

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re : Chapter 11 Case No.  
:  
LEHMAN BROTHERS HOLDINGS INC., *et al.*, : 08-13555 (JMP)  
:  
Debtors. : (Jointly Administered)  
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**NOTICE OF FILING OF MOTION FOR AN ORDER  
APPROVING CERTAIN RESTRICTIONS AND PROCEDURES  
APPLICABLE TO TRANSFERS OF THE DEBTORS' SECURITIES**

TO ALL PERSONS OR ENTITIES WITH SECURITIES OF LEHMAN BROTHERS HOLDINGS INC. OR ANY OF ITS DEBTOR AFFILIATES WHOSE CASES UNDER CHAPTER 11 OF TITLE 11 OF THE UNITED STATES CODE ARE, OR SUBSEQUENTLY BECOME, JOINTLY ADMINISTERED WITH CASE NO. 08-13555 (JMP)<sup>1</sup>:

PLEASE TAKE NOTICE that on September 15, 2008 (the "Commencement Date") and periodically thereafter, Lehman Brothers Holdings, Inc. ("LBHI") and its subsidiaries in the above-referenced chapter 11 cases, as debtors and debtors in possession (the "Debtors") and, collectively with LBHI's wholly-owned non-debtor domestic subsidiaries, "Lehman"), commenced a case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"). Section 362(a) of the Bankruptcy Code operates as a stay of any act to obtain possession of property of the Debtors' estates or of property from the Debtors' estates or to exercise control over property of the Debtors' estates.

PLEASE TAKE FURTHER NOTICE that on November 5, 2008, pursuant to that certain *Order Pursuant to Sections 105(a) and 362 of the Bankruptcy Code Approving Certain Transfers of Interests in the Debtors' Estates and Establishing Notification Procedures Relating Thereto*, the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") found that Lehman's consolidated net operating loss tax carryforwards ("NOLs") and certain other tax attributes (together with NOLs, the "Tax Attributes") are property of the Debtors' estates and are protected by the automatic stay prescribed in section 362 of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that on January 19, 2010, the Debtors filed a motion (the "Motion") with the Bankruptcy Court, having jurisdiction over these chapter 11 cases, to consider entry of an order (the "Order") (i) finding that under certain circumstances the unrestricted accumulation of Securities (as hereinafter defined) could, following a chapter 11

<sup>1</sup> All capitalized terms not expressly defined herein shall have the meaning ascribed to them in the Motion.

plan of the Debtors (or successors thereto), severely limit the Debtors' (or their successors') ability to use the Tax Attributes for purposes of the Internal Revenue Code of 1986, as amended (the "Tax Code"); and (ii) approving the restrictions and procedures as set forth herein to preserve the Tax Attributes pursuant to sections 105(a) and 362(a) of the Bankruptcy Code. **The Debtors are requesting that the relief be effective as of the date of the filing of the Motion (the "Motion Date"). IF THE REQUESTED RELIEF IS GRANTED, ANY ACQUISITION, DISPOSITION OR OTHER TRANSFER IN VIOLATION OF THE RESTRICTIONS SET FORTH IN THE ORDER SHALL BE NULL AND VOID AB INITIO AS AN ACT IN VIOLATION OF THE AUTOMATIC STAY UNDER SECTIONS 105(A) AND 362 OF THE BANKRUPTCY CODE.**

PLEASE TAKE FURTHER NOTICE that a copy of the Motion can be found on the Debtors' website: <http://www.lehman-docket.com>.

PLEASE TAKE FURTHER NOTICE that the following restrictions and procedures, if approved by the Bankruptcy Court, shall apply to the accumulation of and trading in THE DEBTORS' SECURITIES, effective *nunc pro tunc* to the date of the filing of the Motion:<sup>2</sup>

**1**     Notice of 382(l)(5) Plan; Amended Notice of 382(l)(5) Plan.

- (a)     Notice of 382(l)(5) Plan. Upon filing a chapter 11 plan and disclosure statement that contemplates the potential utilization of section 382(l)(5) of the Tax Code (a "382(l)(5) Plan"), the Debtors may, if, after consultation with their attorneys and advisors and the attorneys and advisors for the Creditors' Committee, they determine that the application of section 382(l)(5) of the Tax Code is reasonably likely to be beneficial to the reorganized Debtors (or any successors thereto), (i) publish (or arrange for publication of) a notice and provide a written notice to the Notice Parties, disclosing the filing of such 382(l)(5) Plan and the potential issuance of a Sell-Down Notice (as defined in Paragraph 3(a) below) in connection therewith on the Debtors' website: <http://www.lehman-docket.com> and in the national editions of *The Wall Street Journal* and *The New York Times* (a "Notice of 382(l)(5) Plan"), (ii) identify the classes of Securities that are potentially subject to a Sell-Down Notice and (iii) identify the applicable Threshold Amounts (by class or other applicable breakdown) for status as a Substantial Securityholder.
- (b)     Amended Notice of 382(l)(5) Plan. The Debtors may determine subsequent to the date of the Notice of 382(l)(5) Plan or an Amended Notice of 382(l)(5) Plan (as defined below), to (i) adjust the Threshold Amount or (ii) identify additional classes of Securities that are potentially

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<sup>2</sup> Capitalized terms used in Paragraphs 1 – 7 have the meaning ascribed in Paragraph 7, if not otherwise defined herein.

subject to a Sell-Down Notice. In that case, the Debtors shall publish and provide notice of such additional amount and/or such additional class of Securities in the same manner as the Notice of 382(l)(5) Plan and such notice shall be an “Amended Notice of 382(l)(5) Plan.” The Amended Notice of 382(l)(5) Plan shall require (x) any person or Entity that previously filed a Notice of Substantial Securityholder Status to update information regarding such Substantial Securityholder’s Beneficial Ownership of Securities and (y) any person or Entity that is a Substantial Securityholder as of the date of the most recent Amended Notice of 382(l)(5) Plan, but that was not previously required to file a Notice of Substantial Securityholder Status (an “Additional Substantial Securityholder”), to file with the Bankruptcy Court and serve upon the Debtors’, the attorneys for the Debtors and the attorneys for the Creditors’ Committee, a notice of such status in the manner prescribed in Paragraph 2 below within ten (10) days of the date of the Amended Notice of 382(l)(5) Plan.

- (c) Early Notice. The Debtors reserve the right, in order to assist in determining their eligibility for section 382(l)(5) of the Tax Code, to request in a manner consistent with the publication of the Notice of 382(l)(5) Plan described above, information regarding the Beneficial Ownership of Securities prior to the filing of the Notice of 382(l)(5) Plan.

- 2 Notice of Substantial Securityholder Status. Following a request for Beneficial Ownership information pursuant to (i) a Notice of 382(l)(5) Plan, (ii) an Amended Notice of 382(l)(5) Plan or (iii) Paragraph 1(c) above, any person or Entity that as of the date such request is made (the “Request Date”) is or becomes a Substantial Securityholder shall file with the Bankruptcy Court and serve upon the Debtors, the attorneys for the Debtors and the attorneys for the Creditors’ Committee, a notice of such status (a “Notice of Substantial Securityholder Status”), in the form annexed to the Motion as Exhibit D, within ten (10) days of the later of (i) the Request Date and (ii) the date such person becomes a Substantial Securityholder. At the holder’s election, the Notice of Substantial Securityholder Status that is filed with the Bankruptcy Court (but not such notice served upon the Debtors, the attorneys for the Debtors or the attorneys for the Creditors’ Committee) may be redacted to exclude such holder’s taxpayer identification number and the aggregate dollar amount of Securities that such holder Beneficially Owns.

- 3 Sell-Down Notices.

- (a) Sell-Down Notices. Following the issuance of a Notice of 382(l)(5) Plan, but no earlier than sixty (60) days prior to the then-scheduled hearing with respect to the 382(l)(5) Plan, if the Debtors determine it to be reasonably necessary to require the sale or transfer of all or a portion of the Beneficial Ownership of Securities held by a Substantial Securityholder on the basis that such sale or transfer is appropriate to reasonably ensure that the

requirements of section 382(l)(5) of the Tax Code will be satisfied, and either the Creditors' Committee or the Bankruptcy Court similarly so determines, the Debtors may file a motion requesting that the Bankruptcy Court enter an order (the "Sell-Down Order") approving the issuance of a notice (the "Sell-Down Notice") that such Substantial Securityholder must sell, cause to sell or otherwise transfer all or a portion of its Beneficial Ownership of Securities (by class or other applicable breakdown) in excess of the Maximum Amount for such Substantial Securityholder (such excess amount, an "Excess Amount") to Permitted Transferees. If the Bankruptcy Court enters a Sell-Down Order approving the Debtors' issuance of a Sell-Down Notice, the Debtors shall provide a copy of such Sell-Down Order to the applicable Substantial Securityholders.

- (b) Requirement to Sell Down. Prior to (i) the effective date of the 382(l)(5) Plan or (ii) such earlier date set forth in the Sell-Down Order, which shall not be earlier than the day after the entry of the order confirming the 382(l)(5) Plan as may be specified by the Debtors (the "Sell-Down Date"), each Substantial Securityholder shall sell, cause to sell or otherwise transfer an amount of the Beneficial Ownership of Securities (if any) necessary to comply with the Sell-Down Notice (the "Sell-Down"); provided, however, that notwithstanding anything to the contrary in the Order and for the avoidance of doubt, no Substantial Securityholder shall be required to sell, cause to sell or otherwise transfer any Beneficial Ownership of Securities if such sale would result in such holder having Beneficial Ownership of an aggregate amount of Securities (by class or other applicable breakdown) that is less than such holder's Protected Amount (as hereinafter defined). Each Substantial Securityholder shall sell, cause to sell or otherwise transfer its Beneficial Ownership of Securities subject to the Sell-Down to Permitted Transferees; provided however that such Substantial Securityholder shall not have a reasonable basis to believe that any such Permitted Transferee would own, immediately after the contemplated transfer, an Excess Amount of Securities.
- (c) Notice of Compliance. A Substantial Securityholder subject to the Sell-Down shall, within five (5) business days after the later of (i) entry of an order approving the 382(l)(5) Plan, (ii) the Sell-Down Date, and (iii) such other date specified in the Sell-Down Notice, as applicable, but in all events before the effective date of the 382(l)(5) Plan, and as a condition to receiving Affected Equity, serve upon the Debtors, the attorneys for the Debtors and the attorneys for the Creditors' Committee, a notice substantially in the form annexed to the Motion as Exhibit E that such Substantial Securityholder has complied with the terms and conditions set forth in this Paragraph 3 and that such Substantial Securityholder does not and will not hold an Excess Amount of Securities as of the Sell-Down

Date and at all times through the effective date of the 382(l)(5) Plan (the “Notice of Compliance”). Any Substantial Securityholder who fails to comply with this provision shall not receive Affected Equity with respect to any Excess Amount of Securities.

- 4 Advance Approval of Acquisitions. Any proposed transfer or acquisition of Securities from and after the date of the Sell-Down Order shall be subject to the following advance approval procedures:
- (a) Acquisition of Securities. At least fifteen (15) business days prior to the proposed date of any transfer of Securities that would result in (i) an increase in the dollar amount of Securities Beneficially Owned by a Substantial Securityholder or (ii) any person or Entity becoming a Substantial Securityholder (a “Proposed Securities Acquisition Transaction”), such person, Entity, or Substantial Securityholder (each a “Proposed Securities Transferee”) must file with the Bankruptcy Court and serve upon the Debtors, the attorneys for the Debtors and the attorneys for the Creditors’ Committee, a Notice of Request to Purchase, Acquire, or Otherwise Accumulate a Security (a “Securities Acquisition Request”), in the form annexed to the Motion as Exhibit F, which describes specifically and in detail the intended acquisition of Securities, regardless of whether such transfer would be subject to the filing, notice, and hearing requirements of Bankruptcy Rule 3001. At the Proposed Securities Transferee’s election, the Securities Acquisition Request that is filed with the Bankruptcy Court (but not such request served upon the Debtors, the attorneys for the Debtors and the attorneys for the Creditors’ Committee) may be redacted to exclude such transferee’s taxpayer identification number and the aggregate dollar amount of Securities that such transferee Beneficially Owns and proposes to purchase or otherwise acquire.
- (b) Approval Procedures. The Debtors may determine, in furtherance of the purposes of the provisions herein and after consultation with the attorneys for the Creditors’ Committee, whether or not to approve a Securities Acquisition Request. A Securities Acquisition Request that is not approved in writing by the Debtors within ten (10) business days after the filing of a Securities Acquisition Request shall be deemed rejected.
- 5 Equity Forfeiture Provision.
- (a) Equity Forfeiture Provision. Any Substantial Securityholder that violates its obligations under the Sell-Down Notice shall, pursuant to the Order, be precluded from receiving, directly or indirectly, any consideration consisting of a beneficial ownership of equity (as determined in accordance with the applicable rules of section 382 of the Tax Code, including Options, whether or not treated as exercised under Treasury Regulation section 1.382-4) of the Debtors (or any successor to the

Debtors, including as determined for U.S. federal income tax purposes) that is attributable to the Excess Amount of Securities for such Substantial Securityholder, including any consideration in lieu thereof, provided that such Substantial Securityholder may be entitled to receive any other consideration to which such holder may be entitled by virtue of holding Securities (the “Equity Forfeiture Provision”). Any purported acquisition of, or other increase in the Beneficial Ownership of, equity of the Debtors (or any successor) that is precluded by the Equity Forfeiture Provision will be an acquisition of “Forfeited Equity.” Any acquirer of Forfeited Equity shall, immediately upon becoming aware of such fact, return or cause to return the Forfeited Equity to the Debtors (or any successor to the Debtors) or, if all of the equity consideration properly issued to such acquirer and all or any portion of such Forfeited Equity shall have been sold prior to the time such acquirer becomes aware of such fact, such acquirer shall return or cause to return to the Debtors (or any successor to the Debtors) (i) any Forfeited Equity still held by such acquirer and (ii) the proceeds attributable to the sale of Forfeited Equity, calculated by treating the most recently sold equity as Forfeited Equity. Any acquirer that receives Forfeited Equity and deliberately fails to comply with the preceding sentence shall be subject to such additional sanctions as the Bankruptcy Court may determine. Any Forfeited Equity returned to the Debtors shall be distributed (including a transfer to charity) or extinguished, in the Debtors’ sole discretion, in furtherance of the 382(l)(5) Plan.

- (b) Notification Requirement. In effecting any sale or other transfer of Securities pursuant to a Sell-Down Notice, a Substantial Securityholder shall, to the extent that it is reasonably feasible to do so within the normal constraints of the market in which such sale takes place, notify the acquirer of such Securities of the existence of the Order and the Equity Forfeiture Provision (it being understood that, in all cases in which there is direct communication between a salesperson and a customer, including, without limitation, communication via telephone, e-mail, and instant messaging, the existence of the Order and the Equity Forfeiture Provision shall be included in such salesperson’s summary of the transaction).

## 6 Miscellaneous.

- (a) No Disclosure of Participation. To permit reliance by the Debtors on Treasury Regulation section 1.382-9(d)(3), any Substantial Securityholder that participates in formulating any chapter 11 plan of or on behalf of the Debtors (which shall include, without limitation, making any suggestions or proposals to the Debtors or their advisors with regard to such a plan), shall not, and shall not be asked to, disclose (or otherwise make evident unless compelled to do so by an order of a court of competent jurisdiction

or some other applicable legal requirement) to the Debtors that any Securities in which such Substantial Securityholder has a Beneficial Ownership are Newly Traded Securities. For this purpose, the Debtors acknowledge and agree that the following activities shall not constitute participation in formulating a chapter 11 plan if, in pursuing such activities, the relevant Substantial Securityholder does not disclose (or otherwise make evident) to the Debtors that such Substantial Securityholder has Beneficial Ownership of Newly Traded Securities: filing an objection to a proposed disclosure statement or to confirmation of a proposed chapter 11 plan; voting to accept or reject a proposed chapter 11 plan; reviewing or commenting on a proposed business plan; providing information on a confidential basis to the attorneys for the Debtors or attorneys for the Creditors' Committee unconnected with the formulation of the chapter 11 plan; general membership on an official committee or an *ad hoc* committee; or taking any action required by the order of the Bankruptcy Court.

- (b) Confidentiality. Except to the extent necessary to demonstrate to the Bankruptcy Court the need for the issuance of a Sell-Down Notice, other than information contained in the Notice of Substantial Securityholder Status that is public or in connection with an audit or other investigation by the Internal Revenue Service ("IRS") or other taxing authority, the Debtors shall keep such notices and any additional information provided by a Substantial Securityholder pursuant to the Order strictly confidential and shall not disclose the identity of the Substantial Securityholder to any other person or Entity; provided, however, that the Debtors may disclose the identity of the Substantial Securityholder to its counsel and professional advisors and/or the counsel and professional advisors of the Creditors' Committee and of any other person(s) that are subject to a nondisclosure agreement with the Debtors, each of whom shall keep all such notices strictly confidential and shall not disclose the identity of the Substantial Securityholder to any other person or Entity subject to further order of the Bankruptcy Court; and provided, further, that to the extent the Debtors reasonably determine such confidential information is necessary to demonstrate to the Bankruptcy Court the need for the issuance of a Sell-Down Notice, the Debtors shall seek to file such confidential information (determined by, among other things, whether such information was redacted in any public filing) under seal.
- (c) Exception. No person or Entity shall be subject to the aforementioned provisions with respect to any transfer described in Treasury Regulation section 1.382-9(d)(5)(ii), provided that such transfer is not for a principal purpose of obtaining stock in the reorganized Debtors (or any successor) or permitting the transferee to benefit from the losses of the Debtors within the meaning of Treasury Regulation section 1.382-9(d)(5)(iii);

provided, further, that any such transferee who becomes a Substantial Securityholder shall file with the Bankruptcy Court, and serve upon the Debtors, the attorneys for the Debtors and the attorneys for the Creditors' Committee, a notice of such status in the manner prescribed in Paragraph 2 above within fifteen (15) business days of the later of (i) the day of the entry of the Order by the Bankruptcy Court and (ii) the date on which such person or Entity becomes a Substantial Securityholder.

**7**     Definitions. For purposes of the Order, the following terms have the following meanings:

- (a)     Affected Equity. “Affected Equity” means the stock or other equity of the reorganized Debtors (or their successors), including Options, to be issued and distributed pursuant to the 382(l)(5) Plan.
- (b)     Applicable Percentage. “Applicable Percentage” means, if only one class of Affected Equity is to be issued pursuant to the terms of the 382(l)(5) Plan and holders within any class of Securities will receive a pro-rata distribution of the Affected Equity, 4.5% of the number of such shares or equity interests that the Debtors reasonably estimate will be issued at the effective date of such 382(l)(5) Plan, as determined for U.S. federal income tax purposes. If more than one class of Affected Equity is to be distributed pursuant to the terms of the 382(l)(5) Plan or holders with a class of Securities may receive a disproportionate distribution of such Affected Equity relative to other holders in the same class, the Applicable Percentage shall be determined by the Debtors in their reasonable judgment in a manner consistent with the estimated range of values for the equity to be distributed reflected in the valuation analysis set forth in the 382(l)(5) Plan and disclosure statement, and shall be expressed in a manner that makes clear the number of shares or other equity interests in each class of Affected Equity that would constitute the Applicable Percentage.
- (c)     Beneficial Ownership. “Beneficial Ownership” of a Security shall mean:
  - (x) the beneficial ownership of a Security as determined in accordance with applicable rules under section 382 of the Tax Code (for such purpose, treating a Security as if it is stock), and, to the extent provided in those rules from time to time, shall include (A) direct and indirect ownership (determined without regard to the rule that treats stock of an Entity to which the constructive ownership rules apply as no longer owned by that Entity); and (B) ownership by a holder's family members and any group of persons acting pursuant to a formal or informal understanding to make a coordinated acquisition of Securities and/or stock; and



(y) the beneficial ownership of an Option (irrespective of the purpose for which such option was issued, created or acquired).

For the avoidance of doubt, beneficial ownership of a Security also includes the beneficial ownership of any right to receive any equity consideration to be distributed in respect of a Security pursuant to a chapter 11 plan or applicable bankruptcy court order. Variations of the term “Beneficial Ownership” shall have correlative meanings.

- (d) Creditors’ Committee. The “Creditors’ Committee” shall mean any official committee of holders of unsecured Securities appointed pursuant to section 1102 of the Bankruptcy Code in the Debtors’ chapter 11 cases.
- (e) Entity. “Entity” shall have the meaning given to such term under Treasury Regulation section 1.382-3(a), including a group of persons who have a formal or informal understanding among themselves to make a coordinated acquisition.
- (f) Maximum Amount. “Maximum Amount” means for each person or Entity and by class or other applicable breakdown of Securities, the greater of (A) the applicable Threshold Amount and (B) the Protected Amount (if any) for such Substantial Securityholder.
- (g) Newly Traded Securities. “Newly Traded Securities” means Securities (i) with respect to which an Entity acquired Beneficial Ownership after the date that was 18 months before the Commencement Date; and (ii) that are not “ordinary course” claims, within the meaning of Treasury Regulations section 1.382-9(d)(2)(iv), of which the same Entity has always had Beneficial Ownership.
- (h) Notice Parties. “Notice Parties” shall mean (i) the Office of the United States Trustee for the Southern District of New York; (ii) the attorneys for the Creditors’ Committee; (iii) the Securities and Exchange Commission; (iv) the Internal Revenue Service; (v) the United States Attorney for the Southern District of New York, (vi) all parties who have requested notice in these chapter 11 cases in accordance with the amended order entered on February 13, 2009 governing case management and administrative procedures [Docket No. 2837]; (vii) parties who file notices of transfers of Securities under Bankruptcy Rule 3001(e)(2); and (viii) any indenture trustees or clearinghouses for Securities.
- (i) Option. An “Option” shall have the meaning given to such term under Treasury Regulation section 1.382-4(d)(9)(i), with respect to the acquisition of a Security or any consideration (including equity) distributed in respect of any Security pursuant to a chapter 11 plan or applicable bankruptcy court order.

- (j) Order. The “Order” shall mean the order, entered by the Bankruptcy Court, authorizing the implementation of these restrictions and procedures.
- (k) Permitted Transferee. A “Permitted Transferee” with respect to a Substantial Securityholder is a person that is not a Related Person and whose holding of a Security would not result in such Substantial Securityholder having Beneficial Ownership of such Security.
- (l) Protected Amount. “Protected Amount” means the amount of Securities (by class or other applicable breakdown) of which a holder had Beneficial Ownership on the Motion Date, increased by the amount of Securities of which such holder acquires, directly or indirectly, Beneficial Ownership pursuant to trades entered into before the Motion Date that had not yet closed as of the Motion Date minus the amount of Securities of which such holder sells, directly or indirectly, Beneficial Ownership pursuant to trades entered into before the Motion Date that had not yet closed as of the Motion Date.
- (m) Related Person. Persons (including Entities) are “Related Persons” if: (A) the person bears a relationship to the other person described in section 267(b) or 707(b) of the Tax Code, or (B) the persons are members of a group acting in concert with respect to the acquisition of Securities or equity in the reorganized Debtors.
- (n) Security. A “Security” shall be any claim against any of the Debtors, including, without limitation (i) any claim against any of the Debtors as a guarantor and (ii) the following classes of preferred stock of LBHI: (a) 5.94% Cumulative Preferred Stock, Series C; (b) 5.67% Cumulative Preferred Stock, Series D (c) 6.50% Cumulative Preferred Stock, Series F; (d) Floating Rate Cumulative Preferred Stock, Series G; and (e) 7.95% Non-Cumulative Perpetual Preferred Stock, Series J. In calculating the amount of any Securities hereunder, any applicable intercreditor agreements, including subordination agreements, shall be given effect in accordance with their terms. Nothing contained in this Paragraph 7(n) shall be deemed an admission of a party or be used by any party for any purpose other than compliance with the Order and shall not constitute an admission or evidence by any party with respect to Securities of the Debtors.
- (o) Substantial Securityholder. A “Substantial Securityholder” is any person or Entity that Beneficially Owns an aggregate dollar amount of Securities, or any Entity controlled by such person or Entity through which such person or Entity Beneficially Owns Securities, of more than the Threshold Amount.

For the avoidance of doubt, section 382 of the Tax Code, the Treasury

Regulations promulgated thereunder, and all relevant IRS and judicial authority shall apply in determining whether the Securities of several persons and/or Entities must be aggregated when testing for Substantial Securityholder status, treating Securities as if they were stock.

- (p) Tax Code. “Tax Code” means the Internal Revenue Code of 1986, as amended from time to time, and the Treasury Regulations promulgated thereunder.
- (q) Threshold Amount. “Threshold Amount” means the amount of Securities, as set forth in the Notice of 382(l)(5) Plan (as revised by any Amended Notice of 382(l)(5) Plan, as applicable) sufficient, in the determination of the Debtors, to entitle the Beneficial Owner thereof to the Applicable Percentage of the Affected Equity. The amount determined in the preceding sentence shall be disclosed in the Notice of 382(l)(5) Plan and may be adjusted thereafter as contemplated by this Order or any future order of the Bankruptcy Court.
- (r) Treasury Regulations. “Treasury Regulations” means the U.S. Department of Treasury regulations promulgated under the Tax Code, as amended from time to time.

- 8 Noncompliance with the Trading Procedures. Any purchase, sale, or other transfer of Securities in violation of the procedures set forth herein shall be null and void *ab initio* and shall confer no rights on the transferee.
- 9 Debtors’ Right to Waive. The Debtors may waive, in writing, any and all restrictions, stays, and notification procedures contained in this Motion.

PLEASE TAKE FURTHER NOTICE that a hearing on the Motion will be held before the Honorable James M. Peck, United States Bankruptcy Judge, at the United States Bankruptcy Court, Alexander Hamilton Customs House, Courtroom 601, One Bowling Green, New York, New York 10004, on **February 10, 2010 at 10:00 a.m.** (Eastern Time) or as soon thereafter as counsel may be heard (the “Hearing”).

PLEASE TAKE FURTHER NOTICE that any objection or response to the Motion must be in writing, shall conform to the Federal Rules of Bankruptcy Procedure and the Local Rules for the United States Bankruptcy Court for the Southern District of New York, and (i) shall be filed with the Bankruptcy Court electronically in accordance with General Order M-242 (General Order M-242 and the User’s Manual for the Electronic Case Filing System can be found at <http://www.nysb.uscourts.gov>, the official website for the Bankruptcy Court), by registered users of the Bankruptcy Court’s case filing system and, by all other parties in interest, on a 3.5 inch disk, preferably in Portable Document Format (PDF), WordPerfect or any other Windows-based word processing format and (ii) shall be served in accordance with General Order M-242, upon (A) the chambers of the Honorable James M. Peck, One Bowling Green, New York, New York 10004, Courtroom 601; (B) Weil Gotshal & Manges LLP, 767 Fifth

Avenue, New York, New York 10153, (Attn: Shai Y. Waisman, Esq.), attorneys for the Debtors; (C) the Office of the United States Trustee for the Southern District of New York, 33 Whitehall Street, 21st Floor, New York, New York 10004 (Attn: Andy Velez-Rivera, Paul Schwartzberg, Brian Masumoto, Linda Riffkin, and Tracy Hope Davis); (D) Milbank, Tweed, Hadley & McCloy LLP, 1 Chase Manhattan Plaza, New York, New York 10005, (Attn: Dennis F. Dunne, Esq., Dennis O'Donnell, Esq., and Evan Fleck, Esq.), attorneys for the official committee of unsecured creditors appointed in these cases; and (E) any person or entity entitled to receive notice of the Motion in these cases, so as to be actually filed and received no later than **February 3, 2010 at 4:00 p.m.** (Eastern Time) (the "Objection Deadline").

PLEASE TAKE FURTHER NOTICE that if an objection to the Motion is not filed and received by the Objection Deadline, the relief requested shall be deemed unopposed, and the Bankruptcy Court may enter an order granting the relief sought without a hearing.

PLEASE TAKE FURTHER NOTICE that objecting parties are required to attend the Hearing, and failure to appear may result in relief being granted or denied upon default.

Dated: January 19, 2010  
New York, New York

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