   |
| 8                   | Hawaiian<br>Telcom Holdco,<br>Inc.<br>General<br>Unsecured<br>Claims         | Payment in cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | N/A   | None   |

<sup>2</sup> The Debtors believe that the claims reconciliation process will reveal that holders of General Unsecured Claims only have claims against Hawaiian Telcom, Inc. and Hawaiian Telcom Services, Inc. Accordingly, the Debtors do not expect there to be any allowed General Unsecured Claims against those entities listed with a projected recovery of N/A.

**SUMMARY OF TREATMENT AND EXPECTED RECOVERIES**

| <b><u>Class</u></b> | <b><u>Type of Claim or Interest</u></b>  | <b><u>Treatment</u></b>  | <b><u>Entitled to Vote</u></b> | <b><u>Projected Recovery Under Plan</u></b> | <b><u>Projected Recovery Under Chapter 7 Liquidation</u></b> |
|---------------------|--|--|--------------------------------|---|--|
| 9                   | Hawaiian<br>Telcom, Inc.<br>General<br>Unsecured<br>Claims                                     | Payment in cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | 1-2%  | 0-0.6%   |
| 10                  | Hawaiian<br>Telcom Services<br>Company, Inc.<br>General<br>Unsecured<br>Claims                 | Payment in cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | 1-2%  | None   |
| 11                  | Hawaiian<br>Telcom IP<br>Service Delivery<br>Investment, LLC<br>General<br>Unsecured<br>Claims | Payment in cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | N/A   | None   |

**SUMMARY OF TREATMENT AND EXPECTED RECOVERIES**

| <b><u>Class</u></b> | <b><u>Type of Claim or Interest</u></b>  | <b><u>Treatment</u></b>  | <b><u>Entitled to Vote</u></b> | <b><u>Projected Recovery Under Plan</u></b> | <b><u>Projected Recovery Under Chapter 7 Liquidation</u></b> |
|---------------------|--|--|--------------------------------|---|--|
| 12                  | Hawaiian<br>Telcom IP<br>Service Delivery<br>Research, LLC<br>General<br>Unsecured<br>Claims | Payment in cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | N/A   | None   |
| 13                  | Hawaiian<br>Telcom IP Video<br>Investment, LLC<br>General<br>Unsecured<br>Claims             | Payment in cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | N/A   | None   |
| 14                  | Hawaiian<br>Telcom IP Video<br>Research, LLC<br>General<br>Unsecured<br>Claims               | Payment of cash in an amount equal to <i>pro rata</i> share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter. | Yes                            | N/A   | None   |

**SUMMARY OF TREATMENT AND EXPECTED RECOVERIES**

| <b><u>Class</u></b> | <b><u>Type of Claim or Interest</u></b> | <b><u>Treatment</u></b>  | <b><u>Entitled to Vote</u></b> | <b><u>Projected Recovery Under Plan</u></b> | <b><u>Projected Recovery Under Chapter 7 Liquidation</u></b> |
|---------------------|---|--|--------------------------------|---|--|
| 15                  | Intercompany Claims                     | At the option of the Debtors or the Reorganized Debtors, as applicable, Intercompany Claims may be reinstated or cancelled as of the Effective Date. | No<br>(presumed to accept)     | None or Reinstated                          | N/A  |
| 16                  | Intercompany Interests                  | Intercompany Interests shall be reinstated on the Effective Date.  | No<br>(presumed to accept)     | None or Reinstated                          | None   |
| 17                  | Hawaiian Telcom Holdco Equity Interests | Holdes of Hawaiian Telcom Holdco Equity Interests shall not receive any distribution on account of such Hawaiian Telcom Holdco Equity Interests.     | No<br>(deemed to reject)       | None  | None   |
| 18                  | Section 510(b) Claims                   | Holdes of section 510(b) Claims shall not receive any distribution on account of such section 510(b) Claims.   | No<br>(deemed to reject)       | None  | None   |

**C. Description of Classes Under the Plan**

**1. Class 1—Priority Non-Tax Claims**

The claims in Class 1 are of the types identified in section 507(a) of the Bankruptcy Code that are entitled to priority treatment (other than Administrative Claims and Priority Tax Claims). Most of these claims have already been paid by

the Debtors pursuant to orders entered by the United States Bankruptcy Court for the District of Delaware on the Petition Date.

Class 1 is unimpaired by the Plan. Each holder of a Priority Non-Tax Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Except to the extent a holder of an allowed Priority Non-Tax Claim agrees to a less favorable treatment, in full and final satisfaction of and in exchange for each Priority Non-Tax Claim, each holder of such Allowed Priority Non-Tax Claim will be paid in full in cash on the later of the Effective Date and the date such Priority Non-Tax Claim becomes allowed, or as soon as practicable thereafter.

## **2. Class 2—Secured Tax Claims**

The claims in Class 2 are the types of claims that, absent their status as a secured claim, would be entitled to priority treatment under section 507(a)(8) of the Bankruptcy Code. If a Secured Tax Claim accrues interest under applicable local law and, to the extent the value of the collateral exceeds the amount of the allowed claim, such Secured Tax Claim will include interest.

Class 2 is unimpaired by the Plan. Each holder of a Secured Tax Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Except to the extent that a holder of an Allowed Secured Tax Claim has been paid by the Debtors prior to the Effective Date or agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each allowed Secured Tax Claim, each holder of such an allowed Secured Tax Claim will receive, at the sole option of the Debtors or the Reorganized Debtors, (a) cash on the Effective Date in an amount equal to such allowed Secured Tax Claim, (b) commencing on the Effective Date and continuing over a period not exceeding five years from the Petition Date, equal semi-annual cash payments in an aggregate amount equal to such allowed Secured Tax Claim, together with interest at the applicable rate under non-bankruptcy law, subject to the sole option of the Debtors or the Reorganized Debtors to prepay the entire amount of the allowed Secured Tax Claim or (c) regular cash payments in a manner not less favorable than the most favored non-priority unsecured claim provided for by the Plan.

### 3. Class 3—Senior Secured Claims

The claims in Class 3 consist of all senior secured claims against the Debtors other than Secured Tax Claims in Class 2 and Other Secured Claims in Class 4. Class 3 claims against the Debtors include the Senior Secured Obligations under the Credit Agreement and the Swap Agreements. On the Effective Date, Senior Secured Claims shall be allowed in the aggregate amount of \$592,544,328.88.

Class 3 is impaired by the Plan. Each holder of a Senior Secured Claim is entitled to vote to accept or reject the Plan.

On the Effective Date, and subject to the right of election described below, in full and final satisfaction and discharge of and in exchange for each allowed Senior Secured Claim, each holder of an allowed Senior Secured Claim will receive:

- such holder's *pro rata* share of the New Term Loan; and
- such holder's *pro rata* share (after accounting for the reduction of such holder's Senior Secured Obligations as a result of the receipt of such holder's *pro rata* share of the New Term Loan) of 100% of New Common Stock, subject to dilution on account of the New Warrants, the Rights Offering and the Management Equity Incentive Program.

On the Plan ballot form, holders of allowed Class 3 claims shall be provided the right to elect, in their sole and absolute discretion, to receive either additional New Term Loan debt or New Common Stock; *provided, however*, to the extent there is an imbalance between the face value of New Term Loan debt and the amount of New Common Stock shares elected by holders of allowed Class 3 Claims, either the debt amount or common stock elected will be reduced *pro rata* to each participant to eliminate the imbalance; and *further provided, however*, the Debtors shall retain the right to adjust (using a comparable methodology to the sell-down procedure set forth in the Claims Trading Motion) the amount of New Common Stock distributed to electing Holders of an Allowed Class 3 Claim as necessary to ensure that the Debtors qualify for section 382(1)(5) of the Internal Revenue Code. Each holder of allowed Class 3 claims must affirmatively elect to exercise these rights as part of submitting its vote on the Plan.



#### **4. Class 4—Other Secured Claims**

The claims in Class 4 consist of all secured claims other than Secured Tax Claims in Class 2 and Senior Secured Claims in Class 3. Based upon the Debtors' schedules of assets and liabilities and the proofs of claim filed in these chapter 11 cases, Class 4 claims against the Debtors include obligations under equipment leases, mechanics liens, liens on landlords on accounts, general intangibles or inventory related to properties released by them to the Debtors.

Class 4 is unimpaired by the Plan. Each holder of an Other Secured Claim is conclusively presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Except to the extent that a holder of an allowed Other Secured Claim agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each allowed Other Secured Claim, on the later of the Effective Date and the date such Other Secured Claim becomes allowed, or as soon as practicable thereafter, at the sole option of the Reorganized Debtors, upon consultation with the agent to the Senior Secured Parties and its counsel:

- each allowed Other Secured Claim will be reinstated and rendered unimpaired in accordance with section 1124(2) of the Bankruptcy Code, notwithstanding any contractual provision or applicable non-bankruptcy law that entitles the holder of an allowed Other Secured Claim to demand or receive payment of such allowed Other Secured Claim prior to the stated maturity of such allowed Other Secured Claim from and after the occurrence of a default;
- each holder of an allowed Other Secured Claim will receive cash in an amount equal to such allowed Other Secured Claim, including any interest on such allowed Other Secured Claim required to be paid pursuant to section 506(b) of the Bankruptcy Code, on the later of the Effective Date and the date such allowed Other Secured Claim becomes an allowed Other Secured Claim, or as soon thereafter as is practicable; or
- each holder of an allowed Other Secured Claim will receive the collateral securing its allowed Other Secured Claim and any

interest on such allowed Other Secured Claim required to be paid pursuant to section 506(b) of the Bankruptcy Code.

#### **5. Class 5—Senior Notes Claims**

The claims in Class 5 consist of all claims of the holders of the Senior Notes arising under the Senior Notes Indenture. On the Effective Date, Senior Notes Claims shall be allowed in the aggregate amount of \$368,976,750.

Class 5 is impaired by the Plan. Each holder of a Senior Notes Claim is entitled to vote to accept or reject the Plan.

On the Effective Date, in full and final satisfaction and discharge of and in exchange for each allowed Senior Notes Claim:

- each holder of an allowed Senior Notes Claim shall receive its *pro rata* share of the New Warrants pursuant to the terms of the New Warrant Agreement; and
- each Eligible Senior Notes Claim Holder shall receive its *pro rata* share of Subscription Rights.

#### **6. Class 6—Subordinated Notes Claims**

The claims in Class 6 against the Debtors consist of all claims of the holders of the Debtors' subordinated notes arising under the Subordinated Notes Indenture. On the Effective Date, Subordinated Notes Claims shall be allowed in the aggregate amount of \$160,937,500.

Class 6 is impaired by the Plan. Each holder of a Subordinated Notes Claim is conclusively deemed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

Holders of Subordinated Notes Claims shall not receive or retain any interest or property under the Plan on account of such Subordinated Notes Claims. The treatment of the Subordinated Notes Claims under the Plan is in accordance with and gives effect to the provisions of section 510(b) of the Bankruptcy Code.

**7. Class 7—Hawaiian Telcom  
Communications, Inc. General Unsecured Claims**

The claims in Class 7 consist of the claims against Hawaiian Telcom Communications, Inc. of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors believe that, following completion of the claims reconciliation process, there will be no allowed Hawaiian Telcom Communications, Inc. General Unsecured Claims.

Class 7 is impaired by the Plan. Each holder of a Hawaiian Telcom Communications, Inc. General Unsecured Claim is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom Communications, Inc. General Unsecured Claim agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each Hawaiian Telcom Communications, Inc. General Unsecured Claim, each holder of an allowed Hawaiian Telcom Communications, Inc. General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**8. Class 8—Hawaiian Telcom  
Holdco, Inc. General Unsecured Claims**

The claims in Class 8 consist of the claims against Hawaiian Telcom Holdco, Inc. of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors believe that, following completion of the claims reconciliation process, there will be no allowed Hawaiian Telcom Holdco, Inc. General Unsecured Claims.

Class 8 is impaired by the Plan. Each holder of a Hawaiian Telcom Holdco, Inc. General Unsecured Claim is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom Holdco, Inc. General Unsecured Claim agrees to a less favorable treatment, in full and final

satisfaction and discharge of and in exchange for each Hawaiian Telcom Holdco, Inc. General Unsecured Claim, each holder of an allowed Hawaiian Telcom Holdco, Inc. General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**9. Class 9—Hawaiian Telcom, Inc. General Unsecured Claims**

The claims in Class 9 consist of the claims against Hawaiian Telcom, Inc. of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors estimate that, following completion of the claims reconciliation process, the aggregate amount of allowed Hawaiian Telcom, Inc. General Unsecured Claims will be approximately \$35 to \$45 million.

Class 9 is impaired by the Plan. Each holder of a Hawaiian Telcom, Inc. General Unsecured Claim is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom, Inc. General Unsecured Claim agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each Hawaiian Telcom, Inc. General Unsecured Claim, each holder of an allowed Hawaiian Telcom, Inc. General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**10. Class 10—Hawaiian Telcom Services Company, Inc. General Unsecured Claims**

The claims in Class 10 consist of the claims against Hawaiian Telcom Services Company, Inc. of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors estimate that, following completion of the claims reconciliation process, the aggregate amount of allowed Hawaiian Telcom Services Company, Inc. General Unsecured Claims will be approximately \$5 million.

Class 10 is impaired by the Plan. Each holder of a Hawaiian Telcom Services Company, Inc. General Unsecured Claim is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom Services Company, Inc. General Unsecured Claim agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each Hawaiian Telcom Services Company, Inc. General Unsecured Claim, each holder of an allowed Hawaiian Telcom Services Company, Inc. General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**11. Class 11—Hawaiian Telcom  
IP Service Delivery Investment, LLC General Unsecured Claims**

The claims in Class 11 consist of the claims against Hawaiian Telcom IP Service Delivery Investment, LLC of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors believe that, following completion of the claims reconciliation process, there will be no allowed Hawaiian Telcom IP Service Delivery Investment, LLC General Unsecured Claims.

Class 11 is impaired by the Plan. Each holder of a Hawaiian Telcom IP Service Delivery Investment, LLC General Unsecured Claim is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom IP Service Delivery Investment, LLC General Unsecured Claim agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each Hawaiian Telcom IP Service Delivery Investment, LLC General Unsecured Claim, each holder of an allowed Hawaiian Telcom IP Service Delivery Investment, LLC General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**12. Class 12—Hawaiian Telcom  
IP Service Delivery Research, LLC General Unsecured Claims**

The claims in Class 12 consist of the claims against Hawaiian Telcom IP Service Delivery Research, LLC of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors believe that, following completion of the claims reconciliation process, there will be no allowed Hawaiian Telcom IP Service Delivery Research, LLC General Unsecured Claims.

Class 12 is impaired by the Plan. Each holder of a Hawaiian Telcom IP Service Delivery Research, LLC General Unsecured Claim is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom IP Service Delivery Research, LLC General Unsecured Claim agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each Hawaiian Telcom IP Service Delivery Research, LLC General Unsecured Claim, each holder of an allowed Hawaiian Telcom IP Service Delivery Research, LLC General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**13. Class 13—Hawaiian Telcom IP  
Video Investment, LLC General Unsecured Claims**

The claims in Class 13 consist of the claims against Hawaiian Telcom IP Video Investment, LLC of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors believe that, following completion of the claims reconciliation process, there will be no allowed Hawaiian Telcom IP Service Video Investment, LLC General Unsecured Claims.

Class 13 is impaired by the Plan. Each holder of a Hawaiian Telcom IP Video Investment, LLC is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom IP Video Investment, LLC General Unsecured Claim agrees to a less favorable treatment, in

full and final satisfaction and discharge of and in exchange for each Hawaiian Telcom IP Video Investment, LLC General Unsecured Claim, each holder of an allowed Hawaiian Telcom IP Video Investment, LLC General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**14. Class 14—Hawaiian Telcom IP Video Research, LLC General Unsecured Claims**

The claims in Class 14 consist of the claims against Hawaiian Telcom IP Video Research, LLC of vendors, landlords with prepetition rent claims and/or claims based on rejection of leases, prepetition personal injury, prepetition litigation, parties to contracts with the Debtors that are being rejected and other general unsecured claims. The Debtors believe that, following completion of the claims reconciliation process, there will be no allowed Hawaiian Telcom IP Video Research, LLC General Unsecured Claims.

Class 14 is impaired by the Plan. Each holder of a Hawaiian Telcom IP Video Research, LLC General Unsecured Claim is entitled to vote to accept or reject the Plan.

Except to the extent that a holder of a Hawaiian Telcom IP Video Research, LLC General Unsecured Claim agrees to a less favorable treatment, in full and final satisfaction and discharge of and in exchange for each Hawaiian Telcom IP Video Research, LLC General Unsecured Claim, each holder of an allowed Hawaiian Telcom IP Video Research, LLC General Unsecured Claim shall receive cash in an amount equal to its *pro rata* share of the Unsecured Claims Fund on the later of the Effective Date and the date such claim becomes allowed, or as soon as practicable thereafter.

**15. Class 15—Intercompany Claims**

The claims in Class 15 consist of the intercompany claims of Hawaiian Telcom Communications, Inc. or any other of its Debtor affiliates against the other Debtors.

Class 15 is unimpaired by the Plan. Each holder of an Intercompany Claim is presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

At the option of the Debtors or the Reorganized Debtors, as applicable, Intercompany Claims may be reinstated or cancelled as of the Effective Date. No distribution shall be made on account of Intercompany Claims.

#### **16. Class 16—Intercompany Interests**

The claims in Class 16 consist of the intercompany equity interests of Hawaiian Telcom Communications, Inc. or any other of its Debtor affiliates against the other Debtors.

Class 16 is unimpaired by the Plan. Each holder of an Intercompany Interest is presumed to have accepted the Plan and is not entitled to vote to accept or reject the Plan.

Intercompany Interests shall be reinstated on the Effective Date.

#### **17. Class 17—Hawaiian Telcom Holdco Equity Interests**

The claims in Class 17 consist of the equity interests in Hawaiian Telcom Holdco, Inc.

Class 17 is impaired by the Plan. Each holder of a Hawaiian Telcom Holdco Equity Interest is conclusively deemed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.

Holders of Hawaiian Telcom Holdco Equity Interests shall not receive any distribution on account of such Hawaiian Telcom Holdco Equity Interests. On the Effective Date, all Hawaiian Telcom Holdco Equity Interests shall be extinguished.

#### **18. Class 18—Section 510(b) Claims**

The claims in Class 18 are the types of claims which, because they arose in connection with the purchase or sale of a security of Hawaiian Telcom Holdco, Inc., are subordinated to general unsecured claims under section 510(b) of the Bankruptcy Code. For the Debtors, these claims are held by holders of the Debtors' subordinated notes under the Subordinated Notes Indenture.

Class 18 is impaired by the Plan. Each holder of a Section 510(b) Claim is conclusively deemed to have rejected the Plan and is not entitled to vote to accept or reject the Plan.



Holders of Section 510(b) Claims shall not receive any distribution on account of such 510(b) Claims. On the Effective Date, all Section 510(b) Claims shall be discharged.

#### **D. Conditions Precedent to the Effective Date**

The following are conditions precedent to the Effective Date that must be satisfied or waived:

- The Confirmation Order, which shall provide that, among other things, the Debtors or the Reorganized Debtors, as appropriate, are authorized and directed to take all actions necessary or appropriate to consummate the Plan, shall have been entered and such order shall not have been stayed or modified or vacated on appeal.
- The Reorganized Debtors shall have received the necessary regulatory approvals.
- All documents and agreements necessary to implement the Plan, shall have (a) all conditions precedent to such documents and agreements satisfied or waived pursuant to the terms of such documents or agreements, (b) been tendered for delivery and (c) been effected or executed.
- All actions, documents, certificates and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, filed with and approved by applicable governmental units in accordance with applicable laws.
- The Reorganized Debtors shall have a minimum of \$45 million after cash distributions are made pursuant to the Plan.

The conditions to confirmation and to the Effective Date set forth in this Section may be waived by the Debtors with the consent of the Senior Secured Parties (which consent shall not be unreasonably withheld) without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate the Plan.

Unless otherwise agreed to by the Debtors and the Senior Secured Parties, if the Effective Date does not occur prior to the nine month anniversary of the Confirmation Date, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (a) constitute a waiver or release of any claims by or claims against or equity interests in the Debtors; (b) prejudice in any manner the rights of the Debtors, any holders of such claims or equity interests or any other entity; or (c) constitute an admission, acknowledgment, offer or undertaking by the Debtors, any holders of such claims or equity interests or any other entity in any respect.

## **E. Administrative Claims and Priority Tax Claims**

### **1. Administrative Claims**

To confirm the Plan, allowed Administrative Claims must be paid in full or in a manner otherwise agreeable to the holders of those claims. Administrative expenses are the actual and necessary costs and expenses of the Debtors' chapter 11 cases. Those expenses include, without limitation, postpetition salaries and other benefits for employees, postpetition rent for facilities and offices, amounts owed to vendors providing goods and services during these chapter 11 cases, tax obligations incurred after the commencement of these chapter 11 cases, including interest, if applicable, under relevant state law, and certain statutory fees and expenses. Other administrative expenses include the actual, reasonable and necessary fees and expenses of the professionals retained by the Debtors and the Creditors' Committee. The Debtors will pay postpetition litigation claims, if any, in the ordinary course of business only if the claims exceed the Debtors' insurance coverage. Administrative Claims arising pursuant to the Debtors' 2008 performance compensation program are to be paid in accordance with the Order Authorizing the Debtors to Honor Their Annual Performance Compensation Program for Calendar Year 2008, dated April 23, 2009 [Docket No. 678].

Except to the extent that any entity entitled to a payment of an allowed Administrative Claim otherwise agrees, each holder of an allowed Administrative Claim shall be paid the full unpaid amount of such claim in cash (a) on the Effective Date; (b) if such claim is allowed after the Effective Date, on or as soon as reasonably practicable after the date such claim is allowed; or (c) upon such other terms as may be agreed upon by such holder, the Debtors or the Reorganized Debtors or otherwise determined by order of the Bankruptcy Court.

## **2. Priority Tax Claims**

Each holder of an allowed Priority Tax Claim due and payable on or before the Effective Date shall receive one of the following treatments on account of such claim: (a) cash in an amount equal to the amount of such allowed Priority Tax Claim; (b) cash in an amount agreed to by the applicable Debtor or Reorganized Debtor, as applicable, and such holder, *provided, however*, that such parties may further agree for the payment of such allowed Priority Tax Claim at a later date; or (c) at the option of the Debtors, cash in an aggregate amount of such allowed Priority Tax Claim payable in installment payments over a period not more than five years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code. To the extent any allowed Priority Tax Claim is not due and owing on the Effective Date, such claim shall be paid in full in cash in accordance with the terms of any agreement between the Debtors and such holder, or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business.

## **3. Fees and Expenses of Professionals**

### **a. Final Fee Applications**

All final requests for payment by retained professionals of the Debtors or Creditors' Committee, including the holdback amounts incurred during the period from Petition Date through the Effective Date, must be filed with the Bankruptcy Court and served on the Reorganized Debtors no later than 45 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior orders of the Bankruptcy Court in these chapter 11 cases, the allowed amounts of such professional fee claims shall be determined by the Bankruptcy Court and paid by the Reorganized Debtors. Notwithstanding the foregoing, all amounts due and owing pursuant to the Cash Collateral Order shall be paid in accordance with the provisions contained therein.

### **b. Payment of Interim Amounts**

Subject to holdback amounts, on the Effective Date, the Debtors or Reorganized Debtors, as applicable, shall pay all amounts owing to retained professionals of the Debtors and the Creditors' Committee for all outstanding amounts payable relating to prior periods through the Effective Date. To receive payment, on or before Effective Date, each such retained professional shall submit a detailed invoice covering such period in the manner and providing the detail as

set forth in the Order Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals and Official Committee Members [Docket No. 352].

**c. Post-Effective Date Fees and Expenses**

Except as otherwise specifically provided in the Plan, from and after the Effective Date, the Reorganized Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in cash the reasonable legal, professional, or other fees and expenses related to implementation and consummation of the Plan incurred by the Reorganized Debtors. Upon the Effective Date, any requirement that professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtors may employ and pay any professional in the ordinary course of business without any further notice to or action, order or approval of the Bankruptcy Court.

**4. Quarterly Fees to the United States Trustee**

All fees payable to the Office of the United States Trustee for the District of Hawaii will be paid on or before the Effective Date.

**F. Reservation of “Cram Down” Rights**

The Bankruptcy Code permits the Bankruptcy Court to confirm a chapter 11 plan of reorganization over the dissent of any class of claims or equity interests as long as the standards in section 1129(b) are met. This power to confirm a plan over dissenting classes – often referred to as “cram down” – is an important part of the reorganization process. It assures that no single group (or multiple groups) of claims or equity interests can block a restructuring that otherwise meets the requirements of the Bankruptcy Code and is in the interests of the other constituents in the case.

The Debtors each reserve the right to seek confirmation of the Plan, notwithstanding the deemed rejection of the Plan by Classes 6 (Subordinated Notes Claims), 17 (Hawaiian Telcom Holdco Equity Interests) and 18 (Section 510(b) Claims).

#### IV. VOTING PROCEDURES AND REQUIREMENTS

Detailed voting instructions are provided with the ballot accompanying this Disclosure Statement. The following classes are the only classes entitled to vote to accept or reject the Plan:

| <b>Class</b> | <b>Description</b>   |
|--------------|--|
| 3            | Senior Secured Claims  |
| 5            | Senior Notes Claims  |
| 7            | Hawaiian Telcom Communications, Inc. General Unsecured Claims                |
| 8            | Hawaiian Telcom Holdco, Inc. General Unsecured Claims                        |
| 9            | Hawaiian Telcom, Inc. General Unsecured Claims                               |
| 10           | Hawaiian Telcom Services Company, Inc. General Unsecured Claims              |
| 11           | Hawaiian Telcom IP Service Delivery Investment, LLC General Unsecured Claims |
| 12           | Hawaiian Telcom IP Service Delivery Research, LLC General Unsecured Claims   |
| 13           | Hawaiian Telcom IP Video Investment, LLC General Unsecured Claims            |
| 14           | Hawaiian Telcom IP Video Research, LLC General Unsecured Claims              |

If your claim or equity interest is not included in any of these classes, you are not entitled to vote and you will not receive a solicitation package, including a ballot, with this Disclosure Statement. If your claim is included in one of these classes, you should read your ballot and follow the listed instructions carefully. Please use only the ballot that accompanies this Disclosure Statement.

##### **A. Vote Required for Acceptance by a Class**

Under the Bankruptcy Code, acceptance of a plan of reorganization by a class of claims is determined by calculating the number and the amount of claims voting to accept, based on the actual total allowed claims voting. Acceptance requires an affirmative vote of more than one-half of the number of total allowed claims voting and affirmative vote of at least two-thirds in dollar amount of the total allowed claims voting.

##### **B. Classes Not Entitled to Vote**

Under the Bankruptcy Code, creditors are not entitled to vote if their contractual rights are unimpaired by the Plan or if they will receive no property

under the Plan. Based on this standard, the holders of Class 1 Priority Non-Tax Claims, Class 2 Secured Tax Claims, Class 4 Other Secured Claims, Class 6 Subordinated Notes Claims, Class 15 Intercompany Claims, Class 16 Intercompany Interests, Class 17 Hawaiian Telcom Holdco Equity Interests and Class 18 Section 510(b) Claims are not entitled to vote to accept or reject the Plan. For a summary of the classes entitled to vote, please see the table in Section IV above.

### **C. Voting**

In order for your vote to be counted, your ballot (or the master ballot cast on your behalf) must be actually received by the Claims and Solicitation Agent or Securities Voting Agent, as applicable, no later than **7:00 p.m. Prevailing Eastern Time, 1:00 p.m. Prevailing Hawaii Standard Time on September 30, 2009** by using the envelope provided, or by first class mail, overnight courier or personal delivery to:

#### **For the Claims and Solicitation Agent:**

Hawaiian Telcom Balloting Center  
c/o Kurtzman Carson Consultants LLC  
2335 Alaska Avenue  
El Segundo, California 90245

#### **For the Securities Voting Agent:**

Hawaiian Telcom Communications, Inc.  
c/o Financial Balloting Group LLC  
757 Third Avenue - Third Floor  
New York, New York 10017  
Attn.: Ballot Processing Center

If a ballot is damaged or lost, you may contact the Claims and Solicitation Agent or the Securities Voting Agent, as applicable, at the number set forth below.

The following ballots will not be counted in determining the acceptance or rejection of the Plan: (a) any ballot or master ballot that is illegible or contains insufficient information to permit the identification of the creditor; (b) any ballot or master ballot cast by an entity that does not hold a claim in a class that is entitled to

vote on the Plan; (c) any ballot or master ballot cast for a claim scheduled as unliquidated, contingent or disputed for which no proof of claim was timely filed; (d) any unsigned ballot or ballot lacking an original signature; (e) any ballot not marked to accept or reject the Plan, or marked both to accept and reject the Plan; and (f) any ballot submitted by any entity not entitled to vote pursuant to the procedures described here.

If the return envelope included with your solicitation package is addressed to your nominee, please allow enough time for your nominee to submit your vote on a master ballot prior to **1:00 p.m. Hawaii Standard Time on September 30, 2009.**

If you have any questions on the procedures for voting on the Plan, please call:  
the Claims and Solicitation Agent at the following telephone number:  
**(888) 733-1409**  
the Securities Voting Agent at the following telephone number:  
**(646) 282-1800**

## V. FINANCIAL INFORMATION AND PROJECTIONS

### A. Introduction

This section provides summary information concerning the recent financial performance of the Debtors and projections for the calendar years 2009 through 2013.

In connection with the planning and development of the Plan, the projections were prepared by the Debtors to present the anticipated impact of the Plan. The projections assume that the Plan will be implemented in accordance with its stated terms. The Debtors are unaware of any circumstances as of the date of the Disclosure Statement that would require the re-forecasting of the projections due to a material change in the Debtors' prospects.

The projections are based on forecasts of key economic variables and may be significantly impacted by, among other factors, changes in the competitive environment, regulatory changes and/or a variety of other factors, including those factors listed in the Plan and the Disclosure Statement. Accordingly, the estimates and assumptions underlying the projections are inherently uncertain and are subject to significant business, economic and competitive uncertainties. Therefore, such projections, estimates and assumptions are not necessarily indicative of current values or future performance, which may be significantly less or more favorable than set forth herein.

The projections should be read in conjunction with the assumptions, qualifications and explanations set forth in the Disclosure Statement and the Plan in their entirety, and the historical consolidated financial statements (including the notes and schedules thereto) and other financial information set forth in Hawaiian Telcom's Annual Report on Form 10-K for the fiscal year ended December 31, 2007, Hawaiian Telcom's Quarterly Report on Form 10-Q for the third quarter ending September 30, 2008 and any other recent Hawaiian Telcom report to the Securities and Exchange Commission. These filings are available by visiting the Securities and Exchange Commission's website at <http://www.sec.gov> or the Debtors' website at <http://www.hawaiiantel.com>.

## **B. The Financial Projections**

Attached hereto as **Exhibit C** are the financial projections of the Debtors for calendar years 2009 through 2013. The financial projections are based upon the Debtors' detailed operating budget for fiscal year 2009. The financial projections for fiscal year 2010 through 2013 incorporate management's assumptions and initiatives, including the impact of new products and services as contemplated in the new business plan. The operating assumptions assume that the Effective Date will be March 31, 2010.



## **VI. BUSINESS DESCRIPTIONS AND BACKGROUND TO THESE CHAPTER 11 CASES**

### **A. The Debtors' Corporate History, Corporate Structure and Business Operations**

#### **1. The Debtors' Corporate History**

The Debtors and their predecessors have been the leading provider of telecommunications services in the State of Hawaii since 1883. Hawaiian Telcom, Inc., incorporated in 1883 as Mutual Telephone Company, has been Hawaii's incumbent local exchange carrier for over 125 years. From 1967 to 2005, Verizon or its predecessors operated the Debtors' businesses as a separate Hawaii division (the "Verizon Hawaii Businesses").<sup>3</sup>

Hawaiian Telcom, Inc. operates the Debtors' regulated local exchange carrier business.<sup>4</sup> Hawaiian Telcom Services Company, Inc. operates the Debtors' other businesses including the interstate and intrastate long distance, high-speed internet, managed services and wireless businesses. The HPUC regulates the Debtors' local exchange carrier business and intrastate special access and long distance businesses, as well as the wireless business to a lesser degree. The HPUC does not regulate the Debtors' interstate business or the high-speed internet business.

On May 2, 2005, Carlyle Partners III Hawaii, L.P., CP III Coinvestment, L.P. and Carlyle Hawaii Partners, L.P. (collectively, "The Carlyle Group") acquired the Verizon Hawaii Businesses (the "2005 Acquisition"). Currently, The Carlyle Group, together with Carlyle Partners III – UST Hawaii, L.P., own 100%

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<sup>3</sup> Verizon Hawaii Inc. (n/k/a Hawaiian Telcom, Inc.) and carved-out components of Verizon Information Services, GTE.NET LLC (d/b/a Verizon Online), Bell Atlantic Communications Inc. (d/b/a Verizon Long Distance) and Verizon Select Services, Inc. comprised the Verizon Hawaii Businesses.

<sup>4</sup> Hawaiian Telcom Insurance Company, Incorporated, which is a wholly-owned captive insurance subsidiary of Hawaiian Telcom, Inc. and not a Debtor in these chapter 11 cases, provided auto liability, general liability and worker's compensation insurance to Verizon Hawaii Inc. on a direct basis prior to December 31, 2003. Hawaiian Telcom Insurance Company, Incorporated's sole remaining purpose is to continue to settle claims related to incidents that occurred prior to January 1, 2004.

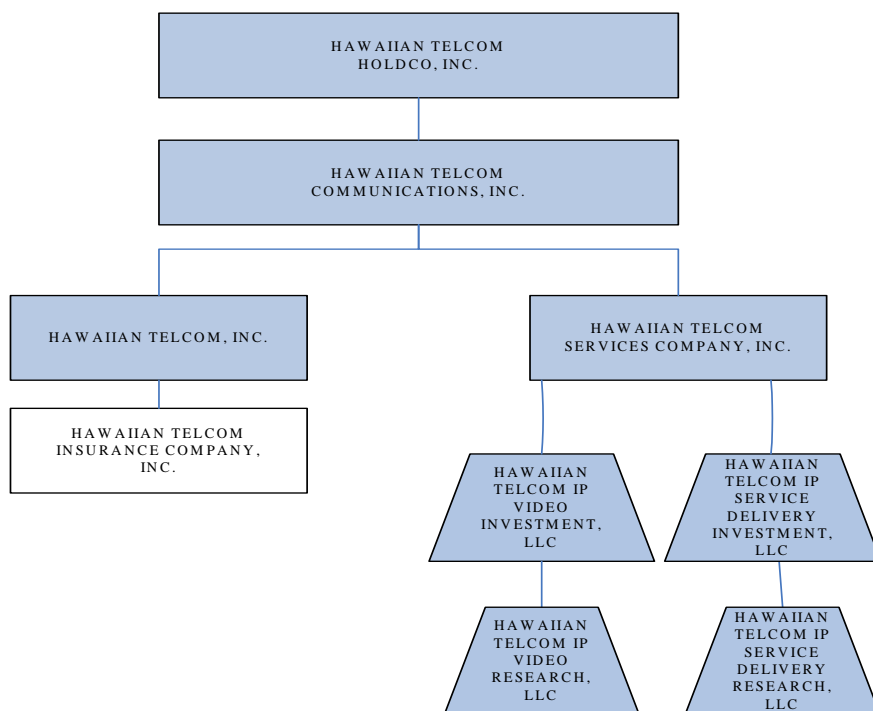
of the equity in Hawaiian Telcom Holdco, Inc. The HPUC approved the 2005 Acquisition on March 16, 2005.

On September 30, 2008, Hawaiian Telcom Services Company, Inc. created four limited liability companies organized under the laws of the state of Hawaii for the purpose of conducting research and development to support Hawaiian Telcom Services Company, Inc.'s launch of an internet protocol based video service and other new internet protocol based services and to expand the availability of its high-speed internet business services, and for the purpose of receiving investments from outside investors. As of the date hereof, no outside investments have been received.

Hawaiian Telcom Services Company, Inc. also operated a directories publishing business until November 30, 2007, when it sold the business to HYP Media Holdings LLC, a Delaware limited liability company and wholly-owned subsidiary of CBD Investor, Inc., for an aggregate purchase price of approximately \$435 million subject to working capital adjustments. The total net proceeds of the directories sale after working capital adjustments was \$436.6 million. None of the sale proceeds were transferred to any of the other Debtors via dividends or intercompany loans. There are no future anticipated payments expected pursuant to the directories sale. In connection with the directories sale, the Debtors entered into a 50-year publishing agreement pursuant to which HYP Media Holdings LLC serves as the exclusive, official publisher of telephone directories on behalf of Hawaiian Telcom, Inc. The Debtors receive periodic payments from HYP Media Holdings pursuant to a billing and collection agreement for the Debtors' billing and collection of directory advertising services. Under this agreement, HYP Media Holdings LLC publishes both white and yellow pages print telephone directories under the Hawaiian Telcom® brand. The HPUC approved the sale of the directories publishing business on November 13, 2007.

## 2. The Debtors' Corporate Structure

The following chart generally depicts the Debtors' corporate structure:<sup>5</sup>



## 3. The Debtors' Business Operations

The Debtors are a full-service telecommunications provider and the incumbent local exchange carrier for the State of Hawaii. Headquartered in Honolulu, Hawaii, the Debtors are the largest telecommunications provider in Hawaii, estimated to be the tenth largest incumbent local exchange carrier in the United States, and provide a wide spectrum of telecommunications products and services in the State of Hawaii, including local access lines, long distance service, high-speed internet, managed services and wireless communications. The Debtors serve the telecommunication needs of residential customers, government agencies, large corporate clients and small- and mid-sized businesses. The Debtors'

<sup>5</sup> Each of the shaded entities is a Debtor in these chapter 11 cases.

marketplace is dominated by several key industries. The state and federal governments combined are one of the Debtors' largest customers, accounting for 6.7% of the Debtors' gross revenues. The hospitality and financial industries also account for a significant portion of the Debtors' businesses.

The Debtors provide local telephone service including voice and data transport, enhanced custom calling features, network access, directory assistance and private lines. In addition, they provide high-speed internet, long distance services, customer premise equipment, data solutions, billing and collection and pay telephone services. The Debtors offer these services on all of Hawaii's major islands. As of March 31, 2009, these telecommunication operations served:

- 498,253 local access lines, of which 57% served residential customers and 42% served business customers, with the remaining 1% serving other customers;
- 246,739 long distance lines, of which 67% served residential customers and 33% served business customers; and
- 95,176 high-speed internet lines, which served 77,705 retail residential lines, 16,398 retail business lines and 1,073 wholesale business and resale lines.

The Debtors also provide wireless services, including the sale of wireless handsets and accessories. The Debtors have been providing wireless services to business and residential customers since 2005 pursuant to a mobile virtual network operator agreement with a subsidiary of Sprint Nextel Corporation. Currently, less than two percent of the existing subscribers utilize the Debtors as their wireless provider. Accordingly, the Debtors seek to capture a higher share of this market and to leverage the Hawaiian Telcom® brand and its existing customer base to enhance customer loyalty for the Debtors' various product and service offerings. In addition, the Debtors continue to invest in the network, develop the requisite hardware and software platform, and secure programming content in order to offer video services.

#### **a. Regulation**

The Debtors' telephone operations are generally subject to the jurisdiction of the Federal Communications Commission with respect to interstate services and

the HPUC with respect to intrastate services, as described in more detail in Section VII.A.4.

**b. Employees**

As of the Petition Date, the Debtors employed approximately 1,450 full-time employees. The Debtors pay approximately 571 employees (39%) on a salaried basis and approximately 879 employees (61%) on an hourly basis. Of the hourly employees, approximately 863 employees are unionized and approximately 16 employees are not unionized. The unionized employees are covered by that certain collective bargaining agreement between the Hawaiian Telcom, Inc. and the International Brotherhood of Electrical Workers, Local 1357 (the “IBEW”) dated September 13, 2008.

In addition, as of July 1, 2009, the Debtors utilize approximately six independent contractors in the ordinary course of business and procure the services of approximately 71 temporary employees through employment agencies.

**c. Directors and Officers**

The directors and officers of Hawaiian Telcom Communications, Inc. are as follows:

| <b>Name</b>           | <b>Position</b>  |
|-----------------------|--|
| Walter A. Dods, Jr.   | Chairman of the Board  |
| James A. Attwood, Jr. | Vice Chairman of the Board                                   |
| Stephen C. Gray       | Vice Chairman of the Board                                   |
| Matthew P. Boyer      | Director (resigned effective December 15, 2008)              |
| William E. Kennard    | Director   |
| Alan M. Oshima        | Director   |
| Eric K. Yeaman        | President, Chief Executive Officer and Director              |
| Kevin J. Nystrom      | Chief Operating Officer                                      |
| Robert F. Reich       | Senior Vice President, Chief Financial Officer and Treasurer |

|                    |   |
|--------------------|---|
| Michael F. Edl     | Senior Vice President - Network Services                |
| Rose M. Hauser     | Senior Vice President and Chief Information Officer     |
| Craig T. Inouye    | Senior Vice President - Sales                           |
| John T. Komeiji    | Senior Vice President and General Counsel               |
| Geoffrey W.C. Loui | Senior Vice President - Strategy and Marketing          |
| William G. Chung   | Vice President of Human Resources & Labor Relations     |
| John K. Duncan     | Vice President and Controller                           |
| Francis K. Mukai   | Vice President, Associate General Counsel and Secretary |

Raymond A. Ranelli was a director until June 30, 2009, the effective date of his resignation.

## **B. Summary of Prepetition Indebtedness and Prepetition Financing**

As of the Petition Date, the Debtors' liabilities included approximately \$589.8 million of Senior Secured Obligations, \$350 million under the Senior Notes Indenture, \$150 million under the Subordinated Notes Indenture and approximately \$40 million of general trade obligations.

### **1. Senior Secured Obligations**

On June 1, 2007, Hawaiian Telcom Communications, Inc. entered into the Credit Agreement, which provided for a revolving credit facility in the amount of \$200 million (of which \$90 million could be accessed without further HPUC approvals) and a Tranche C term loan in the amount of \$860 million. In December 2007, Hawaiian Telcom Communications, Inc. used proceeds from the sale of its directories publishing business to prepay \$160 million of the Tranche C term loan. In January 2008, Hawaiian Telcom Communications, Inc. used proceeds from the sale of its directories publishing business to prepay an additional \$211 million of the Tranche C term loan and \$50 million of the amount outstanding under the

revolving credit facility. As of the Petition Date, approximately \$89.8 million in debt remained outstanding under the revolving credit facility, approximately \$484.7 million remained outstanding under the Tranche C term loan and approximately \$15.3 million remained outstanding under the Swap Agreements.

Pursuant to the Guarantee Agreement, the Senior Secured Parties were granted liens on substantially all of the Debtors' assets in order to secure the obligations of Hawaiian Telcom Communications, Inc. under the Credit Agreement. In addition, Hawaiian Telcom Holdco, Inc., Hawaiian Telcom, Inc., Hawaiian Telcom Services Company, Inc., Hawaiian Telcom IP Video Research, LLC, Hawaiian Telcom IP Service Delivery Research, LLC, Hawaiian Telcom IP Video Investment, LLC and Hawaiian Telcom IP Service Delivery Investment, LLC are guarantors of these obligations pursuant to the Guarantee Agreement.

As described in more detail in Section VIII.E below, the Creditors' Committee has disputed the validity of the Senior Secured Parties' liens under the Credit Agreement and the Guarantee Agreement.

## **2. Senior Notes Indenture**

Pursuant to the Senior Notes Indenture, the Debtors issued (a) the senior fixed rate notes in the aggregate principal amount of \$200 million bearing interest at a rate of 9.75% per year and (b) the senior floating rate notes in the aggregate principal amount of \$150 million bearing interest at a rate reset and payable semi-annually at LIBOR, *plus* 5.5%. Hawaiian Telcom, Inc. and Hawaiian Telcom Services Company, Inc. guarantee the obligations owing under the Senior Notes Indenture.

## **3. Subordinated Notes Indenture**

Pursuant to the Subordinated Notes Indenture, the Debtors issued subordinated notes in the aggregate principal amount of \$150 million bearing interest at a rate of 12.5% per year. Hawaiian Telcom, Inc. and Hawaiian Telcom Services Company, Inc. guarantee the obligations owing under the Subordinate Notes Indenture.

## **C. Legal Proceedings Outside the Bankruptcy Court**

The Debtors are involved in litigation arising in the normal course of business. The outcome of this litigation is not expected to have a material impact on the Debtors' financial statements or projections.

## **VII. EVENTS LEADING TO THESE CHAPTER 11 CASES**

### **A. Challenging Industry and Regulatory Conditions**

A confluence of factors contributed to Debtors' decision to file these chapter 11 cases. Prior to the Petition Date, the Debtors did not attain the financial performance projections made at the time of the acquisition by The Carlyle Group. In addition to increased competition, the Debtors have had to deal with the burden of over \$1.07 billion in funded debt. Interest costs on these significant burdens have imposed limitations on the Debtors' ability to create and offer new products and implement their revised strategic business plan—necessary steps to change the current downward trend of the Debtors' generated operating cash flows. Further, the turmoil in the equity and credit markets and downturn in the economy have limited the Debtors' ability to attract potential investors and likely has had an adverse effect on spending by existing and potential customers.

#### **1. Operating Performance**

The Debtors, like other incumbent local exchange carriers, historically have depended on traditional telephone access lines as their primary source of revenue. Over the past several years, however, the telecommunications industry has faced significant access line losses as residential and commercial customers increasingly move local voice service to voice-over-internet protocol—technology commonly offered by cable service providers. Indeed, the telecommunications industry is in the midst of a shift away from traditional landline telephone service to a more integrated service model, where providers bundle high-speed internet access, video and phone services with the convenience of a single bill. The Debtors have been working on launching their own IP-based video service that can be bundled with existing services. Additionally, there has been a material increase in the use of wireless services in place of traditional landlines.

In 2008, local services revenue decreased by \$16.8 million—an 8.0% loss compared to 2007 numbers. Additionally, revenue from long distance services and network access has decreased further due to customers' shifts away from switched access lines to internet protocol based and wireless solutions, as well as a decrease in prices due to competitive pressures. For 2008, network access services revenue decreased by \$9.8 million, or 6.8%, compared to 2007. Long distance revenue decreased by \$1.2 million, or 3.2%, for 2008 compared to the prior year.



Increased competition also has had an adverse effect on revenues from non-traditional services. Residential customers continue to disconnect “second lines,” which were dedicated to dial-up internet access, as they switch to high-speed internet and cable broadband service. High-speed internet and other internet revenues decreased by \$1.3 million, or 3.7%, for 2008, as compared to the prior year. The decrease is due primarily to the overall reduction in rates as a result of competitive rate pressures.

## **2. Post-Acquisition Transition Difficulties**

After the 2005 acquisition by The Carlyle Group, the unanticipated difficulties experienced in the transition from operating as a subsidiary of Verizon to a standalone service provider of telecommunications services had a material adverse effect on the Debtors’ business operations. The Debtors originally had engaged BearingPoint Inc. to build a new back-office and information technology infrastructure to facilitate migration from Verizon’s systems. On the April 2006 cutover date, however, critical systems related to back-office functions, such as customer care, order management, billing, supply chain and other systems interfacing with the Debtors’ financial systems, lacked significant functionality. This led to deficiencies in billings and collections, revenue assurance and order entry flow-through. As a result, the Debtors incurred significant expenses to retain third-parties to provide call center and manual order processing services, and to compensate the Debtors’ employees for resultant overtime. Ultimately, customer satisfaction suffered, resulting in some customers switching to the Debtors’ competitors.

On February 5, 2007, the Debtors hired Accenture LLP to complete the development and deployment of key back-office and information technology systems. The Debtors have made significant improvements and continue to incur additional expenses as they work expeditiously to improve their back-office and information technology systems, which are critical to the efforts to fully implement the revised strategic business plan, to improve customer satisfaction and to compete effectively in the marketplace.

## **3. Market Turmoil**

In addition to these issues, the Debtors also found themselves in the midst of the current economic downturn, which the Debtors expect to impact customer spending and to cause increased rate competition from the Debtors’ competitors.

These issues highlight the Debtors' need to improve customer satisfaction, enhance existing products (*e.g.*, improving high-speed internet speeds) and develop new products, such as an internet protocol based video service. Such measures will allow the Debtors to compete more effectively in the marketplace, especially in a down economy.

#### **4. Government Regulation**

Unlike many of the Debtors' competitors, the Debtors, as the incumbent local exchange carrier, are subject to regulatory requirements and constraints imposed by the Federal Communications Commission and the HPUC. The Debtors suffer a competitive disadvantage because their competitors, who are not incumbent local exchange carriers, do not face the same regulatory requirements and constraints.

On July 15, 2009, the Hawaii legislature passed Senate Bill 603, which eliminates a number of regulatory requirements and constraints imposed by the HPUC. The Debtors believe this law will be the first step in leveling the playing field between the Debtors and their competitors. Specifically, the law will allow the Debtors to bring products to market more rapidly by no longer requiring the Debtors to prepare and file information, including cost support, regarding promotional offerings and new products. These filings provided competitors with the details of the Debtors' promotions and pricing information prior to their effective date. In addition, the law provides the Debtors with greater price flexibility by allowing telecommunications carriers to modify their rates and services without approval by the HPUC and without providing cost support and other information. The HPUC will still have authority to investigate any rate for compliance with its rules.

#### **B. Prepetition Restructuring Initiatives**

Beginning in late 2007 and continuing through 2008, the Debtors began to take measures to improve their operating performance, including recruiting a new management team, developing a revised strategic business plan, engaging significant stakeholders in prepetition restructuring discussions and marketing the business to numerous potential strategic and financial investors.

## **1. Introduction of the New Management Team and the Revised Strategic Business Plan**

From October 2007 through the first quarter of 2008, the Debtors reduced the management headcount by approximately 100 positions and began to pursue other initiatives designed to improve the Debtors' operating results.

On February 4, 2008, the Debtors announced the resignation of the then-chief executive officer. The Debtors engaged Zolfo Cooper Management LLC (f/k/a Kroll Zolfo Cooper LLC), a restructuring advisory firm, to provide interim executive management services to the Debtors pending the hiring of a new chief executive officer and new senior management team members. On May 8, 2008, the Debtors appointed Eric K. Yeaman as President and Chief Executive Officer. The Debtors subsequently hired additional senior management members, all of whom have extensive experience in the telecommunications industry or strong ties to the Hawaii business community.

The new management team has developed and continues to implement a revised strategic business plan that is focused on the introduction of new products, simplifying the Debtors' existing product offerings, improving customer service, leveraging the Debtors' network infrastructure, improving processes and systems, and rebuilding customer confidence. In addition, the Debtors have been exploring other product development opportunities, cost reduction initiatives, asset rationalization, capital raising opportunities and debt reduction options to improve cash flow and liquidity.

## **2. Balance Sheet Restructuring Initiatives**

On September 16, 2008, the Debtors announced that they had engaged the services of Lazard Frères & Co. LLC ("Lazard") as their financial advisor to assist in exploring restructuring alternatives. Such alternatives included Lazard's efforts to facilitate a conversion of existing debt into equity, to raise additional equity capital from existing and third-party investors, and to explore the viability of a sale of all or substantially all of the Debtors' assets.

Shortly after the Debtors hired Lazard, the Debtors undertook efforts to reach out to the lenders under the Credit Agreement and holders of the Senior Notes. With the Debtors' assistance, both a group of lenders under the Credit Agreement (the "Bank Group") and certain holders of the Senior Notes, who claim to own not less than 50% of such notes, organized and retained professional

advisors (the “Ad Hoc Noteholder Committee”). Throughout the three months prior to the Petition Date, Lazard facilitated discussions between the Debtors, the Bank Group and the Ad Hoc Noteholder Committee, as well as discussions with The Carlyle Group, regarding potential new money investments. Both the Ad Hoc Noteholder Committee and The Carlyle Group expressed interest in making such an investment, and The Carlyle Group submitted a proposal for an equity infusion into the Debtors as part of a financial restructuring.

In October 2008, Lazard began soliciting third-party investor interest in a potential financing and/or strategic investment transaction. Prior to the Petition Date, Lazard contacted approximately twelve institutions including four strategic investors and eight financial investors. As of the Petition Date, discussions were ongoing with certain of these third parties regarding potential restructuring options and a potential sale of all or substantially all of the Debtors’ assets.

The Debtors shared The Carlyle Group’s proposal with the advisors to the Bank Group, and provided them with updates on the status of negotiations with third parties. After several weeks of arms-length negotiations, and despite the Debtors’ good-faith efforts to reach an out-of-court arrangement with its various stakeholders, the Debtors ultimately determined to commence these chapter 11 cases to, among other things, preserve the going-concern value of their businesses while continuing to explore restructuring and asset sale options. Accordingly, on December 1, 2008, each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code.

## **VIII. SIGNIFICANT EVENTS AND PARTICIPANTS IN THESE CHAPTER 11 CASES**

### **A. Initial Motions and Certain Related Relief**

Immediately following the Petition Date, the Debtors devoted substantial efforts to stabilize their operations, and preserve and restore their relationships with vendors, customers, employees, landlords and utility providers. To that end, the Debtors sought and obtained a number of Bankruptcy Court orders to minimize disruption to their operations and facilitate the administration of these chapter 11 cases. Several of these orders are briefly summarized below.

## **1. Motion for Authority to Use Cash Collateral**

On the Petition Date, the Debtors filed a motion seeking authority to use cash collateral on an interim basis pending a final hearing. Certain holders of the Senior Notes objected arguing, among other things, that the Senior Secured Parties did not perfect their interests in the collateral and that the proposed cash collateral order was an attempt to cross-collateralize the Senior Secured Parties' partially-secured prepetition claims.

On December 3, 2008, the United States Bankruptcy Court for the District of Delaware approved, on an interim basis, the Debtors use of cash collateral. Subsequent to the transfer of venue described below, the Creditors' Committee objected to entry of the proposed final order on the grounds that, among other things, the Senior Secured Parties did not adequately perfect their security interests in the collateral and that there was no evidence of a diminution in the value of the Debtors' collateral. The same holders of Senior Notes who objected to the interim order filed a joinder to the Creditors' Committee's objection. The Debtors, the Senior Secured Parties, such holders of the Senior Notes and the Creditors' Committee resolved the objections and, on January 16, 2009, the Bankruptcy Court entered the final cash collateral order, authorizing the use of cash collateral through and including February 28, 2009.

On February 18, 2009, the Debtors filed a memorandum seeking authority to continue to use cash collateral beyond February 28, 2009 with the same adequate protection provided to the Senior Secured Parties in the final cash collateral order, *provided, however*, that such adequate protection no longer include cash payments equal to postpetition interest. Shortly thereafter, the Debtors and the Senior Secured Parties agreed to settle the dispute over the appropriate adequate protection package. Specifically, the Debtors agreed to pay cash in an amount equal to postpetition interest at the non-default rate to the Senior Secured Parties up to \$300 million of prepetition secured claims. However, interest on the Senior Secured Parties' claims in excess of \$300 million, to the extent allowed, would be paid in kind and added to their prepetition claims, without prejudice to the Senior Secured Parties' claim for interest at the default rate. The Creditors' Committee did not support or object to this settlement. As a result of this good-faith, arm's length settlement, the Debtors decreased the adequate protection payments by \$11.4 million in 2009 (approximately \$1.1 million per month). On February 27, 2009, the Bankruptcy Court entered an order extending the Debtors' use of cash collateral through and including April 30, 2009.

On April 17, 2009, the Debtors filed a statement in support of the continued use of cash collateral through and including June 30, 2009 on the same terms as those approved by the Bankruptcy Court on February 27, 2009. On April 30, 2009, the Bankruptcy Court entered an order extending the Debtors' use of cash collateral through and including June 30, 2009.

On June 9, 2009, the Debtors filed a statement in support of the continued use of cash collateral through and including August 31, 2009 on the same terms as those approved by the Bankruptcy Court on February 27, 2009. On June 30, 2009, the Bankruptcy Court entered an order extending the Debtors' use of cash collateral through and including August 31, 2009.

On August 11, 2009, the Debtors filed a statement in support of the continued use of cash collateral through and including October 31, 2009 on the same terms as those approved by the Bankruptcy Court on February 27, 2009. The hearing to consider the requested extension is scheduled for August 24, 2009.

## **2. Motion to Approve Stipulation to Change Venue to the United District Bankruptcy Court for the District of Hawaii**

The Debtors originally filed their chapter 11 cases in the United States Bankruptcy Court for the District of Delaware. Shortly after the Petition Date, the Debtors and the Attorney General for the State of Hawaii commenced discussions regarding venue for the chapter 11 cases. Following such discussion, the Attorney General requested, and the Debtors agreed, to transfer the chapter 11 cases to the Bankruptcy Court for the District of Hawaii (the "Bankruptcy Court"). On December 22, 2008, the United States Bankruptcy Court for the District of Delaware entered an order approving a stipulation between the Debtors and the Attorney General transferring venue to Hawaii.

## **3. Motion to Pay Employee Wages and Associated Compensation**

On December 3, 2008, the Debtors obtained approval authorizing them to (a) pay certain prepetition wages, salaries and other compensation, reimbursable employee expenses and employee medical and similar benefits and (b) continue their workers' compensation program. The order created a \$2 million cap that the Debtors could not exceed in meeting outstanding employee obligations. The order also authorized the Debtors to remit any outstanding payroll taxes or deductions to the appropriate third-party or taxing authority. Finally, the order modified the

automatic stay, allowing all workers' compensation claims, both pre- and postpetition to proceed in the appropriate judicial or administrative forum.

#### **4. Motion to Prohibit Utilities from Terminating Service**

On December 2, 2008, the United States Bankruptcy Court for the District of Delaware entered an interim order prohibiting the Debtors' utility providers from altering, refusing or discontinuing utility services to the Debtors solely on the basis of the commencement of these chapter 11 cases or a debt owed by the Debtors to such utility for services rendered before the order for relief that was not paid when due. The order also created both procedures for utility providers to request additional adequate assurance in the event that a utility provider is not satisfied with the assurance of payment provided, as well as procedures for the Debtors to challenge these requests.

On December 30, 2008, the Bankruptcy Court entered a final order which approved the relief granted in the interim order on a final basis. The order also required the Debtors to deposit \$1.05 million into an interest-bearing, newly created, segregated account, with such deposit to be held in escrow for the purpose of providing each utility provider adequate assurance of payment of its postpetition utility services to the Debtors.

#### **5. Motion to Pay Taxes**

On December 3, 2008, the United States Bankruptcy Court for the District of Delaware entered an order authorizing the Debtors to pay excise taxes, use taxes, licensing fees and regulatory fees in the ordinary course of business, without regard to whether the taxes or fees accrued or arose before the Petition Date. The order put a cap of \$1.4 million for the aggregate amount of taxes and fees that could be paid subject to the order.

#### **6. Motion Establishing Notification and Sell-Down Procedures for Trading in Claims of the Debtors' Estates**

On December 3, 2008, the United States Bankruptcy Court for the District of Delaware entered an interim order establishing the effective date for procedures to restrict trading in certain claims against the Debtors to protect the Debtors' ability to use the tax attributes to their benefit in future tax years.

## **7. Motion to Pay Shippers and Materialmen's Lien Claimants**

On December 22, 2008, the United States Bankruptcy Court for the District of Delaware entered an interim order authorizing, among other things, the Debtors to pay certain prepetition claims of shippers and materialmen's lien claimants. In the period immediately prior to the Petition Date, certain of the Debtors' goods were in transit. The Debtors believed that, unless they were authorized to pay certain shippers, it would have been highly unlikely the Debtors would have received possession of these goods. Additionally, the Debtors were concerned that the materialmen's lien claimants possessed lien rights or the ability to exercise "self help" remedies to secure payment of their claims, and, as such, any failure by the Debtors to satisfy outstanding shipping charges and the miscellaneous lien claims could have had a material adverse impact on the Debtors' businesses.

On January 14, 2009, the Bankruptcy Court entered an order granting the relief authorized in the interim order on a final basis.

## **8. Applications to Retain Professionals**

To assist the Debtors in carrying out their duties as debtors in possession and to represent the Debtors' interests in these chapter 11 cases, the Debtors retained: Kirkland & Ellis LLP as their bankruptcy counsel; Cades Schutte LLP as their co-counsel; Lazard Frères & Co. LLC as investment bankers and financial advisors; Ernst & Young LLP as tax advisors; and Deloitte & Touche LLP as independent auditors. The Debtors also filed a motion pursuant to section 363 of the Bankruptcy Code seeking authority to enter into a services agreement with Zolfo Cooper Management LLC under which Zolfo Cooper Management LLC was retained to provide critical management services and Kevin J. Nystrom to act as the Debtors' Chief Operating Officer. The Bankruptcy Court granted each of these applications.

In addition to retaining the above-described professionals, the Debtors also were authorized to retain certain "ordinary course professionals" to assist them with certain matters that typically are related to the operation of their business. For example, such ordinary course professionals include accountants and legal counsel working on specific matters for the Debtors. Each of these ordinary course professionals have been utilized by the Debtors to facilitate and ensure the ongoing operation of their businesses and appropriate treatment of related issues.



## **9. HYP Media Finance, LLC Adversary Complaint**

On December 22, 2008, HYP Media Finance, LLC (“HYP”) filed an adversary complaint against Hawaiian Telcom, Inc. alleging that Hawaiian Telcom, Inc. (a) is holding HYP accounts receivable belonging to HYP in an unknown amount, (b) has failed to, and continues to refuse to pay, HYP payments in the approximate amount of \$1,480,000 and \$2,120,000 that were allegedly due to HYP on December 15, 2008 and December 31, 2008, respectively, pursuant to that certain Billing and Collection Services Agreement dated as of November 30, 2007, between HYP Media LLC and Hawaiian Telcom, Inc., (c) failed to segregate the HYP accounts receivable, thereby commingling the HYP accounts receivable with the Debtors’ other funds and assets in an alleged breach of the Billing and Collection Services Agreement, (d) intends to misappropriate and use the HYP accounts receivable in contravention of the Billing and Collection Services Agreement and (e) does not have the right or ability to grant any interest in the HYP accounts receivable to any third-person or entity, including, but not limited to the Senior Secured Parties. The Debtors submitted their answer on February 3, 2009 and denied the allegations. By order, dated April 15, 2009, the Bankruptcy Court allowed Lehman Commercial Paper Inc. (“Lehman Commercial Paper”), as administrative and collateral agent to the secured lenders under the Credit Agreement, to intervene as a party in the adversary proceeding. Trial in this action is currently scheduled for December 7, 2009. Discovery cutoff is November 6, 2009. Expert reports are due on September 8, 2009 and any rebuttal report(s) must be served by October 8, 2009. Trial briefs and witness lists must be filed and served by November 23, 2009. Exhibits must be served (but not filed) by November 23, 2009.

## **10. 2008 Performance Compensation Program**

On April 23, 2009, the Bankruptcy Court entered that certain Order Authorizing the Debtors to Honor Their Annual Performance Compensation Program For Calendar Year 2008, which authorized the Debtors to pay all union employees their 2008 annual bonus awards. Additionally, the Bankruptcy Court authorized the Debtors to pay immediately to all non-union employees the sum of (a) one-twelfth of the amount payable to the non-union employee under the 2008 performance compensation program and (b) the balance of the amount payable to the non-union employee up to \$10,950. To the extent such initial payment was not sufficient to satisfy the entirety of any non-union employee’s claim on account of the 2008 performance compensation program, the Debtors were authorized, but not

directed, to pay any additional amount owing to such non-union employee on the Effective Date, *provided, however*, that to receive such additional payment, such non-union employee must remain employed by the Debtors on the Effective Date.

## **11. Motion to Assume Accenture Services Agreement**

On April 16, 2009, the Bankruptcy Court entered an order authorizing the Debtors to assume an amended and restated Application Services Agreement (the “Amended Application Services Agreement”), dated as of February 5, 2007, with Accenture LLP (“Accenture”). Under the Amended Application Services Agreement, Accenture will monitor and manage specified software applications (including the software used to manage new orders from new customers, changes and other core functions of the Debtors) and provide support if an application fails or is not available, install new releases of the applications, make modifications, develop solutions to address problems and otherwise generally ensure the applications are running properly so as to enable the Debtors to conduct their business operations and service customers. The Amended Application Services Agreement will provide the Debtors with a savings of approximately \$27 million over the life of the contract in comparison to their original application services agreement with Accenture. Additionally, Accenture agreed to waive payment of the \$733,000 cure amount it is owed pursuant to section 365 of the Bankruptcy Code and any other prepetition claims it may have against the estates.

## **12. Other Related Relief**

In furtherance of the Debtors’ efforts to reorganize, the United States Bankruptcy Court for the District of Delaware entered: (a) an order directing the joint administration of the eight chapter 11 cases under a single docket, Case Number 08-13086; (b) orders authorizing the Debtors to (i) honor customer programs and (ii) continue to use their centralized cash management system, bank accounts, business forms and perform intercompany transactions; and (c) establishing procedures for interim compensation and reimbursement of expenses for professionals and members of the Creditors’ Committee. After the venue transfer, the Bankruptcy Court jointly administered the eight chapter 11 cases under a single docket, Case Number 08-02005.

## **B. The Official Committee of Unsecured Creditors**

### **1. Appointment of the Creditors' Committee**

On December 12, 2008, the Office of the United States Trustee for the District of Delaware appointed the Creditors' Committee pursuant to section 1102 of the Bankruptcy Code. The original members of the Creditors' Committee included (a) U.S. Bank, N.A. as Indenture Trustee for the Debtors' senior fixed rate and senior floating rate notes, (b) Deutsche Bank National Trust Company, as Successor Indenture Trustee for the Debtors' subordinated notes, (c) International Bhd. of Elec. Workers Telephone Union 1357; (d) Hawaiian Electric Company, Inc. and (e) Sprint Spectrum, L.P.

On December 23, 2008, after the transfer of venue to the Bankruptcy Court, Pacific Investment Management Company LLC and Capital Research and Management Company filed a motion directing appointment to the Creditors' Committee. The Creditors' Committee, Deutsche Bank National Trust Company, International Bhd. of Elec. Workers Telephone Union 1357 and the Office of the United States Trustee for the District of Hawaii each filed objections to this motion. However, the parties were able to reach a consensual resolution, and on January 28, 2009, the Office of the United States Trustee for the District of Hawaii appointed Pimco High Yield Fund and Income Fund of America, affiliates of the moving parties, to the Creditors' Committee.

The Creditors' Committee retained Morrison & Foerster LLP as counsel and Moseley Biehl Tsugawa Lau and Muzzi LLC as co-counsel. On February 2, 2009, the Bankruptcy Court entered final orders approving these retentions. The Creditors' Committee also retained FTI Consulting, Inc. as its financial advisors, to advise and consult with respect to, among other things, the Plan.

### **2. Meeting of Creditors**

The meeting of creditors pursuant to section 341 of the Bankruptcy Code was held on January 27, 2009 at 2:00 p.m. Hawaii Standard Time, at the U.S. Trustee Hearing Room, Suite 606, 1132 Bishop St., Honolulu, Hawaii 96813. In accordance with Bankruptcy Rule 9001(5) (which requires, at a minimum, that one representative of the Debtors appear at such meeting of creditors for the purpose of being examined under oath by a representative of the United States Trustee and by any attending parties-in-interest), a representative of the Debtors as well as counsel to the Debtors attended the meeting and answered questions posed by the Office of

the United States Trustee for the District of Hawaii and other parties-in-interest present at the meeting.

### **C. The State of Hawaii**

The State of Hawaii has played an active role throughout these chapter 11 cases. As discussed above in Section VIII.A.2, shortly after the Petition Date, the Debtors and the Department of the Attorney General for the State of Hawaii entered into a stipulation agreeing to the transfer of venue of these chapter 11 cases to the Bankruptcy Court. After the venue transfer, counsel for the State of Hawaii vigorously represented and appeared in the Bankruptcy Court to support the local interests of the citizens of Hawaii and the long-term importance of the Debtors to the State.

Additionally, the Debtors, as the incumbent local exchange carrier for the State of Hawaii, are subject to regulatory requirements and constraints imposed by the Federal Communications Commission and the HPUC. Among these regulatory controls, after confirmation of the Plan but before the Effective Date, the Reorganized Debtors must receive the necessary regulatory approvals from the HPUC. The HPUC may take up to six months to issue its approval.

### **D. Filing of the Schedules and Setting of Bar Dates**

#### **1. Filing of the Statements of Financial Affairs and Schedules of Assets and Liabilities**

On January 8, 2009, the Debtors filed their schedules of assets and liabilities, schedules of executory contracts and unexpired leases and statements of financial affairs with the Bankruptcy Court pursuant to section 521 of the Bankruptcy Code.

#### **2. Establishment of the Bar Dates**

On December 23, 2008, the Clerk of the Bankruptcy Court filed the Notice of Chapter 11 Bankruptcy Cases, Meeting of Creditors, & Deadlines [Docket No. 112] establishing April 27, 2009 as the general claims bar date (the “General Claims Bar Date”) for each entity other than governmental units to file proofs of claim, and June 1, 2009 as the bar date for governmental units to file proofs of claim (the “Governmental Bar Date” and, together with the General Claims Bar Date, the “Bar Dates”). On July 28, 2009, the Bankruptcy Court entered an order extending the Governmental Bar Date to July 31, 2009.

Subject to certain limited exceptions contained in the Bankruptcy Code, other than claims arising from the rejection of executory contracts after the General Claims Bar Date, all proofs of claim were required to be submitted by the General Claims Bar Date or Governmental Bar Date, as applicable.

The Clerk of the Bankruptcy Court mailed written notice of the Bar Dates to, among others, all known creditors and all parties who filed requests for notice under Bankruptcy Rule 2002 as of the date the Notice of Chapter 11 Bankruptcy Cases, Meeting of Creditors, & Deadlines was entered. In addition, the Debtors published notice of the Bar Dates in the national edition of *The Wall Street Journal*, *The Honolulu Advertiser* and *The Honolulu Star-Bulletin*.

A deadline for entities asserting Administrative Claims has not been established as of the date of this Disclosure Statement (with the exception of claims asserted pursuant to section 503(b)(9) of the Bankruptcy Code which are subject to the General Claims Bar Date). Instead, the Debtors are requesting the Bankruptcy Court fix such a date in the Confirmation Order.

## **E. Challenge to the Senior Secured Parties' Liens**

### **1. Introduction**

As previously mentioned in Section VIII.A.1, certain holders of the Senior Notes and the Creditors' Committee each filed objections to the Debtors' motion to use cash collateral in these chapter 11 cases arguing, among other things, that the Senior Secured Parties failed to adequately perfect their interests in substantially all of the Debtors' assets. Specifically, such holders of the Senior Notes and the Creditors' Committee argued the Senior Secured Parties failed to perfect their interests in approximately 89 of the Debtors' 128 owned parcels of real property and all of the Debtors' 74 parcels of leasehold property, as well as any of the fixtures located thereon. Accordingly, such holders of the Senior Notes and the Creditors' Committee asserted that, because the Debtors granted a security interest in less than 20% of the real property locations from which they conduct their businesses, that there is significant unencumbered value for holders of general unsecured claims.

## **2. Lehman Commercial Paper Inc.'s Initiation of Adversary Proceeding and Motion for Declaratory Judgment that the Secured Lenders Have Perfected and Enforceable First Liens**

On April 14, 2009, Lehman Commercial Paper, in its capacity as administrative and collateral agent for the secured lenders (the "Secured Lenders") under the Credit Agreement and the Guarantee Agreement, initiated an adversary proceeding by filing a complaint seeking declaratory relief from the Bankruptcy Court that (a) except with respect to certain de minimis parcels of real estate, Lehman Commercial Paper, on behalf of the Secured Lenders, has perfected, enforceable, and valid first liens in substantially all of the Debtors' assets and properties, including, among other things, all accounts (including, without limitation, accounts receivable and all cash included therein), all deposit accounts (and all cash included therein), all equipment, including fixtures (wherever located and whether the real property upon which such fixtures are located is owned or leased by the Debtors), all investment property, certain improved and unimproved owned real property, and all proceeds and products (including cash) of any of the foregoing; (b) the Secured Lenders hold perfected security interests in all of the Debtors' equipment, including fixtures, wherever located; and (c) that Lehman Commercial Paper's first liens were not subject to avoidance under section 544 of the Bankruptcy Code.

## **3. Lehman Commercial Paper's Motion for Summary Judgment**

On May 13, 2009, Lehman Commercial Paper filed a motion for summary judgment pursuant to Rule 56 of the Federal Rules of Civil Procedure awarding it the declaratory relief sought in its complaint and in the adversary proceeding. According to Lehman Commercial Paper, there were no genuine issues of material fact regarding the nature and extent of the liens and security interests held by the Secured Lenders. Thus, the award of summary judgment is warranted as a matter of law.

## **4. Creditors' Committee's Answer and Counterclaims.**

On May 15, 2009, the Creditors' Committee filed its answer to Lehman Commercial Paper's complaint for declaratory relief, asserting certain counterclaims to avoid what the Creditors' Committee believed to be unperfected liens.

## **5. Summary Judgment Hearing**

The Bankruptcy Court scheduled a hearing for July 30, 2009 to hear the motion for summary judgment filed by Lehman Commercial Paper. In accordance with the schedule established by the Bankruptcy Court for the hearing, on July 10, 2009, the Creditors' Committee filed its memorandum in opposition. In addition to making arguments regarding the purported failure of the Secured Lenders to perfect their interests in certain of the Debtors' assets, the Creditors' Committee argued that the Secured Lenders' liens were void because the Debtors purportedly (a) exceeded the amount of debt requested in their application to the HPUC at the time of their acquisition by the Carlyle Group in 2005 and (b) the Debtors failed to obtain HPUC approval of the Credit Agreement in 2007.

On July 23, 2009, Lehman Commercial Paper filed its reply, reasserting its position that the Secured Lenders have valid liens and perfected security interests in substantially all of the Debtors' assets, as set forth above, including all of the Debtors' fixtures (wherever located), deposit accounts and all of the encumbered real property and easements and rights of way appurtenant to that property. In addition, Lehman Commercial Paper argued that the Creditors' Committee's arguments regarding the HPUC's failure to approve the debt capacity and the Credit Agreement were without merit and that, even if they were, such arguments could not be prosecuted by the Creditors' Committee nor adjudicated by the Bankruptcy Court.

On August 20, 2009, the Bankruptcy Court entered an order granting Lehman Commercial Paper's motion for summary judgment in part and denying summary judgment in part. In granting summary judgment in part, the Bankruptcy Court found that Lehman Commercial Paper: (a) holds perfected and first liens against (i) subject to the limited exceptions set forth below, all personal property of the Debtors as granted pursuant to the Guarantee Agreement, including an interest in all cash held in the Debtors' investment accounts (relating to property of approximately \$68.2 million), (ii) all encumbered real property described in that certain Amended and Restated Mortgage, Assignment of Leases and Rents, Security Agreement, Financing Statement and Fixture Filing, dated as of June 29, 2007, including all equipment and fixtures located on such encumbered real property, (iii) all of the Debtors' fixtures that are not attached to the Debtors' encumbered real property; and (b) its perfected liens are not subject to avoidance under section 544 of the Bankruptcy Code. In denying summary judgment in part, the Bankruptcy Court ruled that Lehman Commercial Paper failed to demonstrate

that there were no genuine issues of material fact as to the perfection of its interests in (a) certain deposit accounts of the Debtors at First Hawaiian Bank and Bank of Hawaii and (b) the Debtors' fleet of motor vehicles. Finally, the Bankruptcy Court reiterated its position from the July 30, 2009 hearing that the HPUC regulations do not create a private right of action to attack the validity of loans or liens granted by a public utility, except before the HPUC.

#### **F. The Debtors' Exclusive Period to File a Chapter 11 Plan**

Section 1121(b) of the Bankruptcy Code provides that a debtor has the exclusive right to propose a chapter 11 plan for the first 120 days of a chapter 11 case. Section 1121(c) of the Bankruptcy Code also provides that the debtor has the exclusive right to solicit votes for its plan for an additional 60 days. Section 1121(d) of the Bankruptcy Code authorizes a bankruptcy court to extend these exclusive periods, for cause shown, by as much as 18 months (to file a plan) and 20 months (to solicit votes). On March 12, 2009, the Bankruptcy Court entered an order extending to June 30, 2009 the Debtors' exclusive period to file a plan of reorganization and extending to August 31, 2009 the Debtors' exclusive period to solicit votes on a plan of reorganization.

On June 3, 2009, the Debtors filed a motion seeking a second extension of their exclusive periods to file a chapter 11 plan and solicit votes thereon to September 30, 2009 and November 30, 2009 respectively. Because the Court was unavailable to hold a hearing on this motion until July 1, 2009, the Bankruptcy Court entered a bridge order extending the Debtors' exclusive periods by one day to July 1, 2009 and September 1, 2009 respectively.

On June 12, 2009, Sandwich Isles Communications, Inc. ("Sandwich Isles") filed an objection to the Debtors' exclusivity motion and requested a termination of exclusivity to allow it to file a competing chapter 11 plan that would provide for the sale of substantially all of the Debtors' assets to Sandwich Isles.

On June 25, 2009, the Creditors' Committee filed a statement requesting the Bankruptcy Court terminate exclusivity and allow the Creditors' Committee to share co-exclusivity with the Debtors after the July 30, 2009 summary judgment hearing described above.

On July 1, 2009, the Bankruptcy Court denied the Debtors' motion to extend the exclusive periods to file a chapter 11 plan and solicit votes thereon. As a result, on September 2, 2009, the Debtors' exclusivity period will expire.



## **G. The Diligence Protocol**

On July 31, 2009, the Debtors filed a motion seeking entry of an order implementing a standardized diligence protocol (the “Diligence Protocol”) to protect their confidential and commercially sensitive information. The Diligence Protocol conforms to standard industry practice for diligence in mergers, acquisitions and other similar transactions.

On August 10, 2009, the Bankruptcy Court entered an order implementing the Diligence Protocol to enable qualified potential purchasers or plan sponsors to access confidential and commercially sensitive information in a manner that protects the Debtors’ estates from misuse of such information.

## **IX. OTHER KEY ASPECTS OF THE PLAN**

### **A. Governance of Reorganized Hawaiian Telcom**

#### **1. Board of Directors**

As of the Effective Date, the term of the current members of the boards of directors of the Debtors shall expire. The Reorganized Hawaiian Telcom Holdco board of directors will consist initially of no fewer than five directors and no more than seven directors, each with telecom/public utility operating company or financial management/consulting expertise. The Debtors’ current President and Chief Executive Officer, Eric K. Yeaman, shall serve as one of the directors of Reorganized Hawaiian Telcom Holdco. The initial boards of directors and the officers of each of the Reorganized Debtors shall be appointed in accordance with the respective certificates of incorporation, by-laws or other constituent documents for each Reorganized Debtor. The Senior Secured Parties shall select, and the Debtors shall disclose, the other members of the Reorganized Hawaiian Telcom Holdco board of directors prior to the Confirmation Hearing. To the extent any such director or officer is an “insider” under the Bankruptcy Code, the nature of any compensation to be paid to such director or officer will also be disclosed. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the certificates of incorporation, by-laws and other constituent documents of the Reorganized Debtors.

## 2. Management

As set forth above, the Reorganized Debtors will continue to employ Eric K. Yeaman as their President and Chief Executive Officer. As the Debtors' prepetition senior management team was appointed as part of the Debtors' prepetition operational restructuring efforts, the Reorganized Debtors will assume, as modified, all of the employment agreements for the senior management team, and the prepetition senior management team will remain in place. Specifically, on the Effective Date, the senior management team will continue to consist of:

|                    |  |
|--------------------|--|
| Eric K. Yeaman     | President, Chief Executive Officer and Director              |
| Robert F. Reich    | Senior Vice President, Chief Financial Officer and Treasurer |
| Michael F. Edl     | Senior Vice President - Network Services                     |
| Rose M. Hauser     | Senior Vice President and Chief Information Officer          |
| Craig T. Inouye    | Senior Vice President - Sales                                |
| John T. Komeiji    | Senior Vice President and General Counsel                    |
| Geoffrey W.C. Loui | Senior Vice President - Strategy and Marketing               |
| William G. Chung   | Vice President of Human Resources & Labor Relations          |
| John K. Duncan     | Vice President and Controller                                |
| Francis K. Mukai   | Vice President, Associate General Counsel and Secretary      |

As part of the Plan Supplement, the Debtors will disclose the nature of such compensation in accordance with section 1129(a)(5)(B) of the Bankruptcy Code.

### B. Distributions

One of the key concepts under the Bankruptcy Code is that only claims and equity interests that are "allowed" may receive distributions under a chapter 11 plan. This term is used throughout the Plan and the descriptions below. In general, an "allowed" claim or equity interest means that the Debtors agree, or if there is a dispute, the Bankruptcy Court determines, that the claim or equity interest, and the amount thereof, is in fact a valid obligation of the Debtors.

Any claim that is not a disputed claim and for which a proof of claim has been filed is an allowed claim. Any claim that has been listed by the Debtors in the Debtors' schedules of assets and liabilities, as may be amended from time to time, as liquidated in amount and not disputed or contingent is an allowed claim in the amount listed in the schedules unless an objection to such claim has been filed. If the holder of such claim files a proof of claim in an amount different than the amount set forth on the Debtors' schedules of assets and liabilities, the claim is an allowed claim for the lower of the amount set forth on the Debtors' schedules of assets and liabilities and on the proof of claim and a disputed claim for the difference. Any claim that has been listed in the Debtors' schedules of assets and liabilities as disputed, contingent or not liquidated and for which a proof of claim has been filed is a disputed claim. Any claim for which an objection has been timely interposed is a disputed claim. For an explanation on how disputed claims will be determined, see Section IX.C below.

An objection to any claim may be interposed by the Debtors or the Reorganized Debtors within 60 days after the Effective Date or such later date as may be fixed by the Bankruptcy Court. Any claim for which an objection has been interposed will be an allowed claim if the objection is determined in favor of the holder of the claim pursuant to a final order of the Bankruptcy Court or as otherwise agreed to by the parties.

Lehman Commercial Paper, as agent for the Senior Secured Parties, shall be deemed to be the holder for all allowed Class 3 Senior Secured Claims, as applicable, for purposes of distributions to be made in accordance with the Plan and shall arrange to deliver such distributions as soon as practicable following compliance with the requirements set forth in Article V.G of the Plan, *provided, however*, the agent for the Senior Secured Parties shall retain all rights as agent under the Credit Agreement in connection with delivery of distributions to the Senior Secured Parties, *provided further, however*, that the Debtors' obligations to make distributions in accordance with Article III of the Plan shall be deemed satisfied upon delivery of distributions to the agent for the Senior Secured Parties.

The indenture trustee for the Senior Notes shall be deemed to be the holder for all allowed Class 5 Senior Notes Claims, as applicable, for purposes of distributions to be made in accordance with the Plan and shall arrange to deliver such distributions as appropriate. As soon as practicable following compliance with the requirements set forth in Articles V.G and V.H of the Plan, the indenture

trustee for the Senior Notes shall arrange to deliver such distributions to or on behalf of such holders of allowed Class 5 Senior Notes Claims.

### **1. Distributions for Claims Allowed as of the Effective Date**

Except as otherwise provided in the Plan, a final order of the Bankruptcy Court or as agreed to by the relevant parties, distributions on account of allowed claims will be made by the Reorganized Debtors on the Effective Date or as soon as practicable thereafter. Disputed claims will be treated as set forth below Section IX.C below.

### **2. Minimum Distributions**

There will be no distributions of cash less than \$50 under the Plan to any holder of a claim unless a request for such payment is made in writing to the Reorganized Debtors.

### **3. No Payments of Fractional Dollars**

Notwithstanding any other provision of the Plan to the contrary, no payment of fractional dollars shall be made pursuant to the Plan. Whenever any payment of a fraction of a dollar under the Plan would otherwise be required, the actual distribution made shall reflect a rounding down of such fraction to the nearest whole dollar.

### **4. No Postpetition Interest on Claims**

Unless otherwise specifically provided for in the Plan, the Confirmation Order or the Cash Collateral Order, or required by applicable bankruptcy law, postpetition interest shall not accrue or be paid on any claims against the Debtors, and no holder of any claim against the Debtors shall be entitled to interest accruing on or after the Petition Date on any such claim.

### **5. Distribution Agents**

The Debtors or the Reorganized Debtors, as applicable, shall have the authority, in their sole discretion, to enter into agreements with one or more distribution agents to facilitate the distributions required hereunder. As a condition to serving as a distribution agent, a distribution agent must (a) affirm its obligation to facilitate the prompt distribution of any documents, (b) affirm its obligation to facilitate the prompt distribution of any recoveries or distributions required

hereunder and (c) waive any right or ability to setoff, deduct from or assert any lien or encumbrance against the distributions required hereunder that are to be distributed by such distribution agent; *provided, however*, that the indenture trustee for the Senior Notes shall retain the right to set off against the distributions required hereunder. The Debtors or the Reorganized Debtors, as applicable, may pay to the distribution agents all reasonable and documented fees and expenses of the distribution agents without the need for any approvals, authorizations, actions or consents.

## **C. Procedures for Treating Disputed Claims Under the Plan**

### **1. Disputed Claims**

A disputed claim is a claim that has not been allowed or disallowed pursuant to an agreement by the parties or an order of the Bankruptcy Court. In addition, all prepetition tort claims not previously allowed by the Bankruptcy Court are disputed claims. A claim for which a proof of claim has been filed but that is listed on the Debtors' schedules of assets and liabilities as unliquidated, disputed or contingent, and which has not yet been resolved by the parties or by the Bankruptcy Court, is a disputed claim. If a holder of a claim has filed a proof of claim that is inconsistent with the claim as listed on the Debtors' schedules of assets and liabilities, such claim is a disputed claim to the extent of the difference between the amount set forth in the proof of claim and the amount scheduled by the Debtors. Any claim for which the Debtors or any party-in-interest have interposed (or will interpose) a timely objection is a disputed claim.

### **2. Objections to Claims and Claims Objection Deadline**

The Debtors and after the Effective Date, the Reorganized Debtors, are entitled to object to all claims, including Administrative Claims. Any objections to claims will be filed within 60 days after the Effective Date or such later date as may be fixed by the Bankruptcy Court.

### **3. No Distributions Pending Allowance**

If any portion of a claim is a disputed claim, no payment or distribution will be made on account of that claim (or any portion thereof) until it becomes an allowed claim.

#### **4. Distributions Withheld for Disputed Claims**

Until such time as all disputed claims are allowed or disallowed, the Debtors shall reserve cash from distributions to holders of allowed general unsecured claims in an amount equal to the distributions to which holders of disputed claims would be entitled if all such claims were to become allowed claims.

#### **5. Distributions After Allowance**

After the Effective Date, if a disputed claim becomes an allowed claim, the Reorganized Debtors will pay the holder of that claim 20 days after the order allowing the disputed claim becomes a final order, or as soon thereafter as practicable, or such earlier date as agreed to by the Reorganized Debtors, in accordance with the provisions of the Plan. If a disputed claim is disallowed, the amount of property withheld by the Debtors on account of such disputed claim will be retained by the Reorganized Debtors.

#### **6. Resolution of Claims**

On and after the Effective Date, the Reorganized Debtors will be allowed to compromise, settle or otherwise resolve any objections to claims (including Administrative Claims) and compromise, settle or otherwise resolve any objections with respect to disputed claims without seeking approval from the Bankruptcy Court.

#### **7. Claims Estimation**

After the Confirmation Date but before the Effective Date, the Debtors and, with respect to general unsecured claims the Creditors' Committee, and after the Effective Date, the Reorganized Debtors may, at any time, request that the Bankruptcy Court estimate (a) any disputed claim pursuant to applicable law and (b) any contingent or unliquidated claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, regardless of whether the Debtors or the Reorganized Debtors have previously objected to such claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any disputed claim, contingent claim or unliquidated claim, including during the litigation concerning any objection to any claim or during the pendency of any appeal relating to any such objection.

Notwithstanding anything in the Plan to the contrary, a claim that has been expunged from the claims register but that is subject to appeal or has not been the subject of a final order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court.

## **8. Amendments to Claim**

On or after the Effective Date, except as otherwise provided in the Plan, a claim may not be filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized Debtors, and, to the extent such prior authorization is not received, any such new or amended claim filed shall be deemed disallowed and expunged without any further notice to or action, order or approval of the Bankruptcy Court.

## **D. Rights Offering**

### **1. Determination of Eligible Holders**

All holders of Senior Notes Claims as of August 14, 2009 will be sent an investor certificate in order to determine whether the holder is an Eligible Senior Notes Claim Holder. All investor certificates must be returned by September 21, 2009 in order for the Senior Notes claim holder to be eligible to participate in the Rights Offering.

### **2. Issuance of Subscription Rights**

Each Eligible Senior Notes Claim Holder shall receive Subscription Rights entitling such holder to purchase its *pro rata* share as of August 14, 2009 of 3,125,000 shares of New Common Stock that shall be issued on the Effective Date or as soon as practicable thereafter. Eligible Senior Notes Claim Holders shall have the right, but not the obligation, to participate in the Rights Offering as provided herein.

### **3. Subscription Period**

The Rights Offering shall commence on September 23, 2009. Each Eligible Senior Notes Claim Holder intending to participate in the Rights Offering must affirmatively elect to exercise its Subscription Rights and pay the Subscription Purchase Price with respect thereto prior to October 16, 2009 (the “Subscription Expiration Date”). After the Subscription Expiration Date, any exercise of Subscription Rights shall be null and void and the Debtors shall not be obligated to

honor any such purported exercise received by the agent to the Rights Offering, Financial Balloting Group LLC (the “Rights Offering Agent”) after the Subscription Expiration Date regardless of when the documents relating to such exercise were sent.

#### **4. Subscription Purchase Price**

Each holder of a Subscription Right shall be required to pay, on or prior to the Subscription Expiration Date the Subscription Purchase Price for each share of the New Common Stock to be issued thereunder.

#### **5. Exercise of Subscription Rights**

To exercise Subscription Rights, each Eligible Senior Notes Claim Holder must: (a) return a duly completed subscription form (each, a “Subscription Form”) to the Rights Offering Agent so that such Subscription Form is actually received by the Rights Offering Agent on or before the Subscription Expiration Date and (b) pay to the Rights Offering Agent on or before the Subscription Expiration Date the Subscription Purchase Price multiplied by the number of shares of New Common Stock it seeks to purchase in accordance with the wire instructions set forth on the Subscription Form or by bank check or cashier’s check delivered to the Rights Offering Agent together with the Subscription Form.

If, on or prior to the Subscription Expiration Date, the Rights Offering Agent for any reason does not receive from a given holder of Subscription Rights both a duly completed Subscription Form and immediately available funds as set forth above, such holder shall be deemed to have relinquished and waived its right to participate in the Rights Offering. The payments made in accordance with the Rights Offering shall be deposited and held by the Rights Offering Agent in a trust account or similarly segregated account or accounts maintained by the Rights Offering Agent in accordance with Article VI of the Plan, which shall be separate and apart from the Rights Offering Agent’s general operating funds and/or any other funds subject to any lien or any cash collateral arrangement (the “Rights Offering Trust Account”). The Rights Offering Agent will maintain the Rights Offering Trust Account for the purpose of holding the money for administration of the Rights Offering until the Effective Date or such other later date at the option of the Reorganized Debtors. The Rights Offering Agent shall not use such funds for any other purpose and shall not encumber or permit such funds to be encumbered with any lien or similar encumbrance.



Each Eligible Senior Notes Claim Holder may exercise all or any portion of such holder's Subscription Rights pursuant to the Subscription Form. The valid exercise of Subscription Rights shall be irrevocable. To facilitate the exercise of the Subscription Rights, on the commencement date of the Rights Offering, the Debtors will mail a Subscription Form to each Eligible Senior Notes Claim Holder together with instructions for the proper completion, due execution and timely delivery of such Subscription Form, as well as instructions for payment. The Debtors may adopt such additional detailed procedures consistent with the provisions of Article VI.D of the Plan to more efficiently administer the exercise of the Subscription Rights.

## **6. Transfer Restriction; Revocation**

The Subscription Rights are not transferable. Any such transfer or attempted transfer is null and void and the Debtors will not treat any purported transferee as the holder of any Subscription Right. Once the Eligible Senior Notes Claim Holder has properly exercised its Subscription Rights, such exercise will not be permitted to be revoked.

## **7. Application of Excess Cash Proceeds**

To the extent subscribed, any net proceeds of the Rights Offering resulting in *pro forma* cash in excess of \$75 million will be distributed on a *pro rata* basis to the Senior Secured Parties and the outstanding amount of the New Term Loan shall be reduced dollar-for-dollar.

## **E. Treatment of Executory Contracts and Unexpired Leases**

### **1. Assumption of Executory Contracts and Unexpired Leases**

Subject to the right of the Reorganized Debtors to elect to reject any executory contract or unexpired lease as to which there is an objection to the proposed cure, each executory contract or unexpired lease shall be deemed automatically assumed in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such executory contract or unexpired lease:

- has been previously assumed, assumed and assigned or rejected by the Debtors pursuant to a final order of the Bankruptcy Court entered prior to the Effective Date;

- is the subject of a motion to assume, assume and assign or reject pending as of the Effective Date; or
- is listed on the schedule of “Rejected Executory Contracts and Unexpired Leases” in the Plan Supplement.

The Debtors reserve the right to amend the schedule of rejected executory contracts and unexpired leases at any time before the Effective Date.

## **2. Approval of Assumptions or Rejection of Executory Contracts and Unexpired Leases**

The Confirmation Order shall constitute an order of the Bankruptcy Court approving the assumptions or rejections described in the Plan and the Plan Supplement pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Any counterparty to an executory contract or unexpired lease that fails to object timely to the proposed assumption of such executory contract or unexpired lease will be deemed to have consented to such assumption. Each executory contract and unexpired lease assumed pursuant to the Plan or by any order of the Bankruptcy Court, which has not been assigned to a third party prior to the Effective Date, shall revert in and be fully enforceable by the Reorganized Debtors in accordance with its terms, except as such terms are modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law.

## **3. Claims on Account of the Rejection of Executory Contracts or Unexpired Leases**

All proofs of claim arising from the rejection of executory contracts or unexpired leases pursuant to the Plan must be filed with the Bankruptcy Court and served upon the Debtors or the Reorganized Debtors, as applicable, no later than 30 days after the later of (a) notice of entry of an order approving the rejection of such executory contract or unexpired lease, (b) notice of entry of the Confirmation Order and (c) notice of an amendment to the schedule of rejected contracts submitted with the Plan Supplement.

Any entity that is required to file a proof of claim arising from the rejection of an executory contract or an unexpired lease that fails to timely do so shall be forever barred, estopped and enjoined from asserting such claim, and such claim shall not be enforceable, against any Debtor or any Reorganized Debtor or their

estates and property, and the Debtors or the Reorganized Debtors and their estates and property shall be forever discharged from any and all indebtedness and liability with respect to such claim unless otherwise ordered by the Bankruptcy Court or as otherwise provided in the Plan. All such claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Article XI.E of the Plan.

#### **4. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases**

Any monetary defaults under each executory contract and unexpired lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in cash on the Effective Date or on such other terms as the parties to such executory contracts or unexpired leases may otherwise agree. In the event of a dispute regarding: (a) the amount of any payments to cure such a default; (b) the ability of the Reorganized 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 (c) any other matter pertaining to assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a final order or orders resolving the dispute and approving the assumption.

At least 20 days prior to the Confirmation Hearing, the Debtors shall provide notices of proposed assumption and proposed cure amounts to be sent to applicable third parties, the Senior Secured Parties and the Creditors’ Committee, and of procedures for objecting thereto and resolution of disputes by the Bankruptcy Court. Any objection by a counterparty to an executory contract or unexpired lease to a proposed assumption or related cure amount must be filed, served and actually received by the Debtors at least 10 days prior to the Confirmation Hearing. Any counterparty to an executory contract and unexpired lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such matters. If an objection to cure is sustained by the Bankruptcy Court, the Reorganized Debtors in their sole option, may elect to reject such executory contract or unexpired lease in lieu of assuming it.

#### **5. Contracts and Leases Entered Into After the Petition Date**

Contracts and leases entered into after the Petition Date by any Debtor, including any executory contracts and unexpired leases assumed by such Debtor,

will be performed by the Debtor or Reorganized Debtor liable thereunder in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed executory contracts and unexpired leases) will survive and remain unaffected by entry of the Confirmation Order.

## **6. Employee and Retiree Benefits**

The Pension Benefit Guaranty Corporation (“PBGC”) is a wholly-owned United States government corporation, created by the Employee Retirement Income Security Act of 1974 (“ERISA”), to administer the mandatory pension plan termination insurance program established under Title IV of ERISA. The PBGC’s principal purpose is to guarantee the payment of certain pension benefits to participants upon termination of a pension plan covered by Title IV.

Hawaiian Telcom Communications, Inc. sponsors two defined benefit pension plans that are covered by Title IV of ERISA. The plans are called the Hawaiian Telcom Hourly Employees Pension Plan and the Hawaiian Telcom Management Pension Plan (collectively, the “Pension Plans”). Under ERISA, Hawaiian Telcom Communications, Inc. and each member of its controlled group are jointly and severally liable to the PBGC and/or the Pension Plans for the unfunded benefit liabilities of the Pension Plans, for any employer contributions owed under ERISA’s minimum funding standards, and for Title IV insurance premiums. Hawaiian Telcom Communications, Inc.’s controlled group includes each of the other Debtors.

To date, Hawaiian Telcom Communications, Inc. has made all of the contributions required to be made to the Pension Plans. No changes have been made with respect to the administration of the Pension Plans and retirees and their beneficiaries are being paid their pensions on time. The PBGC has filed proofs of claim against each of the Debtors in these chapter 11 cases asserting priority claims in the amount of \$ \$95,133,244.00, plus unliquidated amounts, representing the PBGC’s calculation of the unfunded liability of the Pension Plans.

The Pension Plans may be terminated only if the statutory requirements of either 29 U.S.C. § 1341 or 29 U.S.C. § 1342 are met. The filing of a petition under the Bankruptcy Code does not automatically result in plan termination.

If the Pension Plans terminate in distress terminations pursuant to 29 U.S.C. §§ 1341(c)(2)(b)(ii) or (iii), or in an involuntary termination under 29 U.S.C. § 1342, the Debtors may owe termination premiums at the rate of \$1,250 per plan

participant per year for three years. See 29 U.S.C. § 1306(a)(7), as amended by § 8101(b) the Deficit Reduction Act of 2005 (Pub. L. 109-280).

The Plan provides that the Reorganized Debtors will continue to sponsor the Pension Plans upon emergence from these chapter 11 cases. The Confirmation Order will provide that (a) the Pension Plans are subject to the minimum funding requirements of ERISA and the Internal Revenue Code, (b) no provision of the Plan, the Confirmation Order or section 1141 of the Bankruptcy Code shall, or shall be construed to, discharge, release or relieve the Debtors or any other party from any liability with respect to the Pension Plans under ERISA or the Internal Revenue Code and (c) that neither the PBGC nor the Pension Plans will be enjoined from enforcing such liability as a result of any provisions in the Plan or the Confirmation Order for satisfaction, release or discharge of claims.

The PBGC has filed claims against the Debtors for their liabilities under ERISA with respect to the Pension Plans that are contingent on the termination of the Pension Plans during this proceeding. In the event that the Pension Plans do not terminate during the proceeding, the PBGC will withdraw the claims.

#### **7. Assumption of Collective Bargaining Agreement**

On the Effective Date, the Reorganized Debtors shall assume the collective bargaining agreement between Hawaiian Telcom, Inc. and the IBEW dated September 13, 2008, subject to section 365 of the Bankruptcy Code and Article IX. of the Plan.

#### **8. Assumption of Management Employment Agreements**

On the Effective Date, the Reorganized Debtors shall assume certain employment agreements in effect as of the Petition Date, including without limitation, agreements between the Debtors and senior management.

#### **9. Assumption of Director and Officer Insurance Policies**

The Debtors, and upon the Effective Date, the Reorganized Debtors, will assume all of the Debtors' director and officer liability insurance policies pursuant to sections 365(a) or 1123 of the Bankruptcy Code. Notwithstanding anything in the Plan to the contrary, confirmation of the Plan shall not discharge, impair or otherwise modify any indemnity obligations assumed by the foregoing assumption of all of the Debtors' director and officer liability insurance policies, and each such indemnity obligation shall be deemed and treated as an executory contract that has

been assumed by the Debtors hereunder as to which no proof of claim need be filed.

## **10. Insurance Policies with the ACE Group**

Nothing in the Disclosure Statement, the Plan, the Confirmation Order, any exhibit to the Plan, Plan Supplement or any other Plan document (including any provision that purports to be preemptory or supervening), shall in any way operate to, or have the effect of, impairing in any respect the legal, equitable or contractual rights and defenses of the insureds or insurers with respect to any insurance policies and related agreements (“ACE Policies”) between the Debtors and members of the ACE group of companies (“ACE”). The rights and obligations of the insureds and insurers shall be determined under the ACE Policies, including all terms, conditions, limitations, exclusions and endorsements thereto, which shall remain in full force and effect, and under any applicable non-bankruptcy law. To the extent the ACE Policies are considered executory they will be assumed by the Reorganized Debtors. Regardless of whether the ACE Policies are considered to be executory, the Reorganized Debtors will perform the Debtors’ obligations under the ACE Policies, including any obligations that remain unperformed as of the Effective Date.

## **F. Release, Injunction and Related Provisions**

### **1. Compromise and Settlement**

Notwithstanding anything contained herein to the contrary, the allowance, classification and treatment of all allowed claims and their respective distributions and treatments hereunder takes into account and conforms to the relative priority and rights of the claims and the equity interests in each class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510(b) and (c) of the Bankruptcy Code or otherwise. As of the Effective Date, any and all such rights described in the preceding sentence are settled, compromised and released pursuant hereto. The Confirmation Order will constitute the Bankruptcy Court’s finding and determination that the settlements reflected in the Plan are (a) in the best interests of the Debtors, their estates and all holders of claims, (b) fair, equitable and reasonable, (c) made in good faith and (d) approved by the Bankruptcy Court pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019. In addition, the allowance, classification and treatment of allowed

claims takes into account any causes of action, whether under the Bankruptcy Code or otherwise under applicable non-bankruptcy law, that may exist between the Debtors, on the one hand, and the Releasing Parties, on the other (to the extent set forth in Article XI.B. of the Plan); and, as of the Effective Date, any and all such causes of action are settled, compromised and released to the extent set forth in this Plan. The Confirmation Order shall approve the releases by all entities of all such contractual, legal and equitable subordination rights or causes of action that are satisfied, compromised and settled pursuant hereto.

## **2. Releases**

### **a. Releases by the Debtors**

As of the Effective Date, and subject to the release by the Releasing Parties in Article XI.B.2 of the Plan, the Debtors release all of the Releasing Parties from any and all causes of action held by, assertable on behalf of or derivative from the Debtors, in any way relating to the Debtors, these chapter 11 cases, the Plan, negotiations regarding or concerning the Plan and the ownership, management and operation of the Debtors; *provided, however*, the foregoing shall not operate as a waiver of or release from any cause of action arising out of any express contractual obligation owing by any former director, officer or employee to the Debtors or any reimbursement obligation of any former director, officer or employee with respect to a loan or advance made by the Debtors to such former director, officer or employee and is not a waiver or release for any attorneys retained in connection with these chapter 11 cases from claims by their respective clients.

### **b. Limited Releases by the Releasing Parties**

In consideration for the releases by the Debtors in Article XI.B.1 of the Plan and other valuable consideration, except as otherwise provided under the Plan, as of the Effective Date, each of the Releasing Parties, in any capacity, at its option, generally releases the Debtors, the Reorganized Debtors and their respective subsidiaries and affiliates, in each case in any capacity, from any and all causes of action held by, assertable, on behalf of or derivative from such Releasing Party, in any way relating to the Debtors, these chapter 11 cases, the Plan, negotiations regarding or concerning the Plan and the ownership, management and operation of the Debtors. The releases by the Debtors in Article XI.B.1 of the Plan shall be provided only to Releasing Parties who execute and deliver to the Debtors a release

as provided for in Article XI.B.2 of the Plan and in a form acceptable to the Debtors.

**c. Approval of the Releases**

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the releases set forth in Article XI.B. of the Plan and its finding that the releases are (a) in exchange for good and valuable consideration, representing a good faith settlement and compromise of the claims and causes of action thereby released; (b) in the best interests of the Debtors and all holders of claims; (c) fair, equitable and reasonable; (d) approved after due notice and opportunity for hearing; and (e) a bar to any of the Debtors, their estates and the Reorganized Debtors to assert any claim or cause of action thereby released.

**3. Exculpation**

None of the Debtors, the Reorganized Debtors, the agent to the secured lenders under the Credit Agreement, the Senior Secured Parties, the Creditors' Committee or their respective employees, officers, directors, current or former members or professionals shall have or incur any liability to any entity for any prepetition or postpetition act taken or omitted to be taken in connection with, or related to the formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the consummation of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors; *provided, however*, that the foregoing provisions of this exculpation shall have no effect on the liability of any entity that results from any such act or omission that is determined in a final order to have constituted gross negligence or willful misconduct; and *provided further, however*, that each party subject to this provision shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan; and *provided still further*, that the foregoing exculpation shall not apply to any acts or omissions expressly set forth in and preserved by the Plan, the Plan Supplement or related documents.



#### 4. Preservation of Rights and Causes of Action

In accordance with section 1123(b) of the Bankruptcy Code, but subject to Article XI.D of the Plan, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all causes of action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtors' rights to commence, prosecute or settle such causes of action shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized Debtors may pursue such causes of action, as appropriate, in accordance with the best interests of the Reorganized Debtors. **No entity may rely on the absence of a specific reference in the Plan, the Plan Supplement or the Disclosure Statement to any cause of action against them as any indication that the Debtors or the Reorganized Debtors, as applicable, will not pursue any and all available causes of action against them. The Debtors or the Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all causes of action against any entity, except as otherwise expressly provided in the Plan.** Unless any causes of action against an entity are expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or a Bankruptcy Court order, including, without limitation, the Cash Collateral Order, the Reorganized Debtors expressly reserve all causes of action for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such causes of action upon, after or as a consequence of confirmation or consummation of the Plan.

The Reorganized Debtors reserve and shall retain the causes of action notwithstanding the rejection or repudiation of any executory contract or unexpired lease during these chapter 11 cases or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any causes of action that a Debtor may hold against any entity shall vest in the Reorganized Debtors, as the case may be. The applicable Reorganized Debtor, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such causes of action. The Reorganized Debtors shall have the exclusive right, authority and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw or litigate to judgment any such causes of action and to decline to do any of the foregoing without the consent or approval of any

third party or further notice to or action, order or approval of the Bankruptcy Court.

## **5. Injunction**

From and after the Effective Date, all entities are permanently enjoined from commencing or continuing in any manner against the Debtors or Reorganized Debtors, their successors and assigns, and their assets and properties, as the case may be, any suit, action or other proceeding, on account of or respecting any claim, demand, liability, obligation, debt, right, cause of action, interest or remedy released or to be released pursuant to the Plan or the Confirmation Order.

Except as otherwise expressly provided for herein or in obligations issued pursuant hereto, from and after the Effective Date, all entities shall be precluded from asserting against the Debtors, the debtors in possession, the Debtors' estates, the Reorganized Debtors, any of their successors and assigns, and each of their respective current and former members (including ex officio members), officers, directors, employees, partners, attorneys, financial advisors, accountants, managed funds, investment bankers, investment advisors, actuaries, professionals, agents, affiliates and representatives (each of the foregoing in its individual capacity as such), and their assets and properties, any other claims or equity interests based upon any documents, instruments, or any act or omission, transaction or other activity of any kind or nature that occurred before the Effective Date.

The rights afforded in the Plan and the treatment of all claims and equity interests herein shall be in exchange for and in complete satisfaction of claims and equity interests of any nature whatsoever, including, without limitation, any interest accrued on claims from and after the Petition Date, against the Debtors or any of their assets, property or estates. On the Effective Date, all such claims against, and equity interests in the Debtors shall be fully released and discharged.

Except as otherwise expressly provided for herein or in obligations issued pursuant hereto from and after the Effective Date, all claims against and equity interests in the Debtors shall be fully released and discharged, and the Debtors' liability with respect thereto shall be extinguished completely, including, without limitation, any liability of the kind specified under section 502(g) of the Bankruptcy Code.

All entities shall be precluded from asserting against the Debtors, the Debtors' estates, the Reorganized Debtors, each of their respective successors and

assigns, and each of their assets and properties, any other claims or equity interests based upon any documents, instruments or any act or omission, transaction or other activity of any kind or nature that occurred before the Effective Date.

## **G. Important Securities Law Disclosure**

The following securities are being issued under section 1145 of the Bankruptcy Code:

- New Common Stock issued to holders of allowed Class 3 Senior Secured Claims; and
- New Warrants and the New Common Stock delivered upon the exercise of the New Warrants issued to holders of allowed Class 5 Senior Notes Claims.

As described in detail below, such securities will be tradable subject to certain trading restrictions on New Common Stock as set forth in Section IX.H below.

Section 1145(a)(1) of the Bankruptcy Code exempts the offer and sale of securities under a plan of reorganization from registration under Section 5 of the Securities Act of 1933, as amended (the “Securities Act”), and state laws when such securities are to be exchanged for claims or principally in exchange for claims and partly for cash. In general, securities issued under section 1145 may be resold without registration unless the recipient is an “underwriter” with respect to those securities. Section 1145(b)(1) of the Bankruptcy Code defines an “underwriter” as any person who:

- purchases a claim against, an interest in, or a claim for an administrative expense against the debtor, if that purchase is with a view to distributing any security received in exchange for such a claim or interest;
- offers to sell securities offered under a plan of reorganization for the holders of those securities;
- offers to buy those securities from the holders of the securities, if the offer to buy is (i) with a view to distributing those securities; and (ii) under an agreement made in connection with the plan of

reorganization, the completion of the plan of reorganization, or with the offer or sale of securities under the plan of reorganization; or

- is an “issuer” with respect to the securities, as the term “issuer” is defined in section 2(a)(11) of the Securities Act.

To the extent that persons who receive New Common Stock or New Warrants are deemed to be “underwriters,” resales by those persons would not be exempted from registration under the Securities Act or other applicable law by section 1145 of the Bankruptcy Code. Those persons would, however, be permitted to sell New Common Stock or New Warrants without registration if they are able to comply with the provisions of Rule 144 under the Securities Act, as described further below.

You should confer with your own legal advisors to help determine whether or not you are an “underwriter.”

The following securities are being issued under Section 4(2) of Securities Act:

- New Common Stock issued to Eligible Senior Notes Claim Holders pursuant to the Rights Offering.

These securities will be “restricted securities” and cannot be sold absent registration under the Securities Act or pursuant to an exemption therefrom.

## **H. Restrictions on the Transfer of New Common Stock**

The Reorganized Hawaiian Telcom Holdco certificate of incorporation will be amended to contain the restrictions on the transfer of New Common Stock contained in that certain trading restrictions term sheet (the “New Common Stock Trading Restrictions Term Sheet”), substantially in the form contained in the Plan Supplement, to minimize the likelihood of any potential adverse U.S. federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in the Reorganized Debtors.

## **I. Management Equity Incentive Program**

On the Effective Date, Reorganized Hawaiian Telcom Holdco shall be deemed to have adopted the Management Equity Incentive Program without any further action by the Debtors, the Reorganized Debtors or the board of directors for

Reorganized Hawaiian Telcom Holdco. The terms of the Management Equity Incentive Program have not yet been developed. However, the Debtors will include the Management Equity Incentive Program in the Plan Supplement.

#### **J. 2009 Performance Compensation Plan**

Unless approved during these chapter 11 cases by the Bankruptcy Court, on the Effective Date, Reorganized Hawaiian Telcom Holdco shall adopt the Debtors' annual performance compensation program for the 2009 calendar year (the "2009 Performance Compensation Plan"), substantially in the form set forth in the Plan Supplement.

As described in the Debtors' motion to approve performance compensation program for calendar year 2008 (the "2008 Program") and calendar year 2009, pursuant to the 2009 Performance Compensation Plan, the compensation committee for the Debtors' Board of Directors (the "Compensation Committee") approved the parameters of a program that determined performance awards based on (a) achievement of predetermined corporate performance goals and (b) each employee's attainment of predetermined individual performance goals. These goals are intended to maintain morale and incentivize employees.

With respect to the corporate performance goals, the 2009 Performance Compensation Plan uses the same financial metrics and weightings as the 2008 Program approved by the Bankruptcy Court on April 23, 2009, with different thresholds. For the 2009 Performance Compensation Program, the revenue target is \$425 million, the adjusted EBITDA target is \$115 million and the cash flow target is a reduction in cash of \$25 million.

With respect to the individual performance goals, each employee's direct supervisor will determine the individual performance objectives, which are aligned with the Debtors' strategic plan. The weighting between the corporate performance goals and individual performance goals depends upon job level and reflects the ability of the employee to influence company results (thus, corporate performance is a greater factor for executive employees than it is for non-executive employees) and is set forth as follows:

| <b>Employment Category</b>        | <b>Corporate-<br/>Performance<br/>Weighting</b> | <b>Individual-<br/>Performance<br/>Weighting</b> |
|-----------------------------------|---|--|
| <b>CEO/Senior Vice Presidents</b> | <b>&gt;75%</b>                                  | <b>0-25%</b>                                     |
| <b>Non-Union Employees</b>        | <b>40-75%</b>                                   | <b>25-60%</b>                                    |
| <b>Union Employees</b>            | <b>20-40%</b>                                   | <b>60-80%</b>                                    |

Other than the weighting between corporate performance goals and individual performance goals, the design of the 2009 Performance Compensation Plan is similar to the 2008 Program, maintaining consistency for employees.

The 2009 Performance Compensation Plan calculations will be based upon the audited financial results for 2009 and will reflect adjustments, if any, determined by the Compensation Committee for unanticipated extraordinary items due to the Debtors' restructuring. The payouts, if any, under the 2009 Performance Compensation Plan would not be made until the end of the first quarter of 2010.

The Debtors reserve the right to modify the terms of the 2009 Performance Compensation Plan.

## **K. Effect of Confirmation**

### **1. Vesting of Assets**

Upon the Effective Date, all property of the Debtors' estates will vest in the Reorganized Debtors free and clear of all claims, liens, encumbrances, charges and other interests, except as provided in the Plan. From and after the Effective Date, the Reorganized Debtors may operate their businesses and may use, acquire and dispose of their properties free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as provided in the Plan.

### **2. Binding Nature of the Plan**

The Plan shall bind all holders of claims against and equity interests in the Debtors to the maximum extent permitted by applicable law, whether or not such holder (a) will receive or retain any property or interest in property under the Plan;

(b) has filed a proof of claim or interest in these chapter 11 cases; or (c) failed to vote to accept or reject the Plan or voted to reject the Plan.

#### **L. Modification of Plan**

Subject to the limitations contained in the Plan: (a) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code; (b) after the entry of the Confirmation Order, the Debtors or the Reorganized Debtors, as the case may be, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan; and (c) the Debtors reserve the right to modify the Plan to implement the sale of all or substantially all of the assets of the Debtors pursuant to sections 363 and 1123 of the Bankruptcy Code; *provided, however*, without the consent of the Senior Secured Parties, the Debtors shall not amend or modify the Plan to the extent that such amendment or modification affects the economic distributions provided for herein.

#### **M. Revocation of Plan**

The Debtors reserve the right to revoke or withdraw the Plan prior to the entry of the Confirmation Order and to file subsequent chapter 11 plans. If the Debtors revoke or withdraw the Plan or if entry of the Confirmation Order or the Effective Date does not occur, then: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan, assumption or rejection of executory contracts or unexpired leases effected by the Plan, and any document or agreement executed pursuant hereto shall be deemed null and void; and (c) nothing contained in the Plan shall: (i) constitute a waiver or release of any claims by or against, or any equity interests in, the Debtors or any other entity; (ii) prejudice in any manner the rights of the Debtors or any other entity; or (iii) constitute an admission of any sort by the Debtors or any other entity.

#### **N. Reservation of Rights**

Except as expressly set forth in the Plan, including, without limitation, with respect to votes cast on the ballots to vote to accept or reject the Plan or the elections made on the Subscription Forms, the Plan shall have no force or effect

unless and until the Bankruptcy Court enters the Confirmation Order. Neither the filing of the Plan, any statement or provision contained herein, nor the taking of any action by a Debtor or any other entity with respect to the Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) any Debtor with respect to the holders of claims or equity interests or other entity; or (2) any holder of a claim or an equity interest or other entity before the Effective Date.

**O. Filing of the Plan Supplement.**

The Plan Supplement will be filed by the Debtors no later than 10 days before the Confirmation Hearing. The Debtors will not serve CD-ROM or paper copies of the Plan Supplement on parties-in-interest. When filed, the Debtors will provide notice to all known holders of claims, holders of equity interests and any other party who has filed a request for service of documents pursuant to Bankruptcy Rule 2002 that (a) the Debtors filed the Plan Supplement; (b) lists the information contained in the Plan Supplement; and (c) explains how parties may obtain copies of the Plan Supplement.

The Plan Supplement will be made available at the Debtors' restructuring website at <http://www.kccllc.net/hawaiiantel>. However, parties also may request (and obtain at the Debtors' expense) a CD-ROM or paper copy of the Plan Supplement by (a) calling the Debtors' restructuring hotline at (888) 733-1409 or (b) writing to Hawaiian Telcom Communications, Inc., c/o Kurtzman Carson Consultants LLC, 2335 Alaska Avenue, El Segundo, California 90245. Parties may also obtain any documents filed in these chapter 11 cases for a fee via PACER at <http://www.deb.uscourts.gov>.

**X. CERTAIN FACTORS TO BE CONSIDERED**

**PRIOR TO VOTING TO ACCEPT OR REJECT THE PLAN, ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS THAT ARE IMPAIRED SHOULD READ AND CONSIDER CAREFULLY THE FACTORS SET FORTH HEREIN, AS WELL AS ALL OTHER INFORMATION SET FORTH OR OTHERWISE REFERENCED IN THIS DISCLOSURE STATEMENT. ALTHOUGH THESE RISK FACTORS ARE MANY, THESE FACTORS SHOULD NOT BE REGARDED AS CONSTITUTING THE ONLY RISKS PRESENT IN CONNECTION WITH THE DEBTORS' BUSINESS OR THE PLAN AND ITS IMPLEMENTATION.**



## **A. Certain Bankruptcy Law Considerations**

### **1. Parties-in-Interest May Object to the Debtors' Classification of Claims and Equity Interests**

Section 1122 of the Bankruptcy Code provides that a plan may place a claim or an equity interest in a particular class only if such claim or equity interest is substantially similar to the other claims or equity interests in such class. The Debtors believe that the classification of claims and equity interests under the Plan complies with the requirements set forth in the Bankruptcy Code because the Debtors created 18 classes of claims and equity interests, each encompassing claims or equity interests, as applicable, that are substantially similar to the other claims and equity interests in each such class. Nevertheless, there can be no assurance the Bankruptcy Court will reach the same conclusion.

### **2. Failure to Satisfy Vote Requirement**

If votes are received in number and amount sufficient to enable the Bankruptcy Court to confirm the Plan, the Debtors intend to seek, as promptly as practicable thereafter, confirmation of the Plan. In the event that sufficient votes are not received, the Debtors may seek to accomplish an alternative chapter 11 plan. There can be no assurance the terms of any such alternative chapter 11 plan would be similar or as favorable to the holders of allowed claims as those proposed in the Plan.

### **3. Debtors May Not Be Able to Secure Confirmation of the Plan**

Section 1129 of the Bankruptcy Code sets forth the requirements for confirmation of a chapter 11 plan, including, among other requirements, a finding by the bankruptcy court that: (a) such plan “does not unfairly discriminate” and is “fair and equitable” with respect to any non-accepting classes; (b) confirmation of such plan is not likely to be followed by a liquidation or a need for further financial reorganization unless such liquidation or reorganization is contemplated by the plan; and (c) the value of distributions to non-accepting holders of claims and equity interests within a particular class under such plan will not be less than the value of distributions such holders would receive if the debtors were liquidated under chapter 7 of the Bankruptcy Code.

There can be no assurance the requisite acceptances to confirm the Plan will be received. Even if the requisite acceptances are received, there can be no

assurance the Bankruptcy Court will confirm the Plan. A non-accepting holder of an allowed claim might challenge either the adequacy of this Disclosure Statement or whether the balloting procedures and voting results satisfy the requirements of the Bankruptcy Code or Bankruptcy Rules. Even if the Bankruptcy Court determines that the Disclosure Statement, the balloting procedures and voting results are appropriate, the Bankruptcy Court could still decline to confirm the Plan if it found that any of the statutory requirements for confirmation had not been met, including the requirement that the terms of the Plan do not “unfairly discriminate” and are “fair and equitable” to non-accepting classes.

Confirmation of the Plan is also subject to certain conditions as described in the Plan. If the Plan is not confirmed, it is unclear what distributions, if any, holders of allowed claims would receive with respect to allowed claims.

The Debtors, subject to the terms and conditions of the Plan, reserve the right to modify the terms and conditions of the Plan as necessary for confirmation. Any such modifications could result in a less favorable treatment of any non-accepting class, as well as of any classes junior to such non-accepting class, than the treatment currently provided in the Plan. Such a less favorable treatment could include a distribution of property to the class affected by the modification of a lesser value than currently provided in the Plan or no distribution of property whatsoever under the Plan.

#### **4. Nonconsensual Confirmation of the Plan May Be Necessary**

In the event that any impaired class of claims or equity interests does not accept a chapter 11 plan, a bankruptcy court may nevertheless confirm such a plan at the proponents’ request if at least one impaired class has accepted the plan (with such acceptance being determined without including the vote of any “insider” in such class), and, as to each impaired class that has not accepted the plan, the bankruptcy court determines that the plan “does not discriminate unfairly” and is “fair and equitable” with respect to the dissenting impaired classes. The Debtors believe that the Plan satisfies these requirements and the Debtors may request such nonconsensual confirmation in accordance with subsection 1129(b) of the Bankruptcy Code. Nevertheless, there can be no assurance that the Bankruptcy Court will reach this conclusion.

## **5. Debtors May Object to the Amount or Classification of a Claim**

Except as otherwise provided in the Plan, the Debtors reserve the right to object to the amount or classification of any claim under the Plan. The estimates set forth in this Disclosure Statement cannot be relied on by any holder of a claim where such claim is subject to an objection. Any holder of a claim that is subject to an objection thus may not receive its expected share of the estimated distributions described in this Disclosure Statement.

## **6. Risk of Non-Occurrence of the Effective Date**

After confirmation of the Plan but before the Effective Date, the Reorganized Debtors must receive the necessary regulatory approvals from the HPUC and the Federal Communications Commission. The Debtors anticipate it may take between six and nine months for the HPUC to issue its approval. As such, the Debtors have no control over the timeliness of this review and can offer no assurance as to such timing, or as to whether the Effective Date will, in fact, occur.

To the best of the Debtors' knowledge, based on discussions with their advisors, the HPUC's regulatory review process generally works as follows:

- Step 1: Filing of Application. The applicant prepares and files an application to the Hawaiian Public Utility Commission seeking approval of the transactions contemplated by the Plan. Specifically, pursuant to the Plan, the Debtors will be seeking approval of (a) a transfer of control pursuant to chapter 269-7 of the Hawaii Revised Statutes and (b) approval of the financing arrangements and other evidences of indebtedness pursuant to chapter 269-17 of the Hawaii Revised Statutes.<sup>6</sup>
- Step 2: Intervention Period. After an application is submitted, parties in interest are afforded an opportunity to intervene. If the HPUC opts to conduct public hearings, the deadline to intervene is 20 days following the filing of the application. If the HPUC holds a public hearing, the public hearing is

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<sup>6</sup> The Debtors reserve the right to seek approval of additional transactions as part of the Plan.

generally held approximately six to eight weeks after the application is filed, and the deadline to intervene is ten days after the end of the public hearing(s). If a party in interest intervenes, the HPUC typically takes two to three weeks to issue a decision regarding that party's standing to intervene. To the extent the HPUC determines a party can validly intervene, it will require the applicant and the intervening parties to attempt to negotiate and submit a procedural order for approval.

- Step 3: Discovery Period and Statement of Positions. During this period, the Division of Consumer Advocate for the State of Hawaii (the "Division of Consumer Advocate") and any intervenors are given the opportunity to issue discovery on the applicant. This period concludes with the filing of a statement stating whether the application should be approved, denied or approved with certain conditions. Generally, this period lasts approximately two to four months.
- Step 4: Rebuttal Period and Settlement Discussions. During this period, the applicant is entitled to issue discovery on the intervenors submitting statements of positions, engage in settlement discussions with the Division of Consumer Advocate and any intervenors and ultimately file either a rebuttal position statement or a settlement statement.
- Step 5: HPUC Deliberation Period and Decision. Only after completing the above steps will the HPUC undertake its own deliberations. The deliberation period typically lasts between one and three months depending on whether additional discovery is required or hearings held.

The above-description of the HPUC's regulatory review process is for informational purposes only and neither the Debtors nor the HPUC are bound to any of the timelines set forth. The Debtors will use reasonable efforts to obtain all required regulatory approvals as quickly as possible.

**7. Contingencies Not to Affect Votes of Impaired Classes to Accept or Reject the Plan**

The distributions available to holders of allowed claims under the Plan can be affected by a variety of contingencies, including, without limitation, whether the Bankruptcy Court orders certain allowed claims to be subordinated to other allowed claims. The occurrence of any and all such contingencies, which could affect distributions available to holders of allowed claims under the Plan, will not affect the validity of the vote taken by the impaired classes to accept or reject the Plan or require any sort of revote by the impaired classes.

**8. The Debtors' Exclusive Period to File a Chapter 11 Plan.**

As described above in Section VIII.F, in accordance with the Bankruptcy Court's order denying a second extension of the Debtors' exclusive periods to file a chapter 11 plan and solicit votes thereon, on September 2, 2009, the Debtors' exclusivity periods will expire.

**B. Risk Factors That May Affect Distributions Under the Plan**

**1. The Bankruptcy Court May Not Adopt the Valuation of the Reorganized Debtors Used in this Disclosure Statement**

As described above in Section VIII.E, the Debtors believe liens on certain of the Debtors' assets, which comprise the majority of the Debtors' total enterprise value, secure the obligations of Hawaiian Telcom Communications, Inc. under the Guarantee Agreement. However, the Creditors' Committee disputes the validity of the liens under the Guarantee Agreement and may take legal actions to challenge such liens. The outcome of the Creditors' Committee's possible challenge to the validity of the Senior Secured Parties' liens could change the valuation disclosed herein and affect distributions to holders of allowed claims under the Plan.

**2. Transfer Restrictions on the New Common Stock Contained in the Certificate of Incorporation for Reorganized Hawaiian Telcom Holdco Which May Limit the Liquidity of the New Common Stock; Any Prohibited Ownership Change Could Limit the Availability of the Debtors' NOLs**

The Reorganized Hawaiian Telcom Holdco certificate of incorporation will be amended to contain the restrictions on the transfer of New Common Stock contained the New Common Stock Trading Restrictions Term Sheet, substantially

in the form contained in the Plan Supplement, to minimize the likelihood of any potential adverse U.S. federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in the Reorganized Debtors. Pursuant to the New Common Stock Trading Restrictions Term Sheet, except as set forth herein, no post-emergence tax restrictions on trading (either buying or selling) shall exist. In the event that at least 30 percentage points of “owner shift” has occurred with respect to the New Common Stock for purposes of section 382 of the Internal Revenue Code, then trading restrictions shall go into effect upon the issuance of an 8-K by the Debtors. Such trading restrictions will provide that the acquisition of stock by a person or entity that is not a 5% shareholder (as defined in section 382 of the Internal Revenue Code) of New Common Stock will be null and void ab initio as to the purchaser to the extent such acquisition causes the person or entity to become a 5% shareholder of New Common Stock, unless such acquisition has (a) been approved by the board of directors of Reorganized Hawaiian Telcom Holdco or (b) will not result in an increase in an “owner shift” for purposes of section 382 of the Internal Revenue Code in excess of any “owner shift” that would have occurred if the seller had sold the same amount of New Common Stock in the market (a “Permitted Acquisition”). With respect to any person or entity that is a 5% shareholder of New Common Stock, such restrictions shall provide that such party shall not be permitted to acquire additional New Common Stock unless such acquisition (a) has been approved by the board of directors of Reorganized Hawaiian Telcom Holdco or (b) is a Permitted Acquisition.

### **3. Risks Associated with Debtors’ Business Operations**

Additional discussion of risks associated with the Debtors’ business operations are set forth in Hawaiian Telcom Communications, Inc’s Annual Report on Form 10-K for the fiscal year ended December 31, 2007, filed with the Securities and Exchange Commission on March 28, 2008. See the sections entitled: “Risk Factors.” Such risks include, without limitation (a) deficiencies in the Debtors’ critical back-office systems and information technology infrastructure; (b) the Debtors’ limited experience as a stand-alone provider of telecommunications services; (c) the Debtors’ reliance on several material agreements in the operation of their businesses; (d) the regulation of the Debtors’ businesses by the Federal Communications Commission and the HPUC; (e) a reduction by the Federal Communication Commission or the HPUC of the Debtors’ rates; (f) the competitiveness of the telecommunications industry; (g)

rapid and significant changes in technology; (h) the economic conditions in Hawaii; and (i) the Debtors' dependence on key members of their executive management team.

### **C. Disclosure Statement Disclaimer**

#### **1. Information Contained Herein is for Soliciting Votes**

The information contained in this Disclosure Statement is for the purposes of soliciting acceptances of the Plan and may not be relied upon for any other purposes.

#### **2. Disclosure Statement Was Not Approved by the Securities and Exchange Commission**

Although a copy of this Disclosure Statement was served on the Securities and Exchange Commission, and the Securities and Exchange Commission was given an opportunity to object to the adequacy of this Disclosure Statement before the Bankruptcy Court approved it, this Disclosure Statement was not filed with the Securities and Exchange Commission. Neither the Securities and Exchange Commission nor any state regulatory authority has passed upon the accuracy or adequacy of this Disclosure Statement, or the Exhibits or the statements contained herein, and any representation to the contrary is unlawful.

#### **3. Disclosure Statement May Contain Forward Looking Statements**

This Disclosure Statement may contain "forward looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, as amended. Such statements consist of any statement other than a recitation of historical fact and can be identified by the use of forward looking terminology such as "may," "expect," "anticipate," "estimate" or "continue" or the negative thereof or other variations thereon or comparable terminology. The reader is cautioned that all forward looking statements are necessarily speculative and there are certain risks and uncertainties that could cause actual events or results to differ materially from those referred to in such forward looking statements. The Liquidation Analysis attached hereto as **Exhibit E**, distribution projections and other information contained herein and attached hereto are estimates only, and the timing and amount of actual distributions to holders of allowed claims may be affected by many factors that cannot be predicted. Therefore, any analyses, estimates or recovery projections may or may not turn out to be accurate.

#### **4. No Legal or Tax Advice Is Provided to You by this Disclosure Statement**

**This Disclosure Statement is not legal advice to you.** The contents of this Disclosure Statement should not be construed as legal, business or tax advice. Each holder of a claim or an equity interest should consult his or her own legal counsel and accountant with regard to any legal, tax and other matters concerning his or her claim or equity interest. This Disclosure Statement may not be relied upon for any purpose other than to determine how to vote on the Plan or object to Confirmation of the Plan.

#### **5. No Admissions Made**

The information and statements contained in this Disclosure Statement will neither (a) constitute an admission of any fact or liability by any entity (including, without limitation, the Debtors) nor (b) be deemed evidence of the tax or other legal effects of the Plan on the Debtors, holders of allowed claims or equity interests or any other parties-in-interest.

#### **6. Failure to Identify Litigation Claims or Projected Objections**

No reliance should be placed on the fact that a particular litigation claim or projected objection to a particular claim or equity interest is, or is not, identified in this Disclosure Statement. The Debtors may seek to investigate claims and file and prosecute objections to claims and equity interests.

#### **7. No Waiver of Right to Object or Right to Recover Transfers and Assets**

The vote by a holder of an allowed claim for or against the Plan does not constitute a waiver or release of any claims or rights of the Debtors to object to that holder's allowed claim, or to bring causes of action or recover any preferential, fraudulent or other voidable transfer of assets, regardless of whether any claims or causes of action of the Debtors or their respective estates are specifically or generally identified herein.

#### **8. Information Was Provided by the Debtors and Was Relied Upon by the Debtors' Advisors**

Counsel to and other advisors retained by the Debtors have relied upon information provided by the Debtors in connection with the preparation of this



Disclosure Statement. Although counsel to and other advisors retained by the Debtors have performed certain limited due diligence in connection with the preparation of this Disclosure Statement, they have not verified independently the information contained herein.

**9. Potential Exists for Inaccuracies, and the Debtors Have No Duty to Update**

The Debtors make the statements contained in this Disclosure Statement as of the date hereof, unless otherwise specified herein, and the delivery of this Disclosure Statement after that date does not imply that there has not been a change in the information set forth herein since that date. While the Debtors have used their reasonable business judgment to ensure the accuracy of all of the information provided in this Disclosure Statement and in the Plan, the Debtors nonetheless cannot, and do not, confirm the current accuracy of all statements appearing in this Disclosure Statement. Further, although the Debtors may subsequently update the information in this Disclosure Statement, the Debtors have no affirmative duty to do so unless ordered to do so by the Bankruptcy Court.

**10. No Representations Outside the Disclosure Statement Are Authorized**

No representations concerning or relating to the Debtors, these chapter 11 cases or the Plan are authorized by the Bankruptcy Court or the Bankruptcy Code, other than as set forth in this Disclosure Statement. In deciding whether to vote to accept or reject the Plan, you should not rely upon any representations or inducements made to secure your acceptance or rejection of the Plan that are other than as contained in, or included with, this Disclosure Statement. You should promptly report unauthorized representations or inducements to the counsel to the Debtors, the counsel to the Creditors' Committee and the United States Trustee for the District of Hawaii.

**XI. CONFIRMATION PROCEDURES**

**A. Confirmation Hearing**

Section 1128(a) of the Bankruptcy Code requires the Bankruptcy Court, after appropriate notice, to hold a hearing on confirmation of a plan of reorganization. **The Confirmation Hearing will commence on [October 7], 2009 at [ : p.m.] Hawaii Standard Time**, before the Honorable Lloyd King,

United States Bankruptcy Judge, in the United States Bankruptcy Court for the District of Hawaii, at the United States Bankruptcy Court, 1132 Bishop Street, Honolulu, Hawaii 96813. The Confirmation Hearing may be continued from time to time by the Bankruptcy Court or the Debtors without further notice other than adjournments announced in open court and/or a notice of adjournment filed with the Bankruptcy Court.

Section 1129(b) of the Bankruptcy Code provides that any party-in-interest may object to confirmation of a plan of reorganization. Any objection to confirmation of the Plan must be in writing, must conform to the Bankruptcy Rules, must set forth the name of the objector, the nature and amount of claims or equity interests held or asserted by the objector against the particular Debtor or Debtors, the basis for the objection and the specific grounds therefore and must be filed with the Bankruptcy Court, together with proof of service thereof, and served upon and received no later than [\_\_\_] p.m. Hawaii Standard Time on [\_\_\_\_\_, 2009] by each of the following parties:

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|---|---|
| <p><b>CADES SCHUTTE LLP</b><br/> 1000 Bishop Street, Suite 1200<br/> Honolulu, Hawaii 96813<br/> Attn.: Nicholas C. Dreher<br/> Theodore D.C. Young</p> | <p><b>KIRKLAND &amp; ELLIS LLP</b><br/> 601 Lexington Avenue<br/> New York, New York 10022-4611<br/> Attn.: Richard M. Cieri<br/> Paul M. Basta<br/> Christopher J. Marcus<br/> Brian S. Lennon</p> |
| <p><i>Co-Counsel to the Debtors and Debtors in Possession</i></p>   |   |
| <p><b>MORRISON FOERSTER LLP</b><br/> 1290 Avenue of the Americas<br/> New York, New York 10104<br/> Attn.: Brett H. Miller<br/> Lorenzo Marinuzzi</p>   | <p><b>MOSELEY, BIEHL, TSUGAWA,<br/> LAU &amp; MUZZI, LLLC</b><br/> Alakea Corporate Tower<br/> 1100 Alakea Street, 23rd Floor<br/> Honolulu, Hawaii 96813<br/> Attn.: Christopher Muzzi</p>         |
| <p><i>Counsel to the Creditors' Committee</i></p>   |   |

|   |  |
|---|--|
| <b>WEIL GOTSHAL &amp; MANGES LLP</b><br>767 Fifth Avenue<br>New York, New York 10153<br>Attn.: Brian Rosen  | <b>LYONS BRANDT COOK &amp; HIRAMATSU</b><br>Davies Pacific Center<br>841 Bishop St., Suite 1800<br>Honolulu, Hawaii 96813<br>Attn.: James N. Duca            |
| <i>Counsel to the Senior Secured Lenders Under the Credit Agreement and Lehman Commercial Paper as Agent Thereto</i>  |  |
| <b>CLERK OF THE BANKRUPTCY COURT</b><br>United States Bankruptcy Court for the District of Hawaii<br>1132 Bishop Street, Suite 250L<br>Honolulu, Hawaii 96813-2836                        | <b>OFFICE OF THE UNITED STATES TRUSTEE FOR THE DISTRICT OF HAWAII</b><br>1132 Bishop Street, Suite 602<br>Honolulu, Hawaii 96813-2836<br>Attn.: Curtis Ching |
| <b>O'CONNOR PLAYDON &amp; GUBEN LLP</b><br>Makai Tower, 24th Floor<br>733 Bishop Street<br>Honolulu, Hawaii 96813<br>Attn.: Jerrold K. Guben<br><br><i>Counsel to the State of Hawaii</i> |  |

**UNLESS AN OBJECTION TO CONFIRMATION IS TIMELY SERVED AND FILED, IT MAY NOT BE CONSIDERED BY THE BANKRUPTCY COURT.**

**B. Statutory Requirements for Confirmation of the Plan**

At the Confirmation Hearing, the Bankruptcy Court will determine whether the following confirmation requirements specified in section 1129 of the Bankruptcy Code have been satisfied:

- The Plan complies with the applicable provisions of the Bankruptcy Code.

- The Debtors have complied with the applicable provisions of the Bankruptcy Code.
- The Plan has been proposed in good faith and not by any means forbidden by law.
- Any payment made or promised under the Plan for services or for costs and expenses in, or in connection with, these chapter 11 cases, or in connection with the Plan and incident to the case, has been disclosed to the Bankruptcy Court, and any such payment: (a) made before the confirmation of the Plan is reasonable; or (b) subject to the approval of the Bankruptcy Court as reasonable, if it is to be fixed after the confirmation of the Plan.
- The Debtors have disclosed the identity and affiliations of any individuals proposed to serve, after confirmation of the Plan, as a director, officer or voting trustee of the Debtors, affiliates of the Debtors participating in the Plan with the Debtors, or a successor to the Debtors under the Plan, and the appointment to, or continuance in, such office of such individual is consistent with the interests of creditors and equity holders and with public policy, and the Debtors have disclosed the identity of any insider that will be employed or retained by the Debtors, and the nature of any compensation for such insider.
- With respect to each class of claims and equity interests, each holder of an impaired claim has accepted the Plan, or will receive or retain under the Plan on account of such claim, property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the Debtors were liquidated on that date under chapter 7 of the Bankruptcy Code. See discussion of “Best Interests Test” below.
- Unless the Plan meets the requirements of section 1129(b) (discussed below), each class of claims and equity interests has either accepted the Plan or is not impaired by the Plan.
- Unless the holder of a particular claim has agreed to a different treatment of such claim, the Plan provides that undisputed

Administrative Claims and allowed Priority Tax Claims will be paid in full on the Effective Date, or as soon thereafter as is reasonably practicable.

- At least one class of impaired claims has accepted the Plan, determined without including any acceptance of the Plan by any insider holding a claim in that class.
- Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Debtors or any successors thereto under the Plan.
- The Debtors have paid the required filing fees pursuant to 28 U.S.C. §1930 to the clerk of the Bankruptcy Court.
- The Plan provides for the continuation after the Effective Date of payment of all retiree benefits (as defined in section 1114 of the Bankruptcy Code), at the level established pursuant to subsection 1114(e)(1)(B) or 1114(g) of the Bankruptcy Code at any time prior to confirmation of the Plan, for the duration of the period the Debtors have obligated themselves to provide such benefits.

## **1. Best Interests Test/Liquidation Analysis**

As described above, section 1129(a)(7) of the Bankruptcy Code requires that each holder of an impaired claim or equity interest either (a) accept the Plan or (b) receive or retain under the Plan property of a value, as of the Effective Date, that is not less than the value such holder would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code.

As described in more detail in the Liquidation Analysis attached hereto as **Exhibit E**, the Debtors believe that the value of any distributions if the Debtors' chapter 11 cases were converted to cases under chapter 7 of the Bankruptcy Code would be less than the value of distributions under the Plan. In addition, the fees and expenses of a chapter 7 trustee would likely further reduce cash available for distribution to holders of allowed claims.

As a result of the Liquidation Analysis, holders of Class 5 Senior Notes Claims, Class 7 Hawaiian Telcom Communications, Inc. General Unsecured Claims, Class 8 Hawaiian Telcom Holdco, Inc. General Unsecured Claims, Class 9

Hawaiian Telcom, Inc. General Unsecured Claims, Class 10 Hawaiian Telcom Services Company, Inc. General Unsecured Claims, Class 11 Hawaiian Telcom IP Service Delivery Investment, LLC General Unsecured Claims, Class 12 Hawaiian Telcom IP Service Delivery Research, LLC General Unsecured Claims, Class 13 Hawaiian Telcom IP Video Investment, LLC General Unsecured Claims and Class 14 Hawaiian Telcom IP Video Research, LLC General Unsecured Claims will recover more value as a result of confirmation of the proposed Plan than through a hypothetical chapter 7 liquidation.

## **2. Feasibility**

The Bankruptcy Code requires that a debtor demonstrate that confirmation of a plan is not likely to be followed by liquidation or the need for further financial reorganization. For purposes of determining whether the Plan meets this requirement, the Debtors have analyzed their ability to meet their obligations under the Plan. As part of this analysis, the Debtors have prepared projections described in Section V above. These financial projections, together with the assumptions on which they are based, are attached hereto as **Exhibit C**. Based upon such projections, the Debtors believe that they will be able to make all payments required pursuant to the Plan and, therefore, that confirmation of the Plan is not likely to be followed by liquidation or the need for further reorganization.

## **3. Confirmation Without Acceptance by All Impaired Classes**

The Bankruptcy Court may confirm a plan of reorganization over the rejection or deemed rejection of the plan of reorganization by a class of claims or equity interests if the plan of reorganization “does not discriminate unfairly” and is “fair and equitable” with respect to such class.

### **a. No Unfair Discrimination**

This test applies to classes of claims or equity interests that are of equal priority and are receiving different treatment under the Plan. The test does not require that the treatment be the same or equivalent, but that such treatment be “fair.”

The Debtors do not believe the Plan discriminates unfairly against any impaired class of claims or equity interests. The Debtors believe the Plan and the treatment of all classes of claims and equity interests under the Plan satisfy the foregoing requirements for nonconsensual confirmation.

## **b. Fair and Equitable Test**

This test applies to classes of different priority and status (*e.g.*, secured versus unsecured) and includes the general requirement that no class of claims receive more than 100% of the amount of the allowed claims in such class. As to the dissenting class, the test sets different standards depending on the type of claims or equity interests in such class. In order to demonstrate that a plan is fair and equitable, the plan proponent must demonstrate:

- Secured Creditors: Each holder of a secured claim either (a) retains its liens on the property, to the extent of the allowed amount of its secured claim and receives deferred cash payments having a value, as of the effective date of the chapter 11 plan, of at least the allowed amount of such claim, (b) has the right to credit bid the amount of its claim if its property is sold and retains its liens on the proceeds of the sale (or if sold, on the proceeds thereof) or (c) receives the “indubitable equivalent” of its allowed secured claim.
- Unsecured Creditors: Either (a) each holder of an impaired unsecured claim receives or retains under the chapter 11 plan property of a value equal to the amount of its allowed claim or (b) the holders of claims and interests that are junior to the claims of the dissenting class will not receive any property under the chapter 11 plan.
- Equity Interests: Either (a) each holder of an equity interest will receive or retain under the chapter 11 plan property of a value equal to the greatest of the fixed liquidation preference to which such holder is entitled, the fixed redemption price to which such holder is entitled or the value of the interest or (b) the holder of an interest that is junior to the non-accepting class will not receive or retain any property under the chapter 11 plan.

The Debtors believe the Plan satisfies the “fair and equitable” requirement notwithstanding that Classes 6 (Subordinated Notes Claims), 17 (Hawaiian Telcom Holdco Equity Interests) and 18 (Section 510(b) Claims) are deemed to reject the Plan, because as to Classes 6 (Subordinated Notes Claims), 17 (Hawaiian Telcom Holdco Equity Interests) and 18 (Section 510(b) Claims), there is no class of equal

priority receiving more favorable treatment and no class that is junior to such a dissenting class will receive or retain any property on account of the claims or equity interests in such class.

#### **4. Preemption**

The Plan does not seek to preempt any applicable non-bankruptcy law, including, without limitation, chapter 269 of the Hawaii Revised Statutes.

#### **C. Consummation of the Plan**

The Plan will be consummated on the Effective Date. For a more detailed discussion of the conditions precedent to the consummation of the Plan and the impact of failure to meet such conditions, see Article X of the Plan.

#### **D. Contact for More Information**

Any interested party desiring further information about the Plan may contact legal counsel to the Debtors by: (a) writing to Kirkland & Ellis LLP, Citigroup Center, 601 Lexington Ave., New York, New York 10022-4611, Attn.: Brian S. Lennon and/or calling (212) 446-4800; and/or (b) writing to Cades Schutte LLP, 1000 Bishop Street, Honolulu, Hawaii 96813, Attn.: Nicholas C. Dreher and/or calling (808) 521-9200.

## **XII. ALTERNATIVES TO CONFIRMATION AND CONSUMMATION OF THE PLAN**

If no chapter 11 plan can be confirmed, a debtor's alternatives include (a) liquidation under chapter 7 of the Bankruptcy Code and (b) preparation and presentation of an alternative chapter 11 plan.

#### **A. Liquidation Under Chapter 7 of the Bankruptcy Code**

If no chapter 11 plan can be confirmed, the Debtors' chapter 11 cases may be converted to cases under chapter 7 of the Bankruptcy Code in which a trustee would be elected or appointed to liquidate the assets of the Debtors. As the Debtors operate a utility that is vital to the telecommunications needs of the State of Hawaii, the Debtors, the Creditor's Committee and the State of Hawaii believe liquidation of the individual assets of the Debtors is not an option.



## **B. Filing of an Alternative Plan of Reorganization**

If the Plan is not confirmed, the Debtors or any other party in interest (if the Debtors' exclusive period in which to file a plan of reorganization has expired) could attempt to formulate a different plan of reorganization. Such a plan might involve either a reorganization and continuation of the Debtors' businesses or an orderly liquidation of the Debtors' assets under chapter 11.

Unlike a liquidation under chapter 7 of the Bankruptcy Code, a viable alternative to the Plan presented is a sale of the business to a buyer that is acceptable as an owner of a utility by the HPUC. As described above in Section VII.B.2, prior to the Petition Date, the Debtors with the assistance of their financial advisor Lazard, contacted approximately twelve institutions regarding potential restructuring options and a potential sale of all or substantially all of the Debtors' assets. Since the Petition Date and throughout these chapter 11 cases, Lazard continued to engage in discussions with certain of these third parties as well as additional institutions, but no party presented an acceptable offer.

Based on Lazard's discussions throughout these chapter 11 cases and the failure of any third party to present an acceptable offer, the Debtors have concluded that the Plan enables creditors to realize the most value under the circumstances and is preferable to an orderly liquidation of the Debtors' assets under chapter 11 or an alternative plan of reorganization because of the greater return to creditors.

## **XIII. CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES**

### **A. Introduction**

The following discussion is a summary of certain U.S. federal income tax consequences of the consummation of the Plan to the Debtors and to certain U.S. Holders and Non-U.S. Holders (each as defined below) of claims. The following summary does not address the U.S. federal income tax consequences to holders of claims who are unimpaired or otherwise entitled to payment in full in cash under the Plan. This summary is based on the Internal Revenue Code of 1986, as amended (the "IRC"), the U.S. Treasury Regulations promulgated thereunder, judicial authorities, published administrative positions of the U.S. Internal Revenue Service (the "IRS") and other applicable authorities, all as in effect on the date of this Disclosure Statement and all of which are subject to change or differing interpretations, possibly with retroactive effect. Due to the lack of definitive

judicial and administrative authority in a number of areas, substantial uncertainty may exist with respect to some of the tax consequences described below. No opinion of counsel has been obtained and the Debtors do not intend to seek a ruling from the IRS as to any of the tax consequences of the Plan discussed below. The discussion below is not binding upon the IRS or the courts. No assurance can be given that the IRS would not assert, or that a court would not sustain, a different position than any position discussed herein.

For purposes of this discussion, the term “U.S. Holder” means a holder of a claim, the New Term Loan, New Warrants or New Common Stock that is, for U.S. federal income tax purposes, (i) an individual citizen or resident of the United States, (ii) a corporation, or entity treated as a corporation, organized in or under the laws of the United States or any state thereof or the District of Columbia, (iii) a trust if (a) a court within the United States is able to exercise primary supervision over the administration of the trust and one or more U.S. persons have the authority to control all substantial decisions of the trust or (b) such trust has made a valid election to be treated as a U.S. person for U.S. federal income tax purposes or (iv) an estate, the income of which is includible in gross income for U.S. federal income tax purposes regardless of its source.

For purposes of this discussion, a “Non-U.S. Holder” means a holder of a claim, the New Term Loan, New Warrants or New Common Stock that is, for U.S. federal income tax purposes, (i) a nonresident alien individual, (ii) a non-U.S. corporation or (iii) a non-U.S. estate or non-U.S. trust. This summary does not address all aspects of U.S. federal income taxes that may be relevant to Non-U.S. Holders in light of their personal circumstances, and does not deal with federal taxes other than the federal income tax or with non-U.S., state, local or other tax considerations. Special rules, not discussed here, may apply to certain Non-U.S. Holders, including U.S. expatriates, controlled foreign corporations, passive foreign investment companies and corporations that accumulate earnings to avoid U.S. federal income tax. Such Non-U.S. Holders should consult their own tax advisors to determine the U.S. federal, state, local and other tax consequences that may be relevant to them. In the case of a holder that is classified as a partnership for U.S. federal income tax purposes, the tax treatment of a partner generally will depend upon the status of the partner and the activities of the partnership. If you are a partner of a partnership that is a holder of a claim, the New Term Loan, New Warrants or New Common Stock, then you should consult your own tax advisors.

This discussion does not purport to address all aspects of U.S. federal income taxation that may be relevant to the Debtors or to certain holders in light of their individual circumstances. This discussion does not address tax issues with respect to such holders subject to special treatment under the U.S. federal income tax laws (including, for example, banks, governmental authorities or agencies, pass-through entities, dealers and traders in securities, insurance companies, financial institutions, tax-exempt organizations, small business investment companies and regulated investment companies and those holding, or who will hold, claims, the New Term Loan, New Warrants or New Common Stock, as part of a hedge, straddle, conversion or constructive sale transaction). No aspect of state, local, estate, gift, or non-U.S. taxation is addressed. The following discussion assumes that each holder of a claim holds its claim and the New Common Stock, New Term Loan and New Warrants, as applicable, as a “capital asset” within the meaning of Section 1221 of the IRC.

**ACCORDINGLY, THE FOLLOWING SUMMARY OF CERTAIN U.S. FEDERAL INCOME TAX CONSEQUENCES IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT A SUBSTITUTE FOR CAREFUL TAX PLANNING AND ADVICE BASED UPON THE INDIVIDUAL CIRCUMSTANCES PERTAINING TO A HOLDER OF A CLAIM. ALL HOLDERS OF CLAIMS ARE URGED TO CONSULT THEIR OWN TAX ADVISORS FOR THE FEDERAL, STATE, LOCAL AND NON-U.S. TAX CONSEQUENCES OF THE PLAN.**

**INTERNAL REVENUE SERVICE CIRCULAR 230 DISCLOSURE:**  
TO ENSURE COMPLIANCE WITH REQUIREMENTS IMPOSED BY THE IRS, ANY TAX ADVICE CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING ANY ATTACHMENTS) IS NOT INTENDED OR WRITTEN TO BE USED, AND CANNOT BE USED, BY ANY TAXPAYER FOR THE PURPOSE OF AVOIDING TAX RELATED PENALTIES UNDER THE IRC. TAX ADVICE CONTAINED IN THIS DISCLOSURE STATEMENT (INCLUDING ANY ATTACHMENTS) IS WRITTEN IN CONNECTION WITH THE PROMOTION OR MARKETING OF THE TRANSACTIONS OR MATTERS ADDRESSED BY THE DISCLOSURE STATEMENT. EACH TAXPAYER SHOULD SEEK ADVICE BASED ON THE TAXPAYER’S PARTICULAR CIRCUMSTANCES FROM AN INDEPENDENT TAX ADVISOR.

**B. Certain U.S. Federal Income Tax  
Consequences of the Plan to the Debtors**

**1. Cancellation of Debt and Reduction of Tax Attributes**

In general, absent an exception, a debtor will realize and recognize cancellation of debt income (“COD Income”) upon satisfaction of its outstanding indebtedness for total consideration less than the amount of such indebtedness. The amount of COD Income, in general, is the excess of (a) the adjusted issue price of the indebtedness satisfied, over (b) the sum of (x) the amount of Cash paid, (y) the issue price of any new indebtedness of the taxpayer issued and (z) the fair market value of any new consideration (including New Common Stock and New Warrants) given in satisfaction of such indebtedness at the time of the exchange.

A debtor will not, however, be required to include any amount of COD Income in gross income if the debtor is under the jurisdiction of a court in a case under chapter 11 of the Bankruptcy Code and the discharge of debt occurs pursuant to that proceeding. Instead, as a consequence of such exclusion, a debtor must reduce its tax attributes by the amount of COD Income that it excluded from gross income pursuant to Section 108 of the IRC. In general, tax attributes will be reduced in the following order: (a) net operating losses (“NOLs”); (b) most tax credits; (c) capital loss carryovers; (d) tax basis in assets (but not below the amount of liabilities to which the debtor remains subject); (e) passive activity loss and credit carryovers; and (f) foreign tax credits. A debtor with COD Income may elect first to reduce the basis of its depreciable assets pursuant to Section 108(b)(5) of the IRC, though it has not been determined whether the Debtors would make this election. In the context of a consolidated group of corporations, the tax rules provide for a complex ordering mechanism in determining how the tax attributes of one member can be reduced by the COD Income of another member.

Because the Plan provides that holders of certain claims will receive a share of the New Common Stock, New Warrants, and the New Term Loan, the amount of COD Income, and accordingly the amount of tax attributes required to be reduced, will depend on the fair market value of the New Common Stock, New Warrants, and the issue price of the New Term Loan. This value cannot be known with certainty until after the Effective Date. Following this reduction, the Debtors expect that, subject to the limitations discussed herein and subject to whether the Debtors decide to reduce first the basis in their depreciable assets, they will not

have NOL carryforwards remaining after emergence from chapter 11, but will have other significant tax attributes remaining.

## **2. Limitation of NOL Carryforwards and Other Tax Attributes**

The Debtors anticipate that the Reorganized Debtors will have significant tax attributes (in particular, built-in losses) at emergence. The amount of such tax attributes that will be available to the Reorganized Debtors at emergence is based on a number of factors and is impossible to calculate at this time. Some of the factors that will impact the amount of available tax attributes include: (a) the amount of tax losses incurred by the Debtors in 2009; (b) the fair market value of the New Common Stock, New Warrants, and the issue price of the New Term Loan; and (c) the amount of COD Income incurred by the Debtors in connection with consummation of the Plan. Following consummation of the Plan, the Debtors anticipate that certain built-in losses of the Reorganized Debtors (i.e., the excess of the tax basis of assets over the fair market value of such assets), if recognized within a five-year period following consummation, may be subject to limitation under Section 382 of the IRC as a result of an “ownership change” of the Reorganized Debtors by reason of the transactions pursuant to the Plan.

Under Section 382 of the IRC, if a corporation undergoes an “ownership change,” the amount of its NOLs and built-in losses (collectively, “Pre-Change Losses”) that may be utilized to offset future taxable income generally is subject to an annual limitation. As discussed in greater detail herein, the Debtors anticipate that the issuance of the New Common Stock pursuant to the Plan will result in an “ownership change” of the Reorganized Debtors for these purposes, and that the Debtors’ use of their Pre-Change Losses (which are anticipated to include substantial built-in losses) will be subject to limitation unless an exception to the general rules of Section 382 of the IRC applies.

### **a. General Section 382 Annual Limitation**

This discussion refers to the limitation determined under Section 382 of the IRC in the case of an “ownership change” as the “Section 382 Limitation.” In general, the annual Section 382 Limitation on the use of Pre-Change Losses in any “post-change year” is equal to the product of (a) the fair market value of the stock of the corporation immediately before the “ownership change” (with certain adjustments) multiplied by (b) the “long-term tax-exempt rate” in effect for the month in which the “ownership change” occurs (approximately 4.60% for the

month of June 2009). The Section 382 Limitation may be increased to the extent that the Debtors recognize certain built-in gains in their assets during the five-year period following the ownership change, or are treated as recognizing built-in gains pursuant to the safe harbors provided in IRS Notice 2003-65. Section 383 of the IRC applies a similar limitation to capital loss carryforwards and tax credits. Any unused limitation may be carried forward, thereby increasing the annual limitation in the subsequent taxable year. As discussed below, however, special rules may apply in the case of a corporation which experiences an ownership change as the result of a bankruptcy proceeding.

The issuance under the Plan of the New Common Stock, along with the cancellation of existing Hawaiian Telcom Holdco Equity Interests through the Plan, is expected to cause an ownership change with respect to the Debtors on the Effective Date. As a result, unless an exception applies, Section 382 of the IRC will apply to limit the Debtors' use of any remaining Pre-Change Losses after the Effective Date. This limitation is independent of, and in addition to, the reduction of tax attributes described in the preceding section resulting from the exclusion of COD Income.

#### **b. Special Bankruptcy Exceptions**

An exception to the foregoing annual limitation rules generally applies when so-called "qualified creditors" of a debtor company in chapter 11 receive, in respect of their claims, at least 50% of the vote and value of the stock of the reorganized debtor (or a controlling corporation if also in chapter 11) pursuant to a confirmed chapter 11 plan (the "382(1)(5) Exception"). Under the 382(1)(5) Exception, a debtor's Pre-Change Losses are not limited on an annual basis but, instead, the debtor's NOLs are required to be reduced by the amount of any interest deductions claimed during any taxable year ending during the three-year period preceding the taxable year that includes the effective date of the plan of reorganization, and during the part of the taxable year prior to and including the effective date of the plan of reorganization, in respect of all debt converted into stock in the reorganization. If the 382(1)(5) Exception applies and the debtor undergoes another ownership change within two years after consummation, then the debtor's Pre-Change Losses effectively would be eliminated in their entirety.

Where the 382(1)(5) Exception is not applicable (either because the debtor does not qualify for it or the debtor otherwise elects not to utilize the 382(1)(5) Exception), a second special rule will generally apply (the "382(1)(6) Exception").

When the 382(1)(6) Exception applies, a debtor corporation that undergoes an ownership change generally is permitted to determine the fair market value of its stock after taking into account the increase in value resulting from any surrender or cancellation of creditors' claims in the bankruptcy. This differs from the ordinary rule that requires the fair market value of a debtor corporation that undergoes an ownership change to be determined before the events giving rise to the change. The 382(1)(6) Exception also differs from the 382(1)(5) Exception in that the debtor corporation is not required to reduce its NOLs by interest deductions in the manner described above, and the debtor may undergo a change of ownership within two years without triggering the elimination of its Pre-Change Losses.

The Debtors believe that it will be beneficial for them to qualify for, and utilize, the 382(1)(5) Exception. In that event, the Debtors believe that they will be able to claim the tax benefits resulting from their built-in losses after emergence from bankruptcy. However, as mentioned above, if the Debtors do utilize the 382(1)(5) Exception and another ownership change were to occur within the two-year period after consummation, then the Debtors' Pre-Change Losses would effectively be eliminated. In order to prevent such a subsequent ownership change, the Debtors' Restated Certificate of Incorporation will contain restrictions on trading in the Debtors' stock that are intended to prevent such a change. In general, under those restrictions, in the event that at least 30 percentage points of "owner shift" have occurred or would result from a transfer of stock in the Debtors after emergence from bankruptcy, in certain circumstances no person would be permitted to acquire an amount of stock in the Debtors that would cause such person to own 4.75% or more of the Debtors' stock for purposes of Section 382 without the consent of the Debtors' Board of Directors. Also in such event, if a person already owns 4.75% or more of the Debtors' stock, any further acquisitions and any sales would not be permitted without the Board's consent. These restrictions are intended to apply for a period of two years after emergence, unless extended for a longer period by a vote of the Board of Directors.

It is possible that the Debtors will not qualify for the 382(1)(5) Exception. In that case, the Debtors expect that their use of their built-in losses recognized during the five-year period beginning on the Effective Date will be subject to limitation based on the rules discussed above, but taking into account the 382(1)(6) Exception. Regardless of whether the Reorganized Debtors take advantage of the 382(1)(6) Exception or the 382(1)(5) Exception, the Reorganized Debtors' use of their Pre-Change Losses after the Effective Date may be adversely affected if an

“ownership change” within the meaning of Section 382 of the IRC were to occur after the Effective Date.

### **3. Alternative Minimum Tax**

In general, an alternative minimum tax (“AMT”) is imposed on a corporation’s alternative minimum taxable income (“AMTI”) at a 20% rate to the extent such tax exceeds the corporation’s regular federal income tax for the year. AMTI is generally equal to regular taxable income with certain adjustments. For purposes of computing AMTI, certain tax deductions and other beneficial allowances are modified or eliminated. For example, except for alternative tax NOLs generated in or deducted as carryforwards in taxable years ending in 2001 and 2002, which can offset 100% of a corporation’s AMTI, only 90% of a corporation’s AMTI may be offset by available alternative tax NOL carryforwards. Additionally, under Section 56(g)(4)(G) of the IRC, an ownership change (as discussed above) that occurs with respect to a corporation having a net unrealized built-in loss in its assets will cause, for AMT purposes, the adjusted basis of each asset of the corporation immediately after the ownership change to be equal to its proportionate share (determined on the basis of respective fair market values) of the fair market value of the assets of the corporation, as determined under Section 382(h) of the IRC, immediately before the ownership change. The Debtors believe they will have a net unrealized built-in loss in their assets immediately after the ownership change and therefore could be impacted by these AMT rules.

## **C. Certain U.S. Federal Income Tax Consequences of the Plan to U.S. Holders of Allowed Claims**

### **1. Consequences to U.S. Holders of Senior Secured Claims**

The following discussion assumes that the obligation underlying each allowed Senior Secured Claim is properly treated as debt (rather than equity) of the applicable Debtor. Pursuant to the Plan, each holder of an allowed Senior Secured Claim shall receive such holder’s *pro rata* share (taking into account the election described in this Disclosure Statement) of the New Term Loan and the New Common Stock (as further described in this Disclosure Statement above).

Whether a U.S. Holder of an allowed Senior Secured Claim recognizes gain or loss as a result of the exchange of its claim for the New Term Loan or the New Common Stock or both depends on whether (a) the exchange qualifies as a tax-free recapitalization, which in turn depends on whether the debt underlying the allowed



Senior Secured Claim surrendered and the New Term Loan (with respect to receipt of the New Term Loan) are treated as a “security” for the reorganization provisions of the IRC, (b) the U.S. Holder has previously included in income any accrued but unpaid interest with respect to the allowed Senior Secured Claim, (c) the U.S. Holder has claimed a bad debt deduction or worthless security deduction with respect to such allowed Senior Secured Claim and (d) the U.S. Holder uses the accrual or cash method of accounting for tax purposes.

**a. Treatment of a Debt Instrument as a “Security”**

Whether a debt instrument constitutes a “security” for U.S. federal income tax purposes is determined based on all the relevant facts and circumstances, but most authorities have held that the length of the term of a debt instrument is an important factor in determining whether such instrument is a security for U.S. federal income tax purposes. These authorities have indicated that a term of less than five years is evidence that the instrument is not a security, whereas a term of ten years or more is evidence that it is a security. There are numerous other factors that could be taken into account in determining whether a debt instrument is a security, including the security for payment, the creditworthiness of the obligor, the subordination or lack thereof to other creditors, the right to vote or otherwise participate in the management of the obligor, convertibility of the instrument into an equity interest of the obligor, whether payments of interest are fixed, variable or contingent, and whether such payments are made on a current basis or accrued. Each U.S. Holder of an allowed Senior Secured Claim or, as discussed further below, an allowed Senior Note Claim should consult with its own tax advisor to determine whether or not the debt underlying such Senior Secured Claim or Senior Note Claim is a “security” for U.S. federal income tax purposes.

**b. Treatment of a U.S. Holder of an Allowed Senior Secured Claim if the Exchange of its Claim is Treated as a Reorganization**

If a debt instrument constituting a surrendered allowed Senior Secured Claim and the New Term Loan are treated as a “security” for U.S. federal income tax purposes, the exchange of a U.S. Holder’s allowed Senior Secured Claim for the New Term Loan should be treated as a recapitalization, and therefore a reorganization, under the IRC. If a debt instrument constituting a surrendered allowed Senior Secured Claim is treated as a “security” for U.S. federal income tax purposes, the exchange of a U.S. Holder’s allowed Senior Secured Claim for the

New Common Stock should be treated as a recapitalization, and therefore a reorganization, under the IRC. A U.S. Holder of a surrendered allowed Senior Secured Claim will recognize gain, but not loss, on the exchange. Specifically, the U.S. Holder will recognize (a) capital gain, subject to the “market discount” rules discussed below, to the extent of the lesser of (i) the amount of gain realized from the exchange or (ii) the amount of “other property” (*i.e.*, property that is not a “security” for U.S. federal income tax purposes and “securities” to the extent that the principal amount of securities received exceeds the principal amount of securities surrendered) received, and (b) ordinary interest income to the extent that the New Term Loan and/or New Common Stock are treated as received in satisfaction of accrued but untaxed interest on the debt instrument underlying the allowed Senior Secured Claim (see discussion of “Accrued Interest” below). In such case, a U.S. Holder’s tax basis in its New Term Loan and New Common Stock should be equal to the tax basis of the obligation constituting the allowed Senior Secured Claim surrendered therefor (increased by the amount of any gain recognized and decreased by the fair market value of “other property” received), and a U.S. Holder’s holding period for its New Term Loan and New Common Stock should include the holding period for the obligation constituting the surrendered allowed Senior Secured Claim; provided that the tax basis of any New Term Loan and/or New Common Stock treated as received in satisfaction of accrued but untaxed interest should equal the amount of such accrued but untaxed interest, and the holding period for any such New Term Loan and New Common Stock should not include the holding period of the debt instrument constituting the surrendered allowed Senior Secured Claim.

**c. Treatment of a U.S. Holder of an Allowed Senior Secured Claim If the Exchange of its Claim is not Treated as a Reorganization**

If a debt instrument constituting a surrendered allowed Senior Secured Claim is not treated as a “security” for U.S. federal income tax purposes, a U.S. Holder of such a claim should be treated as exchanging its allowed Senior Secured Claim for the New Term Loan and/or for the New Common Stock in a fully taxable exchange. A U.S. Holder of an allowed Senior Secured Claim who is subject to this treatment should recognize gain or loss equal to the difference between (i) the issue price of the New Term Loan and the fair market value of the New Common Stock, in each case that is not allocable to accrued but untaxed interest, and (ii) the U.S. Holder’s adjusted tax basis in the obligation constituting

the surrendered allowed Senior Secured Claim. Such gain or loss should be capital gain, subject to the “market discount” rules discussed below, and should be long-term capital gain or loss if the debts constituting the surrendered allowed Senior Secured Claim were held for more than one year. To the extent that a portion of the New Term Loan and/or New Common Stock is allocable to accrued but untaxed interest, the U.S. Holder may recognize ordinary interest income (see discussion of “Accrued Interest” below). A U.S. Holder’s tax basis in the New Term Loan received on the Effective Date should equal its issue price and a U.S. Holder’s tax basis in the New Common Stock should equal its fair market value. A U.S. Holder’s holding period for the New Term Loan and New Common Stock received on the Effective Date should begin on the day following the Effective Date.

**d. Issue Price of a Debt Instrument**

The determination of “issue price” for purposes of this analysis will depend, in part, on whether the debt instruments issued to a U.S. Holder or the property surrendered under the Plan are traded on an “established securities market” at any time during the 60-day period ending 30 days after the Effective Date. In general, a debt instrument (or the stock or securities exchanged therefor) will be treated as traded on an established market if (a) it is listed on (i) a qualifying national securities exchange, (ii) certain qualifying interdealer quotation systems, or (iii) certain qualifying non-U.S. securities exchanges; (b) it appears on a system of general circulation that provides a reasonable basis to determine fair market value; or (c) in certain situations the price quotations are readily available from dealers, brokers or traders. The issue price of a debt instrument that is traded on an established market (or that is issued for stock or securities so traded) would be the fair market value of such debt instrument (or such stock or securities so traded) on the issue date as determined by such trading. The issue price of a debt instrument that is neither so traded nor issued for stock or securities so traded would be its stated principal amount (provided that the interest rate on the debt instrument exceeds the applicable federal rate published by the IRS).

**e. Accrued Interest**

To the extent that any amount received by a U.S. Holder of a surrendered allowed claim under the Plan is attributable to accrued but unpaid interest and such amount has not previously been included in the U.S. Holder’s gross income, such amount should be taxable to the U.S. Holder as ordinary interest income.

Conversely, a U.S. Holder of a surrendered allowed claim may be able to recognize a deductible loss (or, possibly, a write-off against a reserve for worthless debts) to the extent that any accrued interest on the debt instruments constituting such claim was previously included in the U.S. Holder's gross income but was not paid in full by the Debtors. Such loss may be ordinary, but the tax law is unclear on this point.

The extent to which the consideration received by a U.S. Holder of a surrendered allowed claim will be attributable to accrued interest on the debts constituting the surrendered allowed claim is unclear. Certain U.S. Treasury Regulations generally treat a payment under a debt instrument first as a payment of accrued and untaxed interest and then as a payment of principal. Application of this rule to a final payment on a debt instrument being discharged at a discount in bankruptcy is unclear. Pursuant to the Plan, distributions in respect of allowed claims shall be allocated first to the principal amount of such claims (as determined for U.S. federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the claims, to any portion of such claims for accrued but unpaid interest. However, the provisions of the Plan are not binding on the IRS nor a court with respect to the appropriate tax treatment for creditors.

#### **f. Market Discount**

Under the "market discount" provisions of Sections 1276 through 1278 of the IRC, some or all of any gain realized by a U.S. Holder exchanging the debt instruments constituting its allowed claim may be treated as ordinary income (instead of capital gain), to the extent of the amount of "market discount" on the debt constituting the surrendered allowed claim.

In general, a debt instrument is considered to have been acquired with "market discount" if its U.S. Holder's adjusted tax basis in the debt instrument is less than (i) the sum of all remaining payments to be made on the debt instrument, excluding "qualified stated interest" or, (ii) in the case of a debt instrument issued with "original issue discount," its adjusted issue price, by at least a de minimis amount (equal to 0.25% of the sum of all remaining payments to be made on the debt instrument, excluding qualified stated interest, multiplied by the number of remaining whole years to maturity).

Any gain recognized by a U.S. Holder on the taxable disposition (determined as described above) of debts that it acquired with market discount

should be treated as ordinary income to the extent of the market discount that accrued thereon while such debts were considered to be held by the U.S. Holder (unless the U.S. Holder elected to include market discount in income as it accrued). To the extent that the surrendered debts that had been acquired with market discount are exchanged in a tax-free or other reorganization transaction for other property (as may occur here), any market discount that accrued on such debts but was not recognized by the U.S. Holder may be required to be carried over to the property received therefor and any gain recognized on the subsequent sale, exchange, redemption or other disposition of such property may be treated as ordinary income to the extent of the accrued but unrecognized market discount with respect to the exchanged debt instrument.

## **2. Consequences to U.S. Holders of Senior Note Claims**

The following discussion assumes that the obligation underlying each allowed Senior Note Claim is properly treated as debt (rather than equity) of the applicable Debtor. Pursuant to the Plan, each holder of a Senior Note Claim shall receive such holder's *pro rata* share of the New Warrants and Subscription Rights (as further described in this Disclosure Statement above).

As set forth below, a recipient of Subscription Rights and/or New Warrants generally should not recognize taxable gain or loss upon the exercise of such Subscription Rights or New Warrants, as applicable. Whether a U.S. Holder of an allowed Senior Note Claim recognizes gain or loss as a result of the exchange of its claim for a share of the New Warrants depends on whether (a) the exchange qualifies as a tax-free recapitalization, which in turn depends on whether the debt underlying the allowed Senior Note Claim surrendered is treated as a "security" for the reorganization provisions of the IRC (see discussion of "Treatment of a Debt Instrument as a 'Security'" above), (b) the U.S. Holder has previously included in income any accrued but unpaid interest with respect to the allowed Senior Note Claim, (c) the U.S. Holder has claimed a bad debt deduction or worthless security deduction with respect to such allowed Senior Note Claim and (d) the U.S. Holder uses the accrual or cash method of accounting for tax purposes.

**a. Treatment of a U.S. Holder of an Allowed Senior Note Claim if the Exchange of its Claim is Treated as a Reorganization**

If a debt instrument constituting a surrendered allowed Senior Note Claim is treated as a “security” for U.S. federal income tax purposes, the exchange of a U.S. Holder’s allowed Senior Note Claim for the New Warrants should be treated as a recapitalization, and therefore a reorganization, under the IRC. A U.S. Holder of a surrendered allowed Senior Note Claim will recognize gain, but not loss, on the exchange. Specifically, the U.S. Holder will recognize (a) capital gain, subject to the “market discount” rules discussed below, to the extent of the lesser of (i) the amount of gain realized from the exchange or (ii) the amount of “other property” (*i.e.*, property that is not a “security” for U.S. federal income tax purposes and “securities” to the extent that the principal amount of securities received exceeds the principal amount of securities surrendered) received, and (b) ordinary interest income to the extent that the New Warrants are treated as received in satisfaction of accrued but untaxed interest on the debt instrument underlying the allowed Senior Note Claim (see discussion of “Accrued Interest” above). In such case, a U.S. Holder’s tax basis in its New Warrants should be equal to the tax basis of the obligation constituting the allowed Senior Note Claim surrendered therefor (increased by the amount of any gain recognized and decreased by the fair market value of “other property” received), and a U.S. Holder’s holding period for its New Warrants should include the holding period for the obligation constituting the surrendered allowed Senior Note Claim; provided that the tax basis of any New Warrants treated as received in satisfaction of accrued but untaxed interest should equal the amount of such accrued but untaxed interest, and the holding period for any such New Warrants should not include the holding period of the debt instrument constituting the surrendered allowed Senior Note Claim.

**b. Treatment of a U.S. Holder of an Allowed Senior Note Claim if the Exchange of its Claim is not Treated as a Reorganization**

If a debt instrument constituting a surrendered allowed Senior Note Claim is not treated as a “security” for U.S. federal income tax purposes, a U.S. Holder of such a claim should be treated as exchanging its allowed Senior Note Claim for the New Warrants in a fully taxable exchange. A U.S. Holder of an allowed Senior Note Claim who is subject to this treatment should recognize gain or loss equal to

the difference between (i) the issue price of the New Term Loan and the fair market value of the New Warrants that are not allocable to accrued but untaxed interest (see discussion of “Issue Price of a Debt Instrument” above), and (ii) the U.S. Holder’s adjusted tax basis in the obligation constituting the surrendered allowed Senior Note Claim. Such gain or loss should be capital gain, subject to the “market discount” rules discussed above, and should be long-term capital gain or loss if the debts constituting the surrendered allowed Senior Note Claim were held for more than one year. To the extent that a portion of the New Warrants is allocable to accrued but untaxed interest, the U.S. Holder may recognize ordinary interest income (see discussion of “Accrued Interest” above). A U.S. Holder’s tax basis in the New Warrants should equal their fair market value. A U.S. Holder’s holding period for the New Warrants received on the Effective Date should begin on the day following the Effective Date.

### **3. Consequences to U.S. Holders of Other Secured Claims and General Unsecured Claims**

Pursuant to the Plan (a) each allowed Other Secured Claim shall either be reinstated, paid in cash, with interest, or the holder of such claim shall receive the collateral securing such claim, with interest (as further described in this Disclosure Statement above) and (b) each holder of an allowed General Unsecured Claim shall receive cash in an amount equal to such holder’s *pro rata* share of the Unsecured Claims Fund (as further described in this Disclosure Statement above). A U.S. Holder who receives cash or collateral in exchange for its claim pursuant to the Plan generally will recognize gain or loss in an amount equal to the difference between (1) the amount of cash or the fair market value of such collateral, as applicable, received in exchange for its claim and (2) the U.S. Holder’s adjusted tax basis in its claim. Such gain or loss should be capital in nature (subject to the “market discount” and “accrued interest” rules described above) and should be long term capital gain or loss if the claims were held for more than one year by the U.S. Holder. If an Other Secured Claim is reinstated, the U.S. Holder of such claim should not recognize gain or loss except to the extent collateral securing such claim is changed, and the change in collateral constitutes a “significant modification” of the Other Secured Claim, as applicable, within the meaning of the U.S. Treasury Regulations promulgated under Section 1001 of the IRC.

#### **4. Consequences to U.S. Holders of Holding New Common Stock**

##### **a. Dividends on New Common Stock**

Any distributions made on the New Common Stock will constitute dividends for U.S. federal income tax purposes to the extent of the current or accumulated earnings and profits of Reorganized Hawaiian Telecom Holdco as determined under U.S. federal income tax principles. To the extent that a U.S. Holder receives distributions that would otherwise constitute dividends for U.S. federal income tax purposes but that exceed such current and accumulated earnings and profits, such distributions will be treated first as a non-taxable return of capital reducing the U.S. Holder's basis in its shares. Any such distributions in excess of the U.S. Holder's basis in its shares (determined on a share-by-share basis) generally will be treated as capital gain. Subject to certain exceptions, dividends received by non-corporate U.S. Holders prior to 2011 will be taxed under current law at a maximum rate of 15%, provided that certain holding period requirements and other requirements are met. Any such dividends received after 2010 will be taxed at the rate applicable to ordinary income.

Dividends paid to U.S. Holders that are corporations generally will be eligible for the dividends-received deduction so long as there are sufficient earnings and profits. However, the dividends received deduction is only available if certain holding period requirements are satisfied. The length of time that a shareholder has held its stock is reduced for any period during which the shareholder's risk of loss with respect to the stock is diminished by reason of the existence of certain options, contracts to sell, short sales or similar transactions. In addition, to the extent that a corporation incurs indebtedness that is directly attributable to an investment in the stock on which the dividend is paid, all or a portion of the dividends received deduction may be disallowed.

The benefit of the dividends-received deduction to a corporate shareholder may be effectively reduced or eliminated by operation of the "extraordinary dividend" provisions of Section 1059 of the IRC, which may require the corporate recipient to reduce its adjusted tax basis in its shares by the amount excluded from income as a result of the dividends-received deduction. The excess of the excluded amount over adjusted tax basis may be treated as gain. A dividend may be treated as "extraordinary" if (1) it equals or exceeds 10% of the holder's adjusted tax basis in the stock (reduced for this purpose by the non-taxed portion of any prior extraordinary dividend), treating all dividends having ex-dividend dates within an



85-day period as one dividend, or (2) it exceeds 20% of the holder's adjusted tax basis in the stock, treating all dividends having ex dividend dates within a 365-day period as one dividend.

**b. Sale, Redemption or Repurchase of New Common Stock**

Unless a non-recognition provision applies, subject to the “market discount” rules discussed above, U.S. Holders generally will recognize capital gain or loss upon the sale, redemption or other taxable disposition of the New Common Stock.

**5. Consequences to U.S. Holders of Holding the New Term Loan**

**a. Interest on the New Term Loan**

Interest paid on the New Term Loan will be taxable to a U.S. Holder as ordinary interest income. Because not all interest with respect to the New Term Loan will be paid in cash at a single fixed rate, the New Term Loan will likely be treated as an original issue discount debt instrument for federal income tax purposes. As such, a U.S. holder likely will be required to accrue interest income on the New Term Loan on a constant yield to maturity basis, and not simply as cash is received with respect to the New Term Loan.

The Debtors may be required to pay additional interest if the Debtors fail to comply with certain obligations under the New Term Loan agreements or upon occurrence of certain events. Although the issue is not free from doubt, the Debtors intend to take the position that the possibility of payments of additional interest does not result in the New Term Loan being treated as contingent payment debt instruments under the applicable Treasury Regulations. The Debtors’ determination in this regard is binding on all U.S. Holders, unless a U.S. Holder discloses a contrary position to the IRS. This position, however, is not binding on the IRS. If the IRS takes a contrary position from that described above, then a U.S. Holder of New Term Loan may be required to accrue interest income based upon a “comparable yield,” regardless of the U.S. Holder’s method of accounting. Such yield would be higher than the stated interest on the New Term Loan. In addition, any gain on the sale, exchange, retirement or other taxable disposition of the New Term Loan may be recharacterized as ordinary income. Holders should consult their tax advisors regarding the tax consequences of the New Term Loan being treated as a contingent payment debt instrument. The remainder of this discussion assumes that the New Term Loan is not treated as a contingent payment debt instrument. If the Debtors become obligated to pay additional interest, the Debtors

intend to take the position that such amounts would be treated as ordinary interest income and taxed as described above.

**b. Sale or Retirement of the New Term Loan**

Upon the sale, exchange or retirement of a New Term Loan, a U.S. Holder will recognize taxable gain or loss equal to the difference between the amount realized on the sale, exchange, or retirement and the U.S. Holder's adjusted tax basis in the New Term Loan. For these purposes, the amount realized does not include any amount attributable to accrued interest. Amounts attributable to accrued interest are treated as interest (see discussion of "Accrued Interest" above). As it is unlikely that the New Term Loan will be issued with market discount, gain or loss realized on the sale, exchange or retirement of a New Term Loan will generally be long-term capital gain or loss if at the time of sale, exchange or retirement such New Term Loan has been held for more than one year. However, see discussion of "Market Discount" above with respect to surrendered claims that were acquired with market discount and that are exchanged in a tax-free transaction.

**6. Consequences to U.S. Holders of Exercising the Subscription Rights and/or New Warrants**

A recipient of Subscription Rights and/or New Warrants generally should not recognize taxable gain or loss upon the exercise of such Subscription Rights or New Warrants. The tax basis in the New Common Stock received upon exercise of the New Warrants should equal the sum of the U.S. Holder's tax basis in the New Warrants and the amount paid for such New Common Stock. The tax basis in the New Common Stock received upon exercise of the Subscription Rights should equal the amount paid for the New Common Stock. The holding period in any New Common Stock received upon the exercise of the Subscription Rights or New Warrants should commence the day following its acquisition.

**D. Certain U.S. Federal Income Tax Consequences Of the Plan to Non-U.S. Holders of Allowed Claims**

**1. Consequences to Non-U.S. Holders of the Exchange**

Any gain or interest income realized by a Non-U.S. Holder on the exchange of its claim generally will be exempt from U.S. federal income or withholding tax, provided that:

- such Non-U.S. Holder does not own, actually or constructively, 10 percent or more of the total combined voting power of all classes of the voting stock of Hawaiian Telecom Holdco, is not a controlled foreign corporation related, directly or indirectly, to Hawaiian Telecom Holdco through stock ownership, and is not a bank receiving interest described in Section 881(c)(3)(A) of the IRC;
- the statement requirement set forth in Section 871(h) or Section 881(c) of the IRC has been fulfilled with respect to the beneficial owner, as discussed below;
- such Non-U.S. Holder is not an individual who is present in the United States for 183 days or more in the taxable year of disposition or who is subject to special rules applicable to former citizens and residents of the United States; and
- such gain or interest income is not effectively connected with the conduct by such Non-U.S. Holder of a trade or business in the United States.

The statement requirement referred to in the preceding paragraph will generally be fulfilled if the beneficial owner of the property or cash received on the exchange certifies on IRS Form W-8BEN (or such successor form as the IRS designates) under penalties of perjury that it is not a U.S. person and provides its name and address. The Non-U.S. Holder must provide the form to the Debtors or their paying agent, or in the case of a note held through a securities clearing organization, bank or other financial institution holding customers' securities in the ordinary course of its trade or business, to such organization, bank or other financial institution, which must in turn provide to the Debtors or their paying agent a statement that it has received the form and furnish a copy thereof; provided, that a non-U.S. financial institution will fulfill this requirement by filing IRS Form W-8IMY if it has entered into an agreement with the IRS to be treated as a qualified intermediary. These forms must be periodically updated.

If a Non-U.S. Holder is engaged in a trade or business in the United States, and if any gain or interest income realized on the exchange of its claim is effectively connected with the conduct of such trade or business, the Non-U.S. Holder, although exempt from the withholding tax discussed in the preceding paragraphs, will generally be subject to regular U.S. federal income tax on such

gain or interest income in the same manner as if it were a U.S. Holder. In lieu of the certificate described in the preceding paragraph, such a Non-U.S. Holder will be required to provide a properly executed IRS Form W-8ECI (or such successor form as the IRS designates), in the manner described above, in order to claim an exemption from withholding tax. In addition, if such a Non-U.S. Holder is a corporation, it may be subject to a branch profits tax equal to 30% (or such lower rate provided by an applicable treaty) of its effectively connected earnings and profits for the taxable year, subject to certain adjustments.

## **2. Consequences to Non-U.S. Holders of Holding the New Term Loan, New Common Stock and/or New Warrants**

This summary assumes that no item of income or gain in respect of the New Term Loan, New Common Stock and New Warrants at any time will be effectively connected with a U.S. trade or business conducted by the Non-U.S. Holder.

### **a. Dividends on New Common Stock**

Dividends paid to a Non-U.S. Holder (to the extent paid out of our current or accumulated earnings and profits, as determined for U.S. federal income tax purposes) generally will be subject to withholding of U.S. federal income tax at a 30% rate or such lower rate as may be specified by an applicable income tax treaty.

To claim the benefit of a tax treaty a Non-U.S. Holder must provide a properly executed IRS Form W-8BEN (or such successor form as the IRS designates), in the manner described above, prior to the payment of the dividends. A Non-U.S. Holder that is eligible for a reduced rate of U.S. withholding tax pursuant to an income tax treaty may obtain a refund from the IRS of any excess amounts withheld by filing timely an appropriate claim for refund with the IRS.

### **b. Interest on the New Term Loan**

Generally any interest paid to a Non-U.S. Holder of the New Term Loan will not be subject to U.S. federal income tax if the interest qualifies as “portfolio interest.” Interest on the New Term Loan generally will qualify as portfolio interest if:

- such Non-U.S. Holder does not own, actually or constructively, 10 percent or more of the total combined voting power of all classes of the voting stock of Reorganized Hawaiian Telecom Holdco, is not a

controlled foreign corporation related, directly or indirectly, to Reorganized Hawaiian Telecom Holdco through stock ownership, and is not a bank receiving interest described in Section 881(c)(3)(A) of the IRC; and

- the statement requirement set forth in Section 871(h) or Section 881(c) of the IRC has been fulfilled with respect to the beneficial owner, as discussed above.

The gross amount of payments to a Non-U.S. Holder of interest that does not qualify for the portfolio interest exemption will be subject to U.S. withholding tax at the rate of 30%, unless a U.S. income tax treaty applies to reduce or eliminate such withholding tax. To claim the benefit of a tax treaty a Non-U.S. Holder must provide a properly executed IRS Form W-8BEN (or such successor form as the IRS designates), in the manner described above, prior to the payment of interest. A Non-U.S. Holder who is claiming the benefits of a treaty may be required in certain instances to obtain a U.S. taxpayer identification number and to provide certain documentary evidence issued by non-U.S. governmental authorities to prove residence in the non-U.S. country.

**c. Gain on Disposition of New Term Loan,  
New Common Stock and/or New Warrants**

A Non-U.S. Holder generally will not be subject to U.S. federal income tax with respect to any gain realized on the sale or other taxable disposition of New Term Loan (other than in respect of accrued but unpaid interest that has not previously been included in such Non-U.S. Holder's gross income, which shall instead be treated as interest in the manner described above), New Common Stock or New Warrants, unless:

- such Non-U.S. Holder is an individual who is present in the United States for 183 days or more in the taxable year of disposition or who is subject to special rules applicable to former citizens and residents of the United States; or
- in the case of a disposition of New Common Stock or New Warrants, Reorganized Hawaiian Telecom Holdco is or has been during a specified testing period a "U.S. real property holding corporation" for U.S. federal income tax purposes.

Reorganized Hawaiian Telecom Holdco does not anticipate becoming a “U.S. real property holding corporation” for U.S. federal income tax purposes.

#### **E. Withholding and Reporting**

The Debtors will withhold all amounts required by law to be withheld from payments of interest and dividends. The Debtors will comply with all applicable reporting requirements of the IRC. In general, information reporting requirements may apply to distributions or payments made to a holder of a claim. The IRS may make the information returns reporting such interest and dividends and withholding available to the tax authorities in the country in which a Non-U.S. Holder is resident. Additionally, backup withholding of taxes, currently at a rate of 28%, will apply to such payments if a U.S. Holder fails to provide an accurate taxpayer identification number or otherwise fails to comply with the applicable requirements of the backup withholding rules. Any amounts withheld under the withholding rules will be allowed as a credit against such holder’s U.S. federal income tax liability and may entitle such holder to a refund from the IRS, provided that the required information is provided to the IRS.

In addition, from an information reporting perspective, U.S. Treasury Regulations generally require disclosure by a taxpayer on its U.S. federal income tax return of certain types of transactions in which the taxpayer participated, including, among other types of transactions, certain transactions that result in the taxpayer’s claiming a loss in excess of specified thresholds. Holders are urged to consult their tax advisors regarding these regulations and whether the transactions contemplated by the Plan would be subject to these regulations and require disclosure on the holders’ tax returns.

**THE FEDERAL INCOME TAX CONSEQUENCES OF THE PLAN ARE COMPLEX. THE FOREGOING SUMMARY DOES NOT DISCUSS ALL ASPECTS OF FEDERAL INCOME TAXATION THAT MAY BE RELEVANT TO A PARTICULAR HOLDER IN LIGHT OF SUCH HOLDER’S CIRCUMSTANCES AND INCOME TAX SITUATION. ALL HOLDERS OF CLAIMS AND EQUITY INTERESTS SHOULD CONSULT WITH THEIR TAX ADVISORS AS TO THE PARTICULAR TAX CONSEQUENCES TO THEM OF THE TRANSACTIONS CONTEMPLATED BY THE PLAN, INCLUDING THE APPLICABILITY AND EFFECT OF ANY STATE, LOCAL OR NON-U.S. TAX LAWS, AND OF ANY CHANGE IN APPLICABLE TAX LAWS.**



#### **XIV. CONCLUSION AND RECOMMENDATION**

The Debtors believe the Plan is in the best interests of all holders of claims and urge all holders of claims entitled to vote to accept the Plan and to evidence such acceptance by returning their ballots and master ballots so they will be received by the Claims and Solicitation Agent or the Securities Voting Agent, as applicable, no later than 1:00 p.m., September 30, 2009 Hawaii Standard Time.

Dated: [August 23, 2009]

Respectfully submitted,

**HAWAIIAN TELCOM  
COMMUNICATIONS, INC.**  
(on behalf of itself and  
the other Debtors and Debtors in  
Possession)

By: \_\_\_\_\_  
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