

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

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In re:

LIGHTSQUARED INC., *et al.*,

Debtors.<sup>1</sup>

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)  
) Chapter 11  
)  
) Case No. 12-12080 (SCC)  
)  
) Jointly Administered  
)

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**DEBTORS' JOINT PLAN PURSUANT TO  
CHAPTER 11 OF BANKRUPTCY CODE**

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Dated: New York, New York  
August 30, 2013

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<sup>1</sup> The debtors in these chapter 11 cases, along with the last four digits of each debtor's federal or foreign tax or registration identification number, are: LightSquared Inc. (8845), LightSquared Investors Holdings Inc. (0984), One Dot Four Corp. (8806), One Dot Six Corp. (8763), SkyTerra Rollup LLC (N/A), SkyTerra Rollup Sub LLC (N/A), SkyTerra Investors LLC (N/A), TMI Communications Delaware, Limited Partnership (4456), LightSquared GP Inc. (6190), LightSquared LP (3801), ATC Technologies, LLC (3432), LightSquared Corp. (1361), LightSquared Finance Co. (6962), LightSquared Network LLC (1750), LightSquared Inc. of Virginia (9725), LightSquared Subsidiary LLC (9821), Lightsquared Bermuda Ltd. (7247), SkyTerra Holdings (Canada) Inc. (0631), SkyTerra (Canada) Inc. (0629), and One Dot Six TVCC Corp. (0040). The location of the debtors' corporate headquarters is 10802 Parkridge Boulevard, Reston, VA 20191.



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## **INTRODUCTION**

LightSquared Inc. and the other Debtors in the above-captioned chapter 11 cases hereby respectfully propose the following joint chapter 11 plan for the resolution of outstanding claims against, and interests in, the Debtors pursuant to title 11 of the United States Code, 11 U.S.C. §§ 101-1532. Reference is made to the Debtors' Disclosure Statement for a discussion of the Debtors' history, businesses, assets, results of operations, and projections of future operations, as well as a summary and description of the Plan and certain related matters. The Debtors are the proponents of the Plan within the meaning of section 1129 of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke, or withdraw this Plan prior to its substantial consummation.

The Debtors continue to believe that resolution of the pending FCC proceedings will maximize the value of their assets and, accordingly, will continue their efforts with the FCC and other federal agencies in seeking approval of their pending license modification applications and related proceedings before the FCC. However, given the continuing nature of the FCC process and the facts and circumstances of these Chapter 11 Cases, the Debtors believe that it is necessary to take action to protect their Estates and the current value of their assets through the filing of a chapter 11 plan that contemplates a sale of the Estates' assets. Accordingly, the Plan contemplates the (i) Sale of Assets pursuant to the Plan, (ii) distribution of the Sale Proceeds thereof to satisfy Allowed Claims and Allowed Equity Interests, if applicable, in accordance with the Plan, (iii) potential prosecution of certain causes of action, and (iv) wind down of the Debtors and their Estates. The Debtors recognize that other parties in interest have filed, or may file, competing chapter 11 plans that may contemplate alternative transactions. The Debtors intend to review any such competing plans and, based on the facts and circumstances surrounding each such plan, may determine it is in the best interests of these Estates to modify or supplement this Plan.

ALL HOLDERS OF CLAIMS OR EQUITY INTERESTS, TO THE EXTENT APPLICABLE, ARE ENCOURAGED TO READ THE PLAN AND THE DEBTORS' DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.

## **ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW**

### **A. *Defined Terms***

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

1. **"Accrued Professional Compensation Claims"** means, at any given moment, all accrued fees and expenses (including success fees) for services rendered by all Professionals through and including the Effective Date, to the extent such fees and expenses have not been paid and regardless of whether a fee application has been Filed for such fees and expenses, but in all events subject to estimation as provided in Article VII.C hereof. To the extent that the

Bankruptcy Court denies or reduces by a Final Order any amount of a Professional's fees or expenses, then the amount by which such fees or expenses are reduced or denied shall reduce the applicable Accrued Professional Compensation Claim.

2. **"Acquired Assets"** means the Debtors' Assets to be sold pursuant to the terms and conditions of the Asset Purchase Agreement(s), the Bid Procedures Order, and the Plan.

3. **"Administrative Claim"** means a Claim for costs and expenses of administration pursuant to sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors (including wages, salaries, or commissions for services, and payments for goods and other services and leased premises); (b) compensation for legal, financial advisory, accounting, and other services, and reimbursement of expenses pursuant to sections 328, 330(a), or 331 of the Bankruptcy Code or otherwise for the period commencing on the Petition Date and ending on the Effective Date, including Accrued Professional Compensation Claims; (c) all fees and charges assessed against the Estates pursuant to chapter 123 of the Judicial Code, including the U.S. Trustee Fees; (d) the DIP Inc. Facility Claims; (e) all requests for compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code; (f) any and all KEIP Payments; and (g) any Break-Up Fee or Expense Reimbursement, to the extent payable in accordance with the terms of a Stalking Horse Agreement and the Bid Procedures Order.

4. **"Administrative Claim Bar Date"** means the deadline for filing requests for payment of Administrative Claims, which shall be thirty (30) days after the Effective Date.

5. **"Affiliate"** has the meaning set forth in section 101(2) of the Bankruptcy Code.

6. **"Allowed"** means, with respect to Claims, any Claim that (a) is evidenced by a Proof of Claim Filed by the applicable Claims Bar Date or that is not required to be evidenced by a Filed Proof of Claim under the Bankruptcy Code or a Final Order, (b) is listed on the Schedules as of the Effective Date as not contingent, not unliquidated, and not disputed, and for which no Proof of Claim has been timely Filed, (c) has been compromised, settled, or otherwise resolved pursuant to the authority granted to the Debtors by a Final Order of the Bankruptcy Court, or (d) is Allowed pursuant to the Plan or a Final Order; provided, however, with respect to any Claim described in clauses (a) or (b) above, such Claim shall be considered Allowed only if and to the extent that, with respect to any Claim, no objection to the allowance thereof, request for estimation, motion to deem the Schedules amended, or other challenge has been interposed within the applicable period of time fixed by the Plan, the Bankruptcy Code, the Bankruptcy Rules, or the Bankruptcy Court, if any, or such a challenge is so interposed and the Claim shall have been Allowed for distribution purposes only by a Final Order. Any Claim that has been or is hereafter listed on the Schedules as contingent, unliquidated, or disputed, and for which no Proof of Claim has been timely Filed, is not considered Allowed and shall be expunged without further action by the Debtors or the Wind Down Debtors and without any further notice to or action, order, or approval of the Bankruptcy Court. Notwithstanding anything to the contrary herein, no Claim of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Entity pays in full the amount that it owes such Debtor or Wind

Down Debtor, as applicable. In addition, “**Allowed**” means, with respect to any Equity Interest, such Equity Interest is reflected as outstanding (other than any such Equity Interest held by any Debtor or any subsidiary of a Debtor) in the stock transfer ledger or similar register of the applicable Debtor on the Distribution Record Date and is not subject to any objection or challenge.

7. “**Asset Purchase Agreement**” means either (a) a Stalking Horse Agreement or (b) if a Stalking Horse Bidder is not a Purchaser, an asset purchase agreement by and among any or all of the Debtors, as sellers, and a Purchaser, as buyer, which asset purchase agreement shall comply with the requirements of the Bid Procedures Order.

8. “**Assets**” means all rights, titles, and interest of any nature in property of any kind, wherever located, as specified in section 541 of the Bankruptcy Code.

9. “**Assumed Liabilities**” means the liabilities of the Debtors assumed by the Purchaser(s) pursuant to the terms and conditions of the Asset Purchase Agreement(s), the Bid Procedures Order, and the Plan.

10. “**Avoidance Actions**” means any and all actual or potential claims and causes of action to avoid a transfer of property or an obligation incurred by the Debtors pursuant to any applicable section of the Bankruptcy Code, including sections 502, 510, 542, 544, 545, 547-553, and 724(a) of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.

11. “**Ballot**” means the ballot upon which Holders of Claims or Equity Interests entitled to vote shall cast their vote to accept or reject the Plan.

12. “**Bankruptcy Code**” means title 11 of the United States Code, 11 U.S.C. §§ 101-1532, as applicable to the Chapter 11 Cases, as may be amended from time to time.

13. “**Bankruptcy Court**” means the United States Bankruptcy Court for the Southern District of New York having jurisdiction over the Chapter 11 Cases, and, to the extent of the withdrawal of any reference under section 157 of the Judicial Code or the General Order of the District Court pursuant to section 151 of the Judicial Code, the United States District Court for the Southern District of New York.

14. “**Bankruptcy Rules**” means the Federal Rules of Bankruptcy Procedure, as applicable to the Chapter 11 Cases, promulgated under section 2075 of the Judicial Code and the general, local, and chambers rules of the Bankruptcy Court.

15. “**Bid Procedures Order**” means an order granting *LightSquared’s Motion for Entry of Order (A) Establishing Bid Procedures Relating to Sale of All or Substantially All Assets of LightSquared, (B) Scheduling Date and Time for Auction, (C) Approving Assumption and Assignment Procedures, (D) Approving Form of Notice, and (E) Granting Related Relief* [Docket No. \_\_\_\_].

16. **“Bid Procedures Recognition Order”** means the order of the Canadian Court, which shall be in form and substance acceptable to the Debtors, recognizing the entry of the Bid Procedures Order.

17. **“Break-Up Fee”** has the meaning set forth in the Bid Procedures Order.

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

19. **“Canadian Court”** means the Ontario Superior Court of Justice (Commercial List) having jurisdiction over the proceedings commenced by the Debtors pursuant to Part IV of the Companies’ Creditors Arrangement Act, R.S.C. 1985, c.C-36.

20. **“Canadian Proceedings”** means the proceedings commenced with respect to the Chapter 11 Cases in the Canadian Court pursuant to Part IV of the Companies’ Creditors Arrangement Act.

21. **“Cash”** means the legal tender of the United States of America or the equivalent thereof.

22. **“Causes of Action”** means any claim, cause of action, controversy, demand, right, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law. Cause of Action also includes, without limitation, the following: (a) any right of setoff, counterclaim, or recoupment and any claim on contracts or for breaches of duties imposed by law or in equity; (b) the right to object to Claims or Equity Interests; (c) any claim pursuant to section 362 of the Bankruptcy Code; (d) any claim or defense including fraud, mistake, duress, and usury and any other defenses set forth in section 558 of the Bankruptcy Code; (e) any Avoidance Actions; (f) any claim or cause of action of any kind against any Released Party or Exculpated Party based in whole or in part upon acts or omissions occurring prior to or after the Petition Date; and (g) any cause of action listed on the Schedule of Causes of Action.

23. **“Certificate”** means any instrument evidencing a Claim or an Equity Interest.

24. **“Chapter 11 Cases”** means (a) when used with reference to a particular Debtor, the chapter 11 case pending for that Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court, and (b) when used with reference to all Debtors, the jointly administered chapter 11 cases pending for the Debtors in the Bankruptcy Court.

25. **“Chief Wind Down Officer”** means an individual or Entity to be designated by the Debtors prior to the Confirmation Hearing to serve as an officer of the Wind Down Debtors.

26. **“Chief Wind Down Officer Agreement”** means the agreement between the Wind Down Debtors and the Chief Wind Down Officer, dated as of the Effective Date.



27. **“Claim”** means any claim against a Debtor as defined in section 101(5) of the Bankruptcy Code.

28. **“Claims and Solicitation Agent”** means Kurtzman Carson Consultants LLC, the notice, claims, solicitation, and balloting agent retained by the Debtors in the Chapter 11 Cases.

29. **“Claims Bar Date”** means the date by which Proofs of Claim must be or must have been Filed with respect to such Claim, as ordered by the Bankruptcy Court pursuant to the Claims Bar Date Order or another Final Order of the Bankruptcy Court.

30. **“Claims Bar Date Order”** means the *Order Pursuant to 11 U.S.C. § 502(b)(9) and Fed. R. Bankr. P. 2002 and 3003(c)(3) Establishing Deadlines for Filing Proofs of Claim and Procedures Relating Thereto and Approving Form and Manner of Notice Thereof* [Docket No. 266].

31. **“Claims Objection Bar Date”** means the deadline for objecting to a Claim, which shall be on the date that is the later of (a) six (6) months after the Effective Date and (b) such later period of limitation as may be specifically fixed by an order of the Bankruptcy Court.

32. **“Claims Register”** means the official register of Claims maintained by the Claims and Solicitation Agent.

33. **“Class”** means a category of Holders of Claims or Equity Interests as set forth in Article III hereof pursuant to section 1122(a) of the Bankruptcy Code.

34. **“Collateral”** means any property or interest in property of the Estates of the Debtors subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance or otherwise invalid under the Bankruptcy Code or applicable non-bankruptcy law.

35. **“Confirmation”** means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

36. **“Confirmation Date”** means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

37. **“Confirmation Hearing”** means the hearing held by the Bankruptcy Court on the Confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be continued from time to time.

38. **“Confirmation Hearing Date”** means the date of the commencement of the Confirmation Hearing.

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

40. **“Confirmation Recognition Order”** means an order of the Canadian Court, which shall be in form and substance acceptable to the Debtors, (a) recognizing the entry of the Confirmation Order, and (b) vesting in the Purchaser(s) all of the applicable Debtors’ rights, titles, and interest in and to the Acquired Assets (and vesting in the Wind Down Debtors all of the Debtors’ rights, titles, and interest in and to the Retained Assets) that are owned, controlled, regulated, or situated in Canada, free and clear of all Liens, Claims, charges, interests, or other encumbrances, in accordance with applicable law and to the extent set forth in the Asset Purchase Agreement(s).

41. **“Consummation”** means the occurrence of the Effective Date.

42. **“Cure Costs”** means all amounts (or such lesser amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) required to cure any monetary defaults under any Executory Contract or Unexpired Lease that is to be assumed, or assumed and assigned, by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.

43. **“D&O Liability Insurance Policies”** means all insurance policies of any of the Debtors for directors’, managers’, and officers’ liability.

44. **“Deficiency Claim”** means that portion of a Claim that is undersecured pursuant to section 506 of the Bankruptcy Code.

45. **“Debtor”** means one of the Debtors, in its individual capacity as a debtor in these Chapter 11 Cases.

46. **“Debtors”** means, collectively, the Inc. Debtors and the LP Debtors.

47. **“Debtors in Possession”** means, collectively, the Debtors, as debtors in possession in these Chapter 11 Cases, pursuant to sections 1107 and 1108 of the Bankruptcy Code.

48. **“Debtors’ Disclosure Statement”** means, collectively, (a) the *General Disclosure Statement* [Docket No. 815], and (b) the *Specific Disclosure Statement for Debtors’ Joint Plan Pursuant to Chapter 11 of Bankruptcy Code* [Docket No. \_\_\_\_] (as either may be amended, supplemented, or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan).

49. **“Designated Contracts”** has the meaning set forth in an Asset Purchase Agreement.

50. **“DIP Inc. Agent”** means U.S. Bank National Association, as Arranger, Administrative Agent, and Collateral Agent under the DIP Inc. Credit Agreement.

51. **“DIP Inc. Credit Agreement”** means that certain Senior Secured, Super-Priority Debtor-in-Possession Credit Agreement, dated as of July 19, 2012 (as amended, supplemented, restated, or otherwise modified from time to time), among the DIP Inc. Obligors, the DIP Inc. Agent, and the DIP Inc. Lenders.

52. **“DIP Inc. Facility”** means that certain \$46.4 million debtor in possession credit facility provided in connection with the DIP Inc. Credit Agreement and DIP Inc. Order.

53. **“DIP Inc. Facility Claim”** means a Claim held by the DIP Inc. Agent or DIP Inc. Lenders arising under or related to the DIP Inc. Facility.

54. **“DIP Inc. Lenders”** means the lenders party to the DIP Inc. Credit Agreement from time to time.

55. **“DIP Inc. Obligors”** means One Dot Six Corp., as borrower, and LightSquared Inc., One Dot Four Corp., and One Dot Six TVCC Corp., as guarantors, under the DIP Inc. Credit Agreement.

56. **“DIP Inc. Order”** means the *Final Order, Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364, and 507, (A) Authorizing Inc. Obligors To Obtain Postpetition Financing, (B) Granting Liens and Providing Superpriority Administrative Expense Status, (C) Granting Adequate Protection, and (D) Modifying Automatic Stay* [Docket No. 224] (as amended, supplemented, or modified from time to time).

57. **“Disbursing Agent”** means the Wind Down Debtors, or the Entity or Entities designated by the Wind Down Debtors to make or facilitate Plan Distributions pursuant to the Plan.

58. **“Disclosure Statement Order”** means the *Order (I) Approving Disclosure Statements, (II) Approving Solicitation and Notice Procedures With Respect to Confirmation of Competing Plans, (III) Approving Forms of Various Ballots and Notices in Connection Therewith, (IV) Approving Scheduling of Certain Dates in Connection With Confirmation of Competing Plans, and (V) Granting Related Relief* [Docket No. \_\_\_\_] (as amended, supplemented, or modified from time to time).

59. **“Disclosure Statement Recognition Order”** means the order of the Canadian Court, which shall be in form and substance acceptable to the Debtors, recognizing the entry of the Disclosure Statement Order.

60. **“Disputed”** means, with respect to any Claim or Equity Interest, any Claim or Equity Interest that is not yet Allowed.

61. **“Disputed Claims and Equity Interests Reserve”** means Cash from the Plan Consideration Carve-Out to be held in reserve by the Wind Down Debtors for the benefit of each Holder of a Disputed Claim or Equity Interest, in an amount equal to the Plan Distributions such Disputed Claim or Equity Interest would be entitled to on the Effective Date if such Disputed Claim or Equity Interest were Allowed in its full amount on the Effective Date.

62. **“Distribution Record Date”** means the Voting Record Date.

63. **“Effective Date”** means the date selected by the Debtors that is a Business Day after the Confirmation Date on which (a) no stay of the Confirmation Order is in effect and

(b) all conditions precedent specified in Article IX.A hereof have been satisfied or waived (in accordance with Article IX.B hereof).

64. **“Entity”** has the meaning set forth in section 101(15) of the Bankruptcy Code.

65. **“Equity Interest”** means any equity security (as defined in section 101(16) of the Bankruptcy Code) in a Debtor, including any issued or unissued share of common stock, preferred stock, or other instrument evidencing an ownership interest in a Debtor, whether or not transferable, including membership interests in limited liability companies and partnership interests in partnerships, and any option, warrant or right, contractual or otherwise, to acquire any such interest in a Debtor that existed immediately prior to the Effective Date, any phantom stock or similar stock unit provided pursuant to the Debtors’ prepetition employee compensation program, any Existing Shares, and any Claim against the Debtors subject to subordination pursuant to section 510(b) of the Bankruptcy Code arising from or related to any of the foregoing.

66. **“Estate”** means the bankruptcy estate of any Debtor created by section 541 of the Bankruptcy Code upon the commencement of the Chapter 11 Cases.

67. **“Exculpated Party”** means a Released Party.

68. **“Executory Contract”** means a contract to which one or more of the Debtors is a party that is subject to assumption, assumption and assignment, or rejection under sections 365 or 1123 of the Bankruptcy Code.

69. **“Existing Inc. Common Stock”** means the Equity Interests in LightSquared Inc. (other than the Existing Inc. Preferred Stock).

70. **“Existing Inc. Preferred Stock”** means the outstanding shares of Convertible Series A Preferred Stock and Convertible Series B Preferred Stock issued by LightSquared Inc.

71. **“Existing LP Common Units”** means the outstanding common units issued by LightSquared LP.

72. **“Existing LP Preferred Units”** means the outstanding non-voting Series A Preferred Units issued by LightSquared LP.

73. **“Existing Shares”** means all Equity Interests related to Existing Inc. Common Stock, Existing Inc. Preferred Stock, Existing LP Common Units, Existing LP Preferred Units, and Intercompany Interests.

74. **“Expense Reimbursement”** has the meaning set forth in the Bid Procedures Order.

75. **“FCC”** means the Federal Communications Commission.

76. **“Federal Judgment Rate”** means the federal judgment rate in effect as of the Petition Date.

77. **“File,” “Filed,” or “Filing”** means file, filed, or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

78. **“Final Order”** means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be Filed has been resolved by the highest court to which the order or judgment was appealed or from which certiorari was sought; provided, the possibility that a motion under Rule 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Bankruptcy Rules, may be Filed relating to such order shall not prevent such order from being a Final Order; provided, further, the Debtors reserve the right to waive any appeal period.

79. **“First Day Pleadings”** means those certain pleadings Filed by the Debtors on or around the Petition Date.

80. **“General Unsecured Claim”** means any Claim against any of the Debtors that is not one of the following Claims: (a) Administrative Claim; (b) Priority Tax Claim; (c) DIP Inc. Facility Claim; (d) Other Priority Claim; (e) Other Secured Claim; (f) Prepetition Inc. Facility Claim; or (g) Prepetition LP Facility Claim.

81. **“Governmental Unit”** has the meaning set forth in section 101(27) of the Bankruptcy Code.

82. **“Holder”** means the Entity holding the beneficial interest in a Claim or Equity Interest.

83. **“Impaired”** means, with respect to a Class of Claims or Equity Interests, a Class of Claims or Equity Interests that is not Unimpaired.

84. **“Inc. Administrative Claim”** means any Administrative Claim asserted against an Inc. Debtor.

85. **“Inc. Debtors”** means, collectively, LightSquared Inc., LightSquared Investors Holdings Inc., One Dot Four Corp., One Dot Six Corp., SkyTerra Rollup LLC, SkyTerra Rollup Sub LLC, SkyTerra Investors LLC, TMI Communications Delaware, Limited Partnership, LightSquared GP Inc., and One Dot Six TVCC Corp.

86. **“Inc. General Unsecured Claim”** means any General Unsecured Claim asserted against an Inc. Debtor.

87. **“Inc. Other Priority Claim”** means any Other Priority Claim asserted against an Inc. Debtor.

88. **“Inc. Other Secured Claim”** means any Other Secured Claim asserted against an Inc. Debtor.

89. **“Inc. Plan Consideration”** means (a) Cash from the Inc. Sale Proceeds and from the proceeds of the liquidation of the Inc. Retained Assets, *plus* (b) the Inc. Debtors’ Cash on hand on the Effective Date, *plus* (c) Cash from the LP Sale Proceeds and from the proceeds of the liquidation of the LP Retained Assets after all Allowed Claims against, and Equity Interests in, the LP Debtors are satisfied in full, and *less* (d) the Inc. Plan Consideration Carve-Out.

90. **“Inc. Plan Consideration Carve-Out”** means the amount of Cash necessary to fund the Wind Down Reserve, Professional Fee Reserve, and Disputed Claims and Equity Interests Reserve solely with respect to the Inc. Debtors.

91. **“Inc. Priority Tax Claim”** means any Priority Tax Claim asserted against an Inc. Debtor.

92. **“Inc. Retained Assets”** means the Inc. Debtors’ Assets that are excluded from the Sale pursuant to the terms and conditions of the Asset Purchase Agreement(s).

93. **“Inc. Sale Proceeds”** means the Sale Proceeds in respect of the Inc. Debtors’ Assets.

94. **“Industry Canada”** means the Canadian Federal Department of Industry, or any successor or any department or agency thereof, administering the Radiocommunication Act (Canada), among other statutes, including its staff acting under delegated authority, and includes the Minister of Industry (Canada) and the Commissioner of Competition (Canada).

95. **“Intercompany Contract”** means any agreement, contract, or lease all parties to which are Debtors.

96. **“Intercompany Interest”** means any Equity Interest in a Debtor held by another Debtor, including the Existing LP Common Units.

97. **“Interim Compensation Order”** means the *Order Authorizing and Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals* [Docket No. 122], as may have been modified by a Bankruptcy Court order approving the retention of the Professionals.

98. **“Judicial Code”** means title 28 of the United States Code, 28 U.S.C. §§ 1-4001.

99. **“KEIP Payments”** means any and all amounts payable under the Debtors’ key employee incentive plan approved by the Bankruptcy Court in the *Order Approving LightSquared’s Key Employee Incentive Plan* [Docket No. 394].

100. **“Lien”** has the meaning set forth in section 101(37) of the Bankruptcy Code.

101. **“LP Administrative Claim”** means any Administrative Claim asserted against an LP Debtor.

102. **“LP Debtors”** means, collectively, LightSquared LP, ATC Technologies, LLC, LightSquared Corp., LightSquared Finance Co., LightSquared Network LLC, LightSquared Inc.

of Virginia, LightSquared Subsidiary LLC, Lightsquared Bermuda Ltd., SkyTerra Holdings (Canada) Inc., and SkyTerra (Canada) Inc.

103. **“LP General Unsecured Claim”** means any General Unsecured Claim asserted against an LP Debtor.

104. **“LP Other Priority Claim”** means any Other Priority Claim asserted against an LP Debtor.

105. **“LP Other Secured Claim”** means any Other Secured Claim asserted against an LP Debtor.

106. **“LP Plan Consideration”** means (a) Cash from the LP Sale Proceeds and from the proceeds of the liquidation of the LP Retained Assets, *plus* (b) the LP Debtors’ Cash on hand on the Effective Date, and *less* (c) the LP Plan Consideration Carve-Out.

107. **“LP Plan Consideration Carve-Out”** means the amount of Cash necessary to fund the Wind Down Reserve, Professional Fee Reserve, and Disputed Claims and Equity Interests Reserve solely with respect to the LP Debtors.

108. **“LP Priority Tax Claim”** means any Priority Tax Claim asserted against an LP Debtor.

109. **“LP Retained Assets”** means the LP Debtors’ Assets that are excluded from the Sale pursuant to the terms and conditions of the Asset Purchase Agreement(s).

110. **“LP Sale Proceeds”** means the Sale Proceeds in respect of the LP Debtors’ Assets.

111. **“Other Priority Claim”** means any Claim accorded priority in right of payment under section 507(a) of the Bankruptcy Code, other than an Administrative Claim or a Priority Tax Claim.

112. **“Other Secured Claim”** means any Secured Claim that is not a DIP Inc. Facility Claim, Prepetition Inc. Facility Claim, or Prepetition LP Facility Claim.

113. **“Person”** has the meaning set forth in section 101(41) of the Bankruptcy Code.

114. **“Petition Date”** means May 14, 2012.

115. **“Plan”** means this *Debtors’ Joint Plan Pursuant to Chapter 11 of Bankruptcy Code* (as amended, supplemented, or modified from time to time), including, without limitation, the Plan Supplement, which is incorporated herein by reference.

116. **“Plan Consideration”** means, collectively, the Inc. Plan Consideration and the LP Plan Consideration.

117. **“Plan Consideration Carve-Out”** means, collectively, the Inc. Plan Consideration Carve-Out and the LP Plan Consideration Carve-Out.

118. **“Plan Distribution”** means a payment or distribution to Holders of Allowed Claims or Allowed Equity Interests under the Plan.

119. **“Plan Documents”** means the documents other than this Plan, to be executed, delivered, assumed, or performed in conjunction with the Consummation of this Plan on the Effective Date, including, without limitation, any documents included in the Plan Supplement.

120. **“Plan Supplement”** means the compilation of documents and forms of documents, schedules, and exhibits to the Plan to be Filed no later than the Plan Supplement Date or such later date as may be approved by the Bankruptcy Court on notice to parties in interest (as it may thereafter be altered, amended, modified, or supplemented from time to time in accordance with the terms hereof and in accordance with the Bankruptcy Code and the Bankruptcy Rules), including: (a) the Asset Purchase Agreement(s) and any related documents; (b) the Chief Wind Down Officer Agreement; (c) the Schedule of Assumed Agreements; and (d) the Schedule of Causes of Action.

121. **“Plan Supplement Date”** means the date that is seven (7) calendar days prior to the Voting Deadline.

122. **“Plan Transactions”** means one or more transactions to occur on the Effective Date or as soon thereafter as reasonably practicable, that may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (a) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, equity issuance, sale, dissolution, certificates of incorporation, certificates of partnership, operating agreements, bylaws, or other documents containing terms that are consistent with or reasonably necessary to implement the terms of the Plan and that satisfy the requirements of applicable law; (b) the execution and delivery of appropriate instruments of equity issuance, transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of the Plan; and (c) all other actions that the Wind Down Debtors determine are necessary or appropriate.

123. **“Prepetition Inc. Agent”** means U.S. Bank National Association, as successor administrative agent to UBS AG, Stamford Branch under the Prepetition Inc. Credit Agreement.

124. **“Prepetition Inc. Credit Agreement”** means that certain Credit Agreement, dated as of July 1, 2011 (as amended, supplemented, restated, or otherwise modified from time to time), among the Prepetition Inc. Obligors, the Prepetition Inc. Agent, and the Prepetition Inc. Lenders.

125. **“Prepetition Inc. Facility”** means that certain \$278,750,000 term loan credit facility provided in connection with the Prepetition Inc. Credit Agreement.

126. **“Prepetition Inc. Facility Claim”** means, collectively, any Prepetition Inc. Non-Subordinated Facility Claim and Prepetition Inc. Subordinated Facility Claim.



127. **“Prepetition Inc. Facility Collateral”** means the Collateral securing the obligations under the Prepetition Inc. Loan Documents.

128. **“Prepetition Inc. Facility Collateral Proceeds”** means (a) any and all proceeds of the Prepetition Inc. Facility Collateral, including the Sale Proceeds or other proceeds realized from the Sale or other disposition of the Prepetition Inc. Facility Collateral, and (b) the Prepetition Inc. Obligors’ Cash on hand on the Effective Date.

129. **“Prepetition Inc. Facility Lender Subordination Agreement”** means that certain Lender Subordination Agreement, dated as of March 29, 2012, between and among certain Affiliate Lenders and Non-Affiliate Lenders (each as defined therein), by which the Affiliate Lenders agreed to subordinate their Liens (as such term is used therein) and Claims under the Prepetition Inc. Loan Documents to the Liens and Claims of the Non-Affiliate Lenders.

130. **“Prepetition Inc. Facility Non-Subordinated Claim”** means a Claim held by the Prepetition Inc. Agent or Prepetition Inc. Lenders arising under, or related to, the Prepetition Inc. Loan Documents, but excluding any Prepetition Inc. Facility Subordinated Claim.

131. **“Prepetition Inc. Facility Subordinated Claim”** means a Claim held by a Prepetition Inc. Lender arising under, or related to, the Prepetition Inc. Loan Documents that is subordinated to the Prepetition Inc. Non-Subordinated Facility Claims pursuant to the Prepetition Inc. Facility Lender Subordination Agreement.

132. **“Prepetition Inc. Lenders”** means the lenders party to the Prepetition Inc. Credit Agreement from time to time.

133. **“Prepetition Inc. Loan Documents”** means the Prepetition Inc. Credit Agreement together with all related security agreements, notes, guarantees, pledge agreements, mortgages, fixture filings, transmitting utility filings, deeds of trust, financing statements, instruments, agreements, documents, assignments, account control agreements, or other security documents (as each of the foregoing may be amended, supplemented, restated, or otherwise modified from time to time).

134. **“Prepetition Inc. Obligors”** means LightSquared Inc., as borrower, and One Dot Four Corp., One Dot Six Corp., and One Dot Six TVCC Corp., as guarantors under the Prepetition Inc. Credit Agreement.

135. **“Prepetition LP Agent”** means, collectively, UBS AG, Stamford Branch, as administrative agent, and Wilmington Trust FSB, as collateral trustee, under the Prepetition LP Credit Agreement.

136. **“Prepetition LP Credit Agreement”** means that certain Credit Agreement, dated as of October 1, 2010 (as amended, supplemented, restated, or otherwise modified from time to time), among the Prepetition LP Obligors, the Prepetition LP Agent, and the Prepetition LP Lenders.

137. **“Prepetition LP Facility”** means that certain \$1,500,000,000 term loan credit facility provided in connection with the Prepetition LP Credit Agreement.

138. **“Prepetition LP Facility Claim”** means a Claim held by the Prepetition LP Agent or Prepetition LP Lenders arising under, or related to, the Prepetition LP Loan Documents.

139. **“Prepetition LP Facility Collateral”** means the Collateral securing the obligations under the Prepetition LP Loan Documents.

140. **“Prepetition LP Facility Collateral Proceeds”** means (a) any and all proceeds of the Prepetition LP Facility Collateral, including the Sale Proceeds or other proceeds realized from the Sale or other disposition of the Prepetition LP Facility Collateral, and (b) the Prepetition LP Obligors’ Cash on hand on the Effective Date.

141. **“Prepetition LP Lenders”** means the lenders party to the Prepetition LP Credit Agreement from time to time.

142. **“Prepetition LP Loan Documents”** means the Prepetition LP Credit Agreement together with all related security agreements, notes, guarantees, pledge agreements, mortgages, fixture filings, transmitting utility filings, deeds of trust, financing statements, instruments, agreements, documents, assignments, account control agreements, or other security documents (as each of the foregoing may be amended, supplemented, restated, or otherwise modified from time to time).

143. **“Prepetition LP Obligors”** means LightSquared LP, as borrower, and LightSquared Inc., LightSquared Investors Holdings Inc., LightSquared GP Inc., TMI Communications Delaware, Limited Partnership, ATC Technologies, LLC, LightSquared Corp., LightSquared Inc. of Virginia, LightSquared Subsidiary LLC, SkyTerra Holdings (Canada) Inc., and SkyTerra (Canada) Inc., as guarantors.

144. **“Priority Tax Claim”** means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.

145. **“Pro Rata”** means (a) with respect to Claims, the proportion that an Allowed Claim in a particular Class (or among particular unclassified Claims) bears to the aggregate amount of the Allowed Claims in that Class (or among those particular unclassified Claims), or the proportion that Allowed Claims in a particular Class and other Classes (or particular unclassified Claims) entitled to share in the same recovery as such Allowed Claim under the Plan bears to the aggregate amount of such Allowed Claims, and (b) with respect to Equity Interests, the proportion that an Allowed Equity Interest in a particular Class bears to the aggregate amount of the Allowed Equity Interests in that Class or the proportion that an Allowed Equity Interest in a particular Class and other Classes entitled to share in the same recovery as such Allowed Equity Interest under the Plan bears to the aggregate amount of such Allowed Equity Interests.

146. **“Professional”** means an Entity employed pursuant to a Bankruptcy Court order in accordance with sections 327, 328, 330, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered prior to or on the Effective Date, pursuant to sections 327, 328, 329, 330, 363, and 331 of the Bankruptcy Code or awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code

(excluding those Entities entitled to compensation for services rendered after the Petition Date in the ordinary course of business pursuant to a Final Order granting such relief).

147. **“Professional Fee Escrow Account”** means an interest-bearing account in an amount equal to the Professional Fee Reserve Amount funded and maintained by the Wind Down Debtors on and after the Effective Date for the purpose of paying all Allowed and unpaid Accrued Professional Compensation Claims.

148. **“Professional Fee Reserve”** means the Cash from the Plan Consideration Carve-Out in an amount equal to the Professional Fee Reserve Amount to be held in reserve by the Wind Down Debtors in the Professional Fee Escrow Account.

149. **“Professional Fee Reserve Amount”** means the aggregate Accrued Professional Compensation Claims through the Effective Date as estimated in accordance with Article II.B.3 hereof.

150. **“Proof of Claim”** means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

151. **“Purchaser”** means the Qualified Bidder(s) submitting the Successful Bid(s) in accordance with the terms of the Bid Procedures Order.

152. **“Qualified Bidder”** means a Person eligible to submit a bid in the Sale process in accordance with the Bid Procedures Order.

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

154. **“Released Party”** means each of the following: (a) the Debtors; (b) the Wind Down Debtors; (c) the DIP Inc. Agent and DIP Inc. Lenders; (d) each Stalking Horse Bidder; (e) each Purchaser; and (f) each of the foregoing Entities’ respective predecessors, successors and assigns, and current and former shareholders, affiliates, subsidiaries, members (including ex-

officio members), officers, directors, principals, managers, trustees, employees, partners, attorneys, financial advisors, accountants, investment bankers, investment advisors, actuaries, professionals, consultants, agents, and representatives (in each case in his, her, or its capacity as such).

155. **“Releasing Party”** means each of the following: (a) each Released Party; (b) each present and former Holder of a Claim or Equity Interest voting to accept the Plan or conclusively presumed to accept the Plan; (c) each present and former Holder of a Claim or Equity Interest abstaining from voting to accept or reject the Plan, unless such abstaining Holder checks the box on the applicable Ballot indicating that such Holder opts not to grant the releases provided in the Plan; and (d) each of the foregoing Entities’ respective predecessors, successors and assigns, and current and former shareholders, affiliates, subsidiaries, members (including ex-officio members), officers, directors, principals, managers, trustees, employees, partners, attorneys, financial advisors, accountants, investment bankers, investment advisors, actuaries, professionals, consultants, agents, and representatives (in each case in his, her, or its capacity as such).

156. **“Retained Assets”** means, collectively, the Inc. Retained Assets and the LP Retained Assets.

157. **“Sale”** means the sale or sales of the Acquired Assets in accordance with the terms and conditions set forth in any Asset Purchase Agreement as approved by the Bankruptcy Court pursuant to the Confirmation of the Plan.

158. **“Sale Closing”** means the consummation of all transactions required to close a Sale, after satisfaction of all applicable conditions to closing, as set forth in an Asset Purchase Agreement.

159. **“Sale Proceeds”** means all Cash proceeds and other consideration deliverable to the Wind Down Debtors upon consummation of the Sale in accordance with the Asset Purchase Agreement(s), the Bid Procedures Order, and the Confirmation Order.

160. **“Schedule of Assumed Agreements”** means the schedule of certain Executory Contracts and Unexpired Leases to be assumed, or assumed and assigned, by the Debtors pursuant to the Plan, including any Cure Costs related thereto (as the same may be amended, modified, or supplemented from time to time).

161. **“Schedule of Causes of Action”** means the schedule of certain Causes of Action of the Debtors that are not released, waived, or transferred pursuant to the Plan or otherwise (as the same may be amended, modified, or supplemented from time to time).

162. **“Schedules”** means the schedules of assets and liabilities, schedules of Executory Contracts and Unexpired Leases, and statements of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code, the official bankruptcy forms, and the Bankruptcy Rules (as they may be amended, modified, or supplemented from time to time).

163. **“Secured”** means, when referring to a Claim, (a) secured by a Lien on property in which the Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to

applicable law or by reason of a Bankruptcy Court order, or that is subject to a valid right of setoff pursuant to section 553 of the Bankruptcy Code as determined pursuant to section 506(a) of the Bankruptcy Code, or (b) Allowed pursuant to the Plan as a Secured Claim.

164. “**Securities Act**” means the Securities Act of 1933, 15 U.S.C. §§ 77a-77aa, as now in effect and hereafter amended, or any similar federal, state, or local law.

165. “**Securities Exchange Act**” means the Securities Exchange Act of 1934, 15 U.S.C. §§ 78a-78nn, as now in effect and hereafter amended, or any similar federal, state, or local law.

166. “**Security**” has the meaning set forth in section 2(a)(1) of the Securities Act.

167. “**Sharing Provision**” means the equitable and ratable distribution and sharing provisions of the Prepetition Inc. Credit Agreement (including, without limitation, Sections 2.12 and 8.02 thereof) and the Prepetition LP Credit Agreement (including, without limitation, Sections 2.14 and 8.02 thereof).

168. “**Specified Regulatory Approvals**” has the meaning set forth in an Asset Purchase Agreement.

169. “**Stalking Horse Agreement**” means an asset purchase agreement executed by a Stalking Horse Bidder setting forth the terms of a Stalking Horse Bidder’s offer for the Acquired Assets.

170. “**Stalking Horse Bid**” means the initial bid of a Stalking Horse Bidder pursuant to a Stalking Horse Agreement.

171. “**Stalking Horse Bidder**” means a stalking horse bidder under a Stalking Horse Agreement and the Bid Procedures Order.

172. “**Successful Bid**” means a bid selected as the highest or otherwise best bid for certain Acquired Assets in accordance with the Bid Procedures Order.

173. “**Unexpired Lease**” means a lease to which one or more of the Debtors is a party that is subject to assumption, assumption and assignment, or rejection under section 365 of the Bankruptcy Code.

174. “**Unimpaired**” means, with respect to a Class of Claims or Equity Interests, a Claim or an Equity Interest that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

175. “**U.S. Trustee**” means the United States Trustee for the Southern District of New York.

176. “**U.S. Trustee Fees**” means fees arising under section 1930(a)(6) of the Judicial Code and, to the extent applicable, accrued interest thereon arising under 31 U.S.C. § 3717.

177. **“Voting Deadline”** means November 29, 2013 at 4:00 p.m. (prevailing Pacific time), which is the date by which all completed Ballots must be received by the Claims and Solicitation Agent.

178. **“Voting Record Date”** means September 30, 2013.

179. **“Wind Down”** means the wind down of the Wind Down Debtors in accordance with the Plan, as more fully set forth in Article IV.F hereof.

180. **“Wind Down Budget”** means a budget (as may be amended from time to time after entry of the Confirmation Order), which estimates the funds necessary to administer the Plan after the Sale is implemented, wind down the Wind Down Debtors, and unwind the Debtors’ affairs, including the costs of holding and liquidating the Estates’ remaining property, objecting to Claims, making Plan Distributions, prosecuting claims and Causes of Action held by the Estates against third parties that are not released, waived, or transferred pursuant to the Plan or otherwise (including those set forth on the Schedule of Causes of Action), paying taxes, filing tax returns, paying professionals’ fees, funding payroll and other employee costs, providing for the purchase of errors and omissions insurance or other forms of indemnification for the Chief Wind Down Officer, and creating appropriate reserves for all such items and other costs of administering the Plan, the Estates, and the Wind Down Debtors, which, for the avoidance of doubt, shall include and allocate amounts sufficient to fund the Professional Fee Reserve and Disputed Claims and Equity Interests Reserve.

181. **“Wind Down Debtors”** means, upon the Consummation of the Plan, the Debtors, in each case, or any successor thereto by merger, amalgamation, consolidation, or otherwise, on or after the Effective Date.

182. **“Wind Down Reserve”** has the meaning set forth in Article IV.F.3 hereof.

*B. Rules of Interpretation*

The following rules for interpretation and construction shall apply to this Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) 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 shall be substantially in such form or substantially on such terms and conditions; (3) any reference herein to an existing document or exhibit having been Filed or to be Filed shall mean that document or exhibit (as it may thereafter be amended, modified, or supplemented); (4) unless otherwise stated, all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time; (5) any reference herein to an Entity as a Holder of a Claim or Equity Interest includes that Entity’s successors and assigns; (6) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (7) unless otherwise stated, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (8) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof;

(9) unless otherwise stated, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (10) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable.

*C. Computation of Time*

The provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

*D. Governing Law*

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and the Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of New York, without giving effect to the principles of conflict of laws (other than section 5-1401 and section 5-1402 of the New York General Obligations Law), shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control), and corporate governance matters; provided, however, corporate governance matters relating to the Debtors or the Wind Down Debtors, as applicable, not incorporated in New York shall be governed by the laws of the state of incorporation of the applicable Debtor or Wind Down Debtor, as applicable.

*E. Reference to Monetary Figures*

All references in the Plan to monetary figures shall refer to currency of the United States of America, unless otherwise expressly provided.

**ARTICLE II.  
ADMINISTRATIVE CLAIMS, ACCRUED PROFESSIONAL COMPENSATION  
CLAIMS, DIP INC. FACILITY CLAIMS, PRIORITY TAX CLAIMS, AND U.S.  
TRUSTEE FEES**

All Claims and Equity Interests (except Administrative Claims, Accrued Professional Compensation Claims, DIP Inc. Facility Claims, Priority Tax Claims, and U.S. Trustee Fees) are placed in the Classes set forth in Article III hereof. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims, Accrued Professional Compensation Claims, DIP Inc. Facility Claims, Priority Tax Claims, and U.S. Trustee Fees have not been classified, and the Holders thereof are not entitled to vote on the Plan. A Claim or Equity Interest is placed in a particular Class only to the extent that the Claim or Equity Interest falls within the description of that Class, and is classified in other Classes to the extent that any portion of the Claim or Equity Interest falls within the description of such other Classes.

*A. Administrative Claims*

Unless otherwise agreed to by the Holder of an Allowed Administrative Claim and the Debtors, each Holder of an Allowed Administrative Claim (other than of an Accrued

Professional Compensation Claim, DIP Inc. Facility Claim, and KEIP Payment) shall receive in full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Administrative Claim, Plan Consideration in the form of Cash in an amount equal to such Allowed Administrative Claim either: (1) on the Effective Date or as soon thereafter as reasonably practicable, or, if not then due, when such Allowed Administrative Claim is due or as soon thereafter as reasonably practicable; (2) if the Administrative Claim is not Allowed as of the Effective Date, no later than thirty (30) days after the date on which an order of the Bankruptcy Court Allowing such Administrative Claim becomes a Final Order, or as soon thereafter as reasonably practicable or, if not then due, when such Allowed Administrative Claim is due or as soon thereafter as reasonably practicable; (3) if the Allowed Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date, pursuant to the terms and conditions of the particular transaction giving rise to such Allowed Administrative Claims, without any further action by the Holders of such Allowed Administrative Claims; (4) at such other time that is agreed to by the Debtors or the Wind Down Debtors and the Holders of such Allowed Administrative Claim; or (5) at such other time and on such other terms set forth in an order of the Bankruptcy Court. For the avoidance of doubt, LP Allowed Administrative Claims shall be paid solely from LP Plan Consideration and Inc. Allowed Administrative Claims shall be paid solely from Inc. Plan Consideration.

Except for Claims of Professionals, DIP Inc. Facility Claims, U.S. Trustee Fees, and KEIP Payments, and unless previously Filed, requests for payment of Administrative Claims must be Filed and served on the Wind Down Debtors no later than the Administrative Claims Bar Date pursuant to the procedures specified in the Confirmation Order and the notice of the occurrence of the Confirmation Date. Objections to such requests must be Filed and served on the Wind Down Debtors and the requesting party by the later of (1) one hundred and eighty (180) days after the Effective Date and (2) one hundred and eighty (180) days after the Filing of the applicable request for payment of Administrative Claims, if applicable. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts, if any, of Administrative Claims shall be determined by, and satisfied in accordance with an order of, the Bankruptcy Court.

Holders of Administrative Claims that are required to File and serve a request for payment of such Administrative Claims that do not File and serve such a request by the Administrative Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors or their property, and such Administrative Claims shall be deemed discharged as of the Effective Date without the need for any objection from the Wind Down Debtors or any action by the Bankruptcy Court.

Notwithstanding anything to the contrary herein, (1) any claim by a Stalking Horse Bidder for any Break-Up Fee or Expense Reimbursement shall be deemed an Allowed Administrative Claim in accordance with the Bid Procedures Order, (2) a Stalking Horse Bidder shall not be required to File any request for payment of such Administrative Claim, and (3) any Break-Up Fee or Expense Reimbursement shall be paid in accordance with the terms of the relevant Stalking Horse Agreement and the Bid Procedures Order.



*B. Accrued Professional Compensation Claims*

1. Final Fee Applications

All final requests for payment of Claims of a Professional shall be Filed no later than forty-five (45) days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Accrued Professional Compensation Claims shall be determined by the Bankruptcy Court and satisfied in accordance with an order of the Bankruptcy Court.

2. Professional Fee Escrow Account

In accordance with Article II.B.3 hereof, on the Effective Date, the Wind Down Debtors shall establish and fund the Professional Fee Escrow Account from the Plan Consideration Carve-Out in the form of Cash in an amount equal to the aggregate Professional Fee Reserve Amount for all Professionals. The Professional Fee Escrow Account shall be maintained in trust for the Professionals. Such funds shall not be considered property of the Wind Down Debtors' Estates. The amount of Accrued Professional Compensation Claims owing to the Professionals shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow Account when such Claims are Allowed by a Final Order. When all Allowed Professional Compensation Claims are paid in full in Cash, amounts remaining in the Professional Fee Escrow Account, if any, shall revert to the Wind Down Debtors for distribution in accordance with the Plan. For the avoidance of doubt, the Inc. Debtors shall fund 15% of the Professional Fee Escrow Account from the Inc. Plan Consideration Carve-Out and the LP Debtors shall fund 85% of the Professional Fee Escrow Account from the LP Plan Consideration Carve-Out.

3. Professional Fee Reserve Amount

To receive payment for unbilled fees and expenses incurred through the Effective Date, the Professionals shall estimate their Accrued Professional Compensation Claims prior to and as of the Confirmation Date, along with an estimate of fees and expenses to be incurred through the Effective Date, and shall deliver such estimate to the Debtors no later than five (5) days prior to the anticipated Confirmation Date; provided, that such estimate shall not be considered an admission with respect to the fees and expenses of such Professional. If a Professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such Professional. The total amount so estimated as of the Confirmation Date shall comprise the Professional Fee Reserve Amount.

4. Post-Confirmation Date Fees and Expenses

Except as otherwise specifically provided in the Plan, on and after the Confirmation Date, the Debtors or Wind Down Debtors (as applicable) 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 the Consummation and implementation of the Plan incurred by the Debtors or Wind Down Debtors (as applicable) on or after the Confirmation Date. Upon the Confirmation Date, any requirement that Professionals comply with sections 327 through 331 of the Bankruptcy Code or the Interim Compensation Order in seeking retention or compensation for services rendered after such date shall terminate,

and the Debtors or Wind Down Debtors (as applicable) 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.

*C. DIP Inc. Facility Claims*

In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each DIP Inc. Facility Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of a DIP Inc. Facility Claim agrees to a less favorable or other treatment, each Holder of a DIP Inc. Facility Claim shall receive Inc. Plan Consideration in the form of Cash in an amount equal to such DIP Inc. Facility Claim.

*D. Priority Tax Claims*

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable or other treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim due and payable on or prior to the Effective Date shall receive on the Effective Date or as soon thereafter as reasonably practicable: (1) Plan Consideration in the form of Cash in an amount equal to such Allowed Priority Tax Claim; (2) Plan Consideration in the form of Cash in an amount agreed to by such Holder and the Wind Down Debtors; or (3) at the option of the Wind Down Debtors, Plan Consideration in the form of Cash in an aggregate amount equal to such Allowed Priority Tax Claim payable in installment payments over a period of not more than five (5) 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, the Holder of such Claim shall receive Plan Consideration in the form of Cash in accordance with the terms of any agreement between the Wind Down Debtors and the Holder of such Claim, or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business. For the avoidance of doubt, LP Priority Tax Claims shall be paid solely from LP Plan Consideration and Inc. Priority Tax Claims shall be paid solely from Inc. Plan Consideration.

*E. Payment of Statutory Fees*

On the Effective Date or as soon thereafter as reasonably practicable, the Wind Down Debtors shall pay all U.S. Trustee Fees that are due and owing on the Effective Date. Following the Effective Date, the Wind Down Debtors shall pay the U.S. Trustee Fees for each quarter (including any fraction thereof) until the first to occur of the Chapter 11 Cases being converted, dismissed, or closed.

**ARTICLE III.**

**CLASSIFICATION AND TREATMENT OF CLAIMS AND EQUITY INTERESTS**

*A. Summary*

The categories listed in Article III.B hereof classify Claims against, and Equity Interests in, each of the Debtors for all purposes, including voting, Confirmation, and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest is classified in a particular Class only to the extent that the Claim or Equity

Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Equity Interest qualifies within the description of such other Classes. A Claim or Equity Interest is also classified in a particular Class for the purpose of receiving Plan Distributions pursuant to the Plan only to the extent that such Claim or Equity Interest is an Allowed Claim or Allowed Equity Interest in that Class and has not been paid, released, or otherwise satisfied prior to the Effective Date.

*B. Classification and Treatment of Claims and Equity Interests*

To the extent a Class contains Allowed Claims or Allowed Equity Interests with respect to a particular Debtor, the treatment provided to each Class for distribution purposes is specified below:

1. Class 1 – Inc. Other Priority Claims

- (a) *Classification:* Class 1 consists of all Inc. Other Priority Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Inc. Other Priority Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Inc. Other Priority Claim agrees to any other treatment, each Holder of an Allowed Inc. Other Priority Claim against an individual Inc. Debtor shall receive Inc. Plan Consideration attributed to such Inc. Debtor in the form of Cash in an amount equal to such Allowed Inc. Other Priority Claim.
- (c) *Voting:* Class 1 is Unimpaired by the Plan. Each Holder of a Class 1 Inc. Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. No Holder of a Class 1 Inc. Other Priority Claim is entitled to vote to accept or reject the Plan.

2. Class 2 – LP Other Priority Claims

- (a) *Classification:* Class 2 consists of all LP Other Priority Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed LP Other Priority Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed LP Other Priority Claim agrees to any other treatment, each Holder of an Allowed LP Other Priority Claim against an individual LP Debtor shall receive LP Plan Consideration attributed to such LP Debtor in the form of Cash in an amount equal to such Allowed LP Other Priority Claim.
- (c) *Voting:* Class 2 is Unimpaired by the Plan. Each Holder of a Class 2 LP Other Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. No Holder of a

Class 2 LP Other Priority Claim is entitled to vote to accept or reject the Plan.

3. Class 3 – Inc. Other Secured Claims

- (a) *Classification:* Class 3 consists of all Inc. Other Secured Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Inc. Other Secured Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Inc. Other Secured Claim agrees to any other treatment, each Holder of an Allowed Inc. Other Secured Claim against an individual Inc. Debtor shall receive one of the following treatments, in the sole discretion of the Debtors or the Wind Down Debtors, as applicable: (i) Inc. Plan Consideration attributed to such Inc. Debtor in the form of Cash in an amount equal to such Allowed Inc. Other Secured Claim; (ii) delivery of the Collateral securing such Allowed Inc. Other Secured Claim and payment of interest required to be paid under section 506(b) of the Bankruptcy Code, if any; or (iii) treatment of such Allowed Inc. Other Secured Claim in any other manner such that the Allowed Inc. Other Secured Claim shall be rendered Unimpaired.
- (c) *Voting:* Class 3 is Unimpaired by the Plan. Each Holder of a Class 3 Inc. Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. No Holder of a Class 3 Inc. Other Secured Claim is entitled to vote to accept or reject the Plan.
- (d) *Deficiency Claims:* Deficiency Claims of the Holders of Allowed Inc. Other Secured Claims shall be treated for all purposes under this Plan as Allowed Inc. General Unsecured Claims and classified as Class 8 Inc. General Unsecured Claims.

4. Class 4 – LP Other Secured Claims

- (a) *Classification:* Class 4 consists of all LP Other Secured Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed LP Other Secured Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed LP Other Secured Claim agrees to any other treatment, each Holder of an Allowed LP Other Secured Claim against an individual LP Debtor shall receive one of the following treatments, in the sole discretion of the Debtors or the Wind Down Debtors, as applicable: (i) LP Plan Consideration attributed to such LP Debtor in the form of Cash in an amount equal to such Allowed LP Other Secured Claim; (ii) delivery of the Collateral securing such Allowed LP Other Secured Claim and payment of interest required to be paid under

section 506(b) of the Bankruptcy Code, if any; or (iii) treatment of such Allowed LP Other Secured Claim in any other manner such that the Allowed LP Other Secured Claim shall be rendered Unimpaired.

- (c) *Voting:* Class 4 is Unimpaired by the Plan. Each Holder of a Class 4 LP Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. No Holder of a Class 4 LP Other Secured Claim is entitled to vote to accept or reject the Plan.
- (d) *Deficiency Claims:* Deficiency Claims of the Holders of Allowed LP Other Secured Claims shall be treated for all purposes under this Plan as Allowed LP General Unsecured Claims and classified as Class 9 LP General Unsecured Claims.

5. Class 5 - Prepetition Inc. Non-Subordinated Facility Claims

- (a) *Classification:* Class 5 consists of all Prepetition Inc. Non-Subordinated Facility Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Prepetition Inc. Non-Subordinated Facility Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Prepetition Inc. Non-Subordinated Facility Claim agrees to any other treatment, each Holder of an Allowed Prepetition Inc. Non-Subordinated Facility Claim shall receive its Pro Rata share of the remaining portion of the Inc. Plan Consideration solely attributable to the Prepetition Inc. Facility Collateral Proceeds after satisfaction in full of all Allowed Inc. Administrative Claims, Inc. Priority Tax Claims, Inc. Other Priority Claims, and Inc. Other Secured Claims; provided, however, in no event shall any Plan Distribution to a Holder of an Allowed Prepetition Inc. Non-Subordinated Facility Claim pursuant to the Plan be in excess of 100% of the amount of such Holder's Allowed Prepetition Inc. Non-Subordinated Facility Claim.
- (c) *Voting:* Class 5 is Impaired by the Plan. Each Holder of a Class 5 Prepetition Inc. Non-Subordinated Facility Claim as of the Voting Record Date is entitled to vote to accept or reject the Plan.
- (d) *Deficiency Claims:* Deficiency Claims of the Holders of Allowed Prepetition Inc. Non-Subordinated Facility Claims shall be treated for all purposes under this Plan as Allowed Inc. General Unsecured Claims and classified as Class 8 Inc. General Unsecured Claims.

6. Class 6 - Prepetition Inc. Subordinated Facility Claims

- (a) *Classification:* Class 6 consists of all Prepetition Inc. Subordinated Facility Claims.

- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Prepetition Inc. Subordinated Facility Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Prepetition Inc. Subordinated Facility Claim agrees to any other treatment, each Holder of an Allowed Prepetition Inc. Subordinated Facility Claim shall receive its Pro Rata share of the remaining portion of the Inc. Plan Consideration solely attributable to the Prepetition Inc. Facility Collateral Proceeds after satisfaction in full of all Allowed Inc. Administrative Claims, Inc. Priority Tax Claims, Inc. Other Priority Claims, Inc. Other Secured Claims, and Prepetition Inc. Non-Subordinated Facility Claims; provided, however, in no event shall any Plan Distribution to a Holder of an Allowed Prepetition Inc. Subordinated Facility Claim pursuant to the Plan be in excess of 100% of the amount of such Holder's Allowed Prepetition Inc. Subordinated Facility Claim.
- (c) *Voting:* Class 6 is Impaired by the Plan. Each Holder of a Class 6 Prepetition Inc. Subordinated Facility Claim as of the Voting Record Date is entitled to vote to accept or reject the Plan.
- (d) *Deficiency Claims:* Deficiency Claims of the Holders of Allowed Prepetition Inc. Subordinated Facility Claims shall be treated for all purposes under this Plan as Allowed Inc. General Unsecured Claims and classified as Class 8 Inc. General Unsecured Claims.

7. Class 7 - Prepetition LP Facility Claims

- (a) *Classification:* Class 7 consists of all Prepetition LP Facility Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Prepetition LP Facility Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Prepetition LP Facility Claim agrees to any other treatment, each Holder of an Allowed Prepetition LP Facility Claim shall receive its Pro Rata share of the remaining portion of the LP Plan Consideration solely attributable to the Prepetition LP Facility Collateral Proceeds after satisfaction in full of all Allowed LP Administrative Claims, LP Priority Tax Claims, LP Other Priority Claims, and LP Other Secured Claims; provided, however, in no event shall any Plan Distribution to a Holder of an Allowed Prepetition LP Facility Claim pursuant to the Plan be in excess of 100% of the amount of such Holder's Allowed Prepetition LP Facility Claim.
- (c) *Voting:* Class 7 is Impaired by the Plan. Each Holder of a Class 7 Prepetition LP Facility Claim as of the Voting Record Date is entitled to vote to accept or reject the Plan.

- (d) *Deficiency Claims:* Deficiency Claims of the Holders of Allowed Prepetition LP Facility Claims shall be treated for all purposes under this Plan as Allowed LP General Unsecured Claims and classified as Class 9 LP General Unsecured Claims.

8. Class 8 – Inc. General Unsecured Claims

- (a) *Classification:* Class 8 consists of all Inc. General Unsecured Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Inc. General Unsecured Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Inc. General Unsecured Claim agrees to any other treatment, each Holder of an Allowed Inc. General Unsecured Claim against an individual Inc. Debtor shall receive its Pro Rata share of the remaining Inc. Plan Consideration attributed to such Inc. Debtor after satisfaction in full of all Allowed Inc. Administrative Claims, Inc. Priority Tax Claims, Inc. Other Priority Claims, Inc. Other Secured Claims, and Prepetition Inc. Facility Claims; provided, however, any Deficiency Claims of the Holders of Allowed Inc. Other Secured Claims or Prepetition Inc. Facility Claims shall be treated and satisfied *pari passu* with all Allowed Inc. General Unsecured Claims (subject to the terms of the Prepetition Inc. Facility Lender Subordination Agreement); provided, further, in no event shall any Plan Distribution to a Holder of an Allowed Inc. General Unsecured Claim pursuant to the Plan be in excess of 100% of the amount of such Holder's Allowed Inc. General Unsecured Claim.
- (c) *Voting:* Class 8 is Impaired by the Plan. Each Holder of a Class 8 Inc. General Unsecured Claim as of the Voting Record Date is entitled to vote to accept or reject the Plan.

9. Class 9 – LP General Unsecured Claims

- (a) *Classification:* Class 9 consists of all LP General Unsecured Claims.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed LP General Unsecured Claim, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed LP General Unsecured Claim agrees to any other treatment, each Holder of an Allowed LP General Unsecured Claim against an individual LP Debtor shall receive its Pro Rata share of the remaining LP Plan Consideration attributed to such LP Debtor after satisfaction in full of all Allowed LP Administrative Claims, LP Priority Tax Claims, LP Other Priority Claims, LP Other Secured Claims, and Prepetition LP Facility Claims; provided, however, any Deficiency Claims of the Holders of Allowed LP Other Secured Claims or Prepetition LP Facility Claims shall be treated and satisfied *pari passu*

with all Allowed LP General Unsecured Claims; provided, further, in no event shall any Plan Distribution to a Holder of an Allowed LP General Unsecured Claim pursuant to the Plan be in excess of 100% of the amount of such Holder's Allowed LP General Unsecured Claim.

- (c) *Voting:* Class 9 is Impaired by the Plan. Each Holder of a Class 9 LP General Unsecured Claim as of the Voting Record Date is entitled to vote to accept or reject the Plan.

10. Class 10 – Existing LP Preferred Units Equity Interests

- (a) *Classification:* Class 10 consists of all Existing LP Preferred Units Equity Interests.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Existing LP Preferred Units Equity Interest, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Existing LP Preferred Units Equity Interest agrees to any other treatment, each Allowed Existing LP Preferred Units Equity Interest shall receive its Pro Rata share of the remaining LP Plan Consideration after satisfaction in full of all Allowed LP Administrative Claims, LP Priority Tax Claims, LP Other Priority Claims, LP Other Secured Claims, Prepetition LP Facility Claims, and LP General Unsecured Claims; provided, however, in no event shall any Plan Distribution to a Holder of an Allowed Existing LP Preferred Units Equity Interest pursuant to the Plan be in excess of 100% of the amount of such Holder's Allowed Existing LP Preferred Units Equity Interest.
- (c) *Voting:* Class 10 is Impaired by the Plan. Each Holder of a Class 10 Existing LP Preferred Units Equity Interest as of the Voting Record Date is entitled to vote to accept or reject the Plan.

11. Class 11 – Existing Inc. Preferred Stock Equity Interests

- (a) *Classification:* Class 11 consists of all Existing Inc. Preferred Stock Equity Interests.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Existing Inc. Preferred Stock Equity Interest, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Existing Inc. Preferred Stock Equity Interest agrees to any other treatment, each Allowed Existing Inc. Preferred Stock Equity Interest shall receive its Pro Rata share of the remaining Inc. Plan Consideration after satisfaction in full of all Allowed Inc. Administrative Claims, Inc. Priority Tax Claims, Inc. Other Priority Claims, Inc. Other Secured Claims, Prepetition Inc. Facility Claims, and Inc. General Unsecured Claims; provided, however,



in no event shall any Plan Distribution to a Holder of an Allowed Existing Inc. Preferred Stock Equity Interest pursuant to the Plan be in excess of 100% of the amount of such Holder's Allowed Existing Inc. Preferred Stock Equity Interest.

- (c) *Voting:* Class 11 is Impaired by the Plan. Each Holder of a Class 11 Existing Inc. Preferred Stock Equity Interest as of the Voting Record Date is entitled to vote to accept or reject the Plan.

12. Class 12 – Existing Inc. Common Stock Equity Interests

- (a) *Classification:* Class 12 consists of all Existing Inc. Common Stock Equity Interests.
- (b) *Treatment:* In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed Existing Inc. Common Stock Equity Interest, on the Effective Date or as soon thereafter as reasonably practicable, except to the extent that a Holder of an Allowed Existing Inc. Common Stock Equity Interest agrees to any other treatment, each Holder of an Allowed Existing Inc. Common Stock Equity Interest shall receive its Pro Rata share of the remaining Inc. Plan Consideration after satisfaction in full of all Allowed Inc. Administrative Claims, Inc. Priority Tax Claims, Inc. Other Priority Claims, Inc. Other Secured Claims, Prepetition Inc. Facility Claims, Inc. General Unsecured Claims, and Existing Inc. Preferred Stock Equity Interests.
- (c) *Voting:* Class 12 is Impaired by the Plan. Each Holder of a Class 12 Existing Inc. Common Stock Equity Interests as of the Voting Record Date is entitled to vote to accept or reject the Plan.

13. Class 13 – Intercompany Interests

- (a) *Classification:* Class 13 consists of all Intercompany Interests.
- (b) *Treatment:* On the Effective Date or as soon thereafter as reasonably practicable, each Allowed Intercompany Interest shall be Reinstated for the benefit of the Holder thereof.
- (c) *Voting:* Class 13 is Unimpaired by the Plan. Each Holder of a Class 13 Intercompany Interest is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. No Holder of a Class 13 Intercompany Interests is entitled to vote to accept or reject the Plan.

C. *Special Provision Governing Unimpaired Claims and Equity Interests*

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' rights in respect of any Unimpaired Claims or Equity Interests, including, without limitation, all

rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims or Equity Interests.

*D. Acceptance or Rejection of Plan*

1. Voting Classes Under Plan

Under the Plan, Classes 5, 6, 7, 8, 9, 10, 11, and 12 are Impaired, and each Holder of a Claim or Equity Interest as of the Voting Record Date in such Classes is entitled to vote to accept or reject the Plan; provided, however, to the extent that any Class of Claims or Equity Interests is satisfied in full, in Cash, from Plan Consideration, the Debtors reserve the right to (a) deem such Class as Unimpaired and (b) treat the Holders in such Class as conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

2. Presumed Acceptance Under Plan

Under the Plan, (a) Classes 1, 2, 3, 4, and 13 are Unimpaired, (b) the Holders of Claims in such Classes are conclusively presumed to have accepted the Plan, and (c) such Holders are not entitled to vote to accept or reject the Plan.

3. Acceptance by Impaired Classes of Claims or Equity Interests

Pursuant to section 1126(c) of the Bankruptcy Code, and except as otherwise provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Claims has accepted the Plan if the Holders of at least two-thirds (2/3) in dollar amount and more than one-half (1/2) in number of the Allowed Claims in such Class actually voting have voted to accept the Plan.

Pursuant to section 1126(d) of the Bankruptcy Code, and except as otherwise provided in section 1126(e) of the Bankruptcy Code, an Impaired Class of Equity Interests has accepted the Plan if the Holders of at least two-thirds (2/3) in amount of the Allowed Equity Interests in such Class actually voting have voted to accept the Plan.

4. Presumed Acceptance by Non-Voting Classes

If a Class contains Claims or Equity Interests eligible to vote and no Holders of Claims or Equity Interests eligible to vote in such Class vote to accept or reject the Plan, the Plan shall be presumed accepted by the Holders of such Claims or Equity Interests in such Class.

*E. Elimination of Vacant Classes*

Any Class of Claims or Equity Interests that does not have a Holder of an Allowed Claim or Allowed Equity Interest, or a Claim or Equity Interest temporarily Allowed by the Bankruptcy Court as of the Confirmation Hearing Date, shall be deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

*F. Confirmation Pursuant to Section 1129(b) of Bankruptcy Code*

To the extent that any Impaired Class votes to reject the Plan, the Debtors may request Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code. The Debtors reserve the right to alter, amend, modify, revoke, or withdraw this Plan or any document in the Plan Supplement, including amending or modifying it to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

*G. Controversy Concerning Impairment*

If a controversy arises as to whether any Claims or Equity Interests, or any Class of Claims or Equity Interests, are Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

**ARTICLE IV.  
MEANS FOR IMPLEMENTATION OF PLAN**

*A. Overview of Plan*

Pursuant to the Bid Procedures Order, the Debtors shall commence and continue a process to consummate the Sale in connection with the Confirmation of the Plan. Upon Consummation of the Plan, the Sale Proceeds and other Plan Consideration shall be distributed to the Holders of Allowed Claims against, and Equity Interests in, the Debtors in accordance with the Plan. The Chief Wind Down Officer shall, among other things, (1) administer the wind down of the Wind Down Debtors and dispose of the Retained Assets, (2) distribute the proceeds thereof as Plan Distributions in accordance with the terms of the Plan, and (3) prosecute the preserved Causes of Action of the Estates.

*B. Plan Transactions*

The Confirmation Order shall be deemed to authorize, among other things, the Plan Transactions. On the Effective Date or as soon thereafter as reasonably practicable, the Wind Down Debtors may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan and this Article IV, including: (1) the execution and delivery of appropriate agreements or other documents of merger, amalgamation, consolidation, reorganization, or dissolution containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any property, right, liability, duty, or obligation on terms consistent with the terms of the Plan; (3) the filing of appropriate certificates of incorporation, certificates of partnership, merger, amalgamation, consolidation, or dissolution with the appropriate governmental authorities pursuant to applicable law; and (4) all other actions that the Wind Down Debtors determine are necessary or appropriate.

*C. Sources of Consideration for Plan Distributions*

All consideration necessary for the Wind Down Debtors or Disbursing Agent to make Plan Distributions shall be obtained from the Plan Consideration and the Plan Consideration

Carve-Out. Upon the Consummation of the Plan, the LP Plan Consideration shall be used solely for Plan Distributions made to Holders of Allowed Claims against, and Equity Interests in, the LP Debtors, and the Inc. Plan Consideration shall be used solely for Plan Distributions made to Holders of Allowed Claims against, and Equity Interest in, the Inc. Debtors; provided, however, any LP Plan Consideration remaining after the satisfaction in full of all Allowed Claims against, and Equity Interests in, the LP Debtors shall be deemed Inc. Plan Consideration for distribution to Holders of Allowed Claims against, and Equity Interests in, the Inc. Debtors in accordance with the Plan given the Inc. Debtors' equity ownership interests in the LP Debtors.

*D. Confirmation Order and Asset Purchase Agreement(s)*

On or before the Effective Date, the Debtors and the other relevant Entities shall have entered into the Asset Purchase Agreement(s). The Wind Down Debtors shall use the Sale Proceeds for the purposes specified in the Plan and the other governing documents.

Confirmation of the Plan shall constitute (a) approval of the Sale, the Asset Purchase Agreement(s), and all transactions contemplated thereby, including any and all actions to be taken, undertakings to be made, and obligations to be incurred by the Wind Down Debtors in connection therewith, (b) authorization for the Wind Down Debtors to enter into and execute the Asset Purchase Agreement(s) and such other documents as may be required or appropriate, and to perform their obligations under the Asset Purchase Agreement(s) and all of the transactions contemplated thereunder, and such agreement(s) shall be valid, binding, and enforceable in accordance with its (their) terms, and each party thereto shall be bound thereby without the need for any further actions, and (c) authorization to sell, assume, assign, and/or transfer the Acquired Assets, subject to applicable law and the terms and conditions of the Asset Purchase Agreement(s) (including, without limitation, receipt of the Specified Regulatory Approvals to the extent applicable), and take any and all actions necessary to consummate the Sale.

The Confirmation Order shall approve the Sale of the Acquired Assets under sections 105(a), 1123(a)(5), 1123(b)(4), 1129(b)(2)(A), 1141, 1142(b), 1145, and 1146(a) of the Bankruptcy Code free and clear of any Claims, Liens, interests, or encumbrances pursuant to the Sale process governed by the terms and conditions of the Asset Purchase Agreement(s), the Bid Procedures Order, and the Plan. The Sale Proceeds shall include a Cash component in an amount sufficient (a) for the Disbursing Agent to make all Plan Distributions required to be in the form of Cash, (b) for the Debtors to fund the Wind Down Reserve (including the Professional Fee Reserve and the Disputed Claims and Equity Interests Reserve), and (c) to pay all amounts due to be paid to any Stalking Horse Bidder pursuant to the terms of the Bid Procedures Order in the event such Stalking Horse Bidder is not a Purchaser, including any Break-Up Fee or Expense Reimbursement.

*E. Assumed Liabilities*

In accordance with the terms of the Asset Purchase Agreement(s), the relevant Purchaser shall be responsible for payment and satisfaction of all Assumed Liabilities. All Persons holding Claims or Equity Interests arising out of or concerning an Assumed Liability shall be forever barred, estopped, and permanently enjoined from asserting against the Debtors, the Wind Down

Debtors, or any of their property, such Claims or Equity Interests (as applicable) in accordance with the terms of the Asset Purchase Agreement(s).

*F. Wind Down Debtors*

1. Principal Purpose and Corporate Existence

The principal purpose of the Wind Down Debtors shall be to dispose of, collect, and maximize the Cash value of the Assets of the Debtors remaining after the Sale Closing pursuant to the Asset Purchase Agreement(s) and make Plan Distributions in accordance with the terms of the Plan. Except as otherwise provided in the Plan or as contemplated by the Plan Transactions, each Debtor shall continue to exist after the Effective Date as a separate corporate entity, limited liability company, partnership, or other form, as applicable, with all the powers of a corporation, limited liability company, unlimited liability company, partnership, or other form, as applicable, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and bylaws (or other formation documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation and bylaws (or other formation documents) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan without further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

Without limiting the foregoing, the Debtors shall continue to exist after the Effective Date as separate corporate entities, in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized, for the purposes of satisfying any obligations under the Asset Purchase Agreement(s) and the Plan, including (a) making or assisting the Disbursing Agent in making Plan Distributions as required under the Plan, (b) maintaining the Retained Assets and the Debtors' business, (c) effectuating the Wind Down, (d) preserving and prosecuting all retained Causes of Action of the Estates, (e) serving as the foreign representative in the Canadian Proceedings, and (f) taking any other steps in furtherance thereof or as may be reasonably necessary or appropriate to wind down the affairs of the Estates and the Wind Down Debtors and implement the terms of the Plan; provided however, on or after the Effective Date, each Wind Down Debtor, in its sole and exclusive discretion, but subject to, and in accordance with, the terms and conditions of the Asset Purchase Agreement(s), and subject to receipt of any required governmental or regulatory approvals (if any), may take such action as permitted by applicable law as such Wind Down Debtor may determine is reasonable and appropriate, including, but not limited to, causing (w) a Wind Down Debtor to be merged into another Wind Down Debtor, its subsidiary, or Affiliate, (x) a Wind Down Debtor to be dissolved without the necessity for any other or further actions to be taken by or on behalf of such dissolving Wind Down Debtor, or any payments to be made in connection therewith subject to the filing of a certificate of dissolution with the appropriate governmental authorities, (y) the legal name of a Wind Down Debtor to be changed, or (z) the closing of a Wind Down Debtor's Chapter 11 Case and the Canadian Proceedings.

2. Assets of Wind Down Debtors

On or after the Effective Date, the Retained Assets, including all Assets of the Debtors or their Estates which are neither distributed nor abandoned by the Debtors on the Effective Date, shall be deemed transferred, divided, or assigned to such Wind Down Debtor(s) as they deem appropriate. On the Effective Date or as soon thereafter as reasonably practicable, the Wind Down Debtors shall dispose of the Retained Assets to the extent practicable and distribute the proceeds thereof as Plan Distributions in accordance with the terms of the Plan.

3. Wind Down Reserve

The activities and operations of the Wind Down Debtors and the Chief Wind Down Officer shall be funded through a reserve to be established on the Effective Date, in accordance with the terms of the Wind Down Budget, to fund the winding down of the affairs of the Debtors and the Wind Down Debtors and the other items reflected in the Wind Down Budget (the “Wind Down Reserve”). The Wind Down Reserve shall be funded as of the Effective Date from the Plan Consideration Carve-Out, and thereafter from time to time from any additional Plan Consideration, in an amount sufficient to fund the Wind Down Budget. Upon the closing of the Chapter 11 Cases and the dissolution of the Wind Down Debtors, or such earlier time as it appears, in the reasonable view of the Chief Wind Down Officer, that the Wind Down Reserve is overfunded, the Chief Wind Down Officer shall make any excess funds available for funding of the other reserves and Plan Distributions in accordance with the terms of this Plan. For the avoidance of doubt, the Inc. Debtors shall fund 15% of the Wind Down Reserve from the Inc. Plan Consideration Carve-Out and the LP Debtors shall fund 85% of the Wind Down Reserve from the LP Plan Consideration Carve-Out.

4. Selection, Removal, and Replacement of Chief Wind Down Officer

The identity of the Chief Wind Down Officer shall be disclosed in the Plan Supplement and is subject to the approval of the Bankruptcy Court in the Confirmation Order. After the Effective Date, the Chief Wind Down Officer may be removed or replaced by a successor in accordance with the terms of the Chief Wind Down Officer Agreement.

5. Powers and Duties of Chief Wind Down Officer

The Chief Wind Down Officer shall be deemed the representative of the Wind Down Debtors’ Estates under section 1123(b)(3)(B) of the Bankruptcy Code, and shall have all rights associated therewith. Pursuant to the terms of the Chief Wind Down Officer Agreement, the Chief Wind Down Officer shall have all duties, powers, and standing authority necessary to implement the Plan and to administer and liquidate the Assets of the Wind Down Debtors for the benefit of the Holders of Allowed Claims or Equity Interests. These powers shall include, without limitation, the following:

- (a) administering the Plan Distributions (in coordination with any Disbursing Agent that is not the Chief Wind Down Officer) and maintaining the Disputed Claims and Equity Interests Reserve;
- (b) investing any Cash of the Wind Down Debtors;

- (c) selling or otherwise transferring for value any non-Cash Assets of the Wind Down Debtors;
- (d) Filing with the Bankruptcy Court or Canadian Court reports and other documents required by the Plan or otherwise required to close the Chapter 11 Cases or Canadian Proceedings;
- (e) preparing and filing tax and informational returns for the Debtors and as required by the Wind Down Debtors;
- (f) retaining such professionals as the Chief Wind Down Officer may in his or her discretion deem necessary for the operation and management of the Wind Down Debtors, including entering into contingent fee arrangements with respect to the prosecution of the Debtors' Causes of Action;
- (g) litigating or settling any Claims or Causes of Action asserted against the Debtors or the Wind Down Debtors and using all commercially reasonable efforts to cooperate with other parties in such litigation;
- (h) prosecuting objections to Claims;
- (i) evaluating, filing, litigating, prosecuting, settling, or abandoning the Causes of Action of the Debtors;
- (j) setting off amounts owed to the Debtors or the Wind Down Debtors against any amounts otherwise due to be distributed to the Holder of an Allowed Claim or Equity Interest;
- (k) abandoning any property of the Wind Down Debtors that cannot be sold or otherwise disposed of for value and whose distribution to Holders of Allowed Claims or Equity Interests would not be feasible or cost-effective in the reasonable judgment of the Chief Wind Down Officer;
- (l) administering the Wind Down Reserve (including the Disputed Claims and Equity Interests Reserve and the Professional Fee Reserve); provided, the Wind Down Debtors shall indemnify the Chief Wind Down Officer for his or her actions as administrator of the Disputed Claims and Equity Interests Reserve;
- (m) making interim and final distributions of the Wind Down Debtors' Assets;
- (n) winding up the affairs of the Wind Down Debtors and dissolving them under applicable law as appropriate;
- (o) providing for storage and disposal of records;
- (p) incurring such charges, costs, and fees as are necessary to wind down or sell any remaining Assets of the Wind Down Debtors; and

- (q) taking any other actions that the Chief Wind Down Officer, in his or her reasonable discretion, determines to be in the best interest of the Debtors' Estates or the Wind Down Debtors.

6. Exculpation and Indemnification of Chief Wind Down Officer

The Chief Wind Down Officer Agreement shall provide for and govern the exculpation and indemnification of the Chief Wind Down Officer.

7. Plan Distributions by Wind Down Debtors

The Wind Down Debtors are authorized to make all Plan Distributions required under the Plan in accordance with Article VI of the Plan.

8. Wind Down and Dissolution of Debtors

The Chief Wind Down Officer shall be responsible for winding up the affairs of the Wind Down Debtors' Estates and liquidating the Assets held by, or transferred to, the Wind Down Debtors on or after the Effective Date, including, without limitation, preparing and filing final tax returns, filing dissolution documents pursuant to applicable law, paying any franchise taxes and other fees that are due in connection with such dissolution, and taking any other actions that are necessary to wind down the affairs of the Wind Down Debtors.

9. Compensation of Wind Down Officer

The compensation of the Chief Wind Down Officer shall be as specified in the Chief Wind Down Officer Agreement and shall be paid by the Wind Down Debtors, subject to, and consistent with, the Wind Down Budget. The Chief Wind Down Officer shall also be entitled to reimbursement of reasonable expenses, which expenses shall include the reasonable fees and expenses of any attorneys, accountants, and other professionals retained by the Chief Wind Down Officer, as more fully described in the Chief Wind Down Officer Agreement.

10. Termination of Wind Down Debtors; Discharge of Chief Wind Down Officer

As soon as reasonably practicable after final Plan Distributions under the Plan, the Chief Wind Down Officer shall wind up the affairs of the Wind Down Debtors, file final tax returns, arrange for storage of its records, and dissolve the Wind Down Debtors pursuant to applicable law. As soon as reasonably practicable thereafter, the Chief Wind Down Officer shall file with the Bankruptcy Court a final report of Plan Distributions and perform such other duties as are specified in the Plan, whereupon the Chief Wind Down Officer shall have no further duties under the Plan.

G. *Additional Implementation Provisions Regarding Plan*

1. Vesting of Assets in Wind Down Debtors

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated therein, on the Effective Date, notwithstanding any prohibition of



assignability under applicable non-bankruptcy law and in accordance with section 1141 of the Bankruptcy Code, all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall vest in each respective Wind Down Debtor, free and clear of all Liens, Claims, charges, or other encumbrances (except for the rights of any Purchaser with respect to the Acquired Assets and any Liens, charges, or other encumbrances created under the Asset Purchase Agreement(s) or the Plan) without further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

## 2. Cancellation of Securities and Agreements

On the Effective Date, except as otherwise specifically provided for in the Plan: (a) the obligations of the Debtors under the DIP Inc. Facility, the Prepetition Inc. Loan Documents, the Prepetition LP Loan Documents, the Existing Shares, and any other Certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of, or ownership interest in, the Debtors giving rise to any Claim or Equity Interest (except such Certificates, Equity Interests, notes, or other instruments or documents evidencing indebtedness or obligations of the Debtors that may be Reinstated pursuant to the Plan), shall be cancelled solely as to the Debtors, and the Wind Down Debtors shall not have any continuing obligations thereunder; and (b) the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, Certificates, notes, bonds, indentures, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors (except such agreements, Certificates, notes, or other instruments evidencing indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the Plan) shall be released and discharged; provided, however, any agreement that governs the rights of the Holder of a Claim or Equity Interest shall continue in effect solely for the purposes of allowing such Holders to receive Plan Distributions under the Plan; provided, further, the preceding proviso shall not affect the discharge of Claims or Equity Interests pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan or result in any expense or liability to the Wind Down Debtors.

## 3. Corporate Action

Upon the Effective Date, all actions contemplated by the Plan shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified without any requirement for further action by Holders of Claims or Equity Interests, directors, managers, or officers of the Debtors, the Wind Down Debtors, or any other Entity or Person, including the following: (a) rejection, assumption, or assumption and assignment, as applicable, of Executory Contracts and Unexpired Leases; (b) execution of, and entry into, the Asset Purchase Agreement(s) and such other documents as may be required or appropriate; (c) consummation of the Sale and performance of all actions and transactions contemplated thereby; (d) consummation of the Wind Down; and (e) all other acts or actions contemplated or reasonably necessary or appropriate to promptly consummate the transactions contemplated by the Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan involving the company structure of the Debtors, and any company action required by the Debtors in connection therewith, shall be deemed to have occurred on, and shall be in effect as

of, the Effective Date, without any requirement of further action by the security holders, directors, managers, authorized persons, or officers of the Debtors.

On or (as applicable) prior to the Effective Date, the appropriate officers, managers, or authorized person of the Debtors (including, any president, vice-president, chief executive officer, treasurer, general counsel, or chief financial officer thereof) shall be authorized and directed to issue, execute, and deliver the agreements, documents, certificates, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name, and on behalf, of the Debtors, including, as appropriate: (a) the Asset Purchase Agreement(s); (b) the Chief Wind Down Officer Agreement; and (c) any and all other agreements, documents, and instruments related thereto. The authorizations and approvals contemplated by this Article IV.G.3 shall be effective notwithstanding any requirements under non-bankruptcy law.

4. Effectuating Documents; Further Transactions

On and after the Effective Date, the Wind Down Debtors and the officers and members of the boards of directors thereof, are authorized to and may issue, execute, deliver, file, or record such contracts, instruments, releases, and other agreements or documents, and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the securities issued pursuant to the Plan in the name, and on behalf, of the Wind Down Debtors, without further notice to or action, order, or approval of the Bankruptcy Court or any other Entity.

5. Exemption from Certain Taxes and Fees

Pursuant to section 1146(a) of the Bankruptcy Code, any transfer from a Debtor to a Wind Down Debtor or to any Entity pursuant to, in contemplation of, or in connection with the Sale or the Plan or pursuant to (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors or the Wind Down Debtors, (b) the creation, modification, consolidation, or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means, (c) the making, assignment, or recording of any lease or sublease, or (d) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles, or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, FCC filing or recording fee, Industry Canada filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Without limiting the foregoing, the Sale, as approved in connection with the Confirmation of the Plan, shall constitute a "transfer under a plan" to the fullest extent permitted by applicable law pursuant to section 1146(a) of the Bankruptcy Code.

6. Preservation of Rights of Action

In accordance with section 1123(b) of the Bankruptcy Code, but subject to Article VIII hereof, the Wind Down 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 Causes of Actions that may be described in the Plan Supplement, and the Wind Down Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Wind Down Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Wind Down Debtors. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Debtors' Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Wind Down Debtors, as applicable, shall not pursue any and all available Causes of Action against them. The Debtors or the Wind Down 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, the Wind Down 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 the Confirmation or Consummation. 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 Wind Down Debtors, as applicable. The applicable Wind Down Debtor, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Wind Down 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. The Wind Down Debtors reserve and shall retain the foregoing Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan.

7. Assumption of D&O Liability Insurance Policies

To the extent that the D&O Liability Insurance Policies are considered to be Executory Contracts, then, notwithstanding anything in the Plan to the contrary, the Debtors shall be deemed to have assumed all of the Debtors' unexpired D&O Liability Insurance Policies pursuant to section 365(a) of the Bankruptcy Code effective as of the Effective Date. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' foregoing assumption of each of the unexpired D&O Liability Insurance Policies. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair, or otherwise modify any indemnity obligations assumed by the foregoing assumption of the D&O Liability Insurance Policies, and each such indemnity obligation shall be deemed and treated as an Executory Contract that has been assumed by the Debtors under the Plan as to which no Proof of Claim need be filed.

In addition, after the Effective Date, none of the Wind Down Debtors shall terminate or otherwise reduce the coverage under any D&O Liability Insurance Policies (including any “tail policy”) in effect on the Petition Date, with respect to conduct occurring prior thereto, and all directors and officers of the Debtors who served in such capacity at any time prior to the Effective Date shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such directors and officers remain in such positions after the Effective Date. As of the Effective Date, the Debtors anticipate purchasing and maintaining continuing director and officer insurance coverage for a tail period of six (6) years.

8. Employee and Retiree Benefits

Except as otherwise provided in the Plan, any Asset Purchase Agreement, or the Schedule of Assumed Agreements, on and after the Effective Date, the Wind Down Debtors shall have no obligation to: (a) honor, in the ordinary course of business, any contracts, agreements, policies, programs, and plans, in each case to the extent disclosed in the Debtors’ Disclosure Statement or the First Day Pleadings, for, among other things, compensation and wages (including equity based and bonus compensation), health care benefits, disability benefits, deferred compensation benefits, travel benefits, savings, severance or termination benefits, retirement benefits, welfare benefits, workers’ compensation insurance, and accidental death and dismemberment insurance for the directors, officers, and employees of any of the Debtors who served in such capacity at any time; and (b) honor, in the ordinary course of business, Claims of employees employed as of the Effective Date for accrued vacation time arising prior to the Petition Date; provided, however, the Debtors’ or Wind Down Debtors’ performance of any employment agreement shall not entitle any Person or Entity to any benefit or alleged entitlement under any policy, program, or plan that has expired or been terminated before the Effective Date, or restore, reinstate, or revive any such benefit or alleged entitlement under any such policy, program, or plan; provided, further, upon Confirmation of the Plan, the contracts, agreements, policies, programs, plans, and obligations referred to in the foregoing subsections (a) and (b) shall be dishonored, rejected, denied, and discontinued unless otherwise provided for in any Asset Purchase Agreement or the Schedule of Assumed Agreements.

Nothing in the Plan shall limit, diminish, or otherwise alter the Wind Down Debtors’ defenses, claims, Causes of Action, or other rights with respect to any such contracts, agreements, policies, programs, and plans. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, on and after the Effective Date, all retiree benefits (as that term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid to the extent required by applicable law. As of the Effective Date, any equity award, stock option, or similar plans shall be cancelled, including any such plans incorporated into any existing employment agreement.

**ARTICLE V.**  
**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

*A. Assumption and Rejection of Executory Contracts and Unexpired Leases*

1. Rejection of Executory Contracts and Unexpired Leases

Except as otherwise provided herein, each Executory Contract and Unexpired Lease shall be deemed automatically rejected pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date, unless any such Executory Contract or Unexpired Lease: (a) is listed on the Schedule of Assumed Agreements in the Plan Supplement; (b) has been previously assumed, assumed and assigned, or rejected by the Debtors by Final Order of the Bankruptcy Court or has been assumed, assumed and assigned, or rejected by the Debtors by order of the Bankruptcy Court as of the Effective Date, which order becomes a Final Order after the Effective Date; (c) is the subject of a motion to assume, assume and assign, or reject pending as of the Effective Date; (d) is an Intercompany Contract; or (e) is otherwise assumed, or assumed and assigned, pursuant to the terms herein.

The Confirmation Order shall constitute an order of the Bankruptcy Court approving such rejections pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Non-Debtor parties to Executory Contracts or Unexpired Leases that are rejected as of the Effective Date shall have the right to assert a Claim on account of the rejection of such Executory Contracts or Unexpired Leases, including under section 502(g) of the Bankruptcy Code; provided, however, the non-Debtor parties must comply with Article V.B hereof.

Any Executory Contract and Unexpired Lease not previously assumed, assumed and assigned, or rejected by an order of the Bankruptcy Court, and not listed on the Schedule of Assumed Agreements in the Plan Supplement, shall be rejected on the Effective Date.

2. Assumption of Executory Contracts and Unexpired Leases

The Debtors and each Purchaser shall designate the Executory Contracts and Unexpired Leases to be assumed and assigned to each Purchaser pursuant to, and in accordance with, the respective Asset Purchase Agreement(s). On the Effective Date, the Debtors shall assume, or assume and assign, all of the Executory Contracts and Unexpired Leases listed on the Schedule of Assumed Agreements in the Plan Supplement.

With respect to each such Executory Contract and Unexpired Lease listed on the Schedule of Assumed Agreements in the Plan Supplement, the Debtors shall have designated a proposed amount of the Cure Costs, and the assumption, or assumption and assignment, of such Executory Contract and Unexpired Lease may be conditioned upon the disposition of all issues with respect to such Cure Costs. The Confirmation Order shall constitute an order of the Bankruptcy Court approving any such assumptions, or assumptions and assignments, pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed, or assumed and assigned, in the Chapter 11 Cases, including hereunder, except Proofs of Claim asserting Cure Costs pursuant to the order approving such assumption, or

assumption and assignment, including the Confirmation Order, shall be deemed disallowed and expunged from the Claims Register as of the Effective Date without any further notice to, or action, order, or approval of, the Bankruptcy Court.

*B. Claims Based on Rejection of Executory Contracts or Unexpired Leases*

Notwithstanding anything in the Claims Bar Date Order to the contrary, if the rejection of an Executory Contract or Unexpired Lease, including pursuant hereto, gives rise to a Claim by the non-Debtor party or parties to such contract or lease, such Claim shall be forever barred and shall not be enforceable against the Debtors, their respective successors, or their respective property unless a Proof of Claim is Filed and served on the Wind Down Debtors no later than thirty (30) days after the Effective Date. All Allowed Claims arising from the rejection of the Inc. Debtors' Executory Contracts and Unexpired Leases shall be classified as Inc. General Unsecured Claims and shall be treated in accordance with Article III.B.8 hereof, and all Allowed Claims arising from the rejection of the LP Debtors' Executory Contracts and Unexpired Leases shall be classified as LP General Unsecured Claims and shall be treated in accordance with Article III.B.9 hereof; provided, any subsequently rejected Designated Contracts shall be paid in accordance with the terms of the applicable Asset Purchase Agreement.

*C. Cure of Defaults for Executory Contracts and Unexpired Leases Assumed Pursuant to Plan*

With respect to any Executory Contract or Unexpired Lease to be assumed, or assumed and assigned, pursuant hereto, all Cure Costs shall be satisfied at the option of the Debtors or their assignee, if any (including any Purchaser), (1) by payment of the Cure Costs in Cash on the Effective Date or as soon thereafter as reasonably practicable or (2) on such other terms as the parties to each such Executory Contract or Unexpired Lease may otherwise agree without further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity. Cure Costs in respect of Designated Contracts shall be funded in accordance with the terms of the applicable Asset Purchase Agreement(s).

No later than seven (7) calendar days prior to the Voting Deadline or such later date as may be approved by the Bankruptcy Court, the Debtors shall File with the Bankruptcy Court and serve upon counterparties to such Executory Contracts and Unexpired Leases, a notice of the proposed assumption, or assumption and assignment, which shall (1) list the applicable Cure Costs, if any, (2) describe the procedures for filing objections to the proposed assumption, assumption and assignment, or Cure Costs, and (3) explain the process by which related disputes shall be resolved by the Bankruptcy Court. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption, assumption and assignment, or Cure Costs must be Filed, served, and actually received by the Debtors (and the relevant Purchaser, if any) no later than the Voting Deadline. Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption, assumption and assignment, or Cure Costs shall be deemed to have assented to such assumption, assumption and assignment, or Cure Costs, as applicable.

In the event of a dispute regarding (1) the amount of any Cure Costs, (2) the ability of the Wind Down Debtors or any assignee, as applicable, to provide adequate assurance of future

performance (within the meaning of section 365 of the Bankruptcy Code) under such Executory Contract or Unexpired Lease to be assumed, or assumed and assigned, or (3) any other matter pertaining to assumption, or assumption and assignment, of such Executory Contract or Unexpired Lease, the payment of any Cure Costs shall be made following the entry of a Final Order resolving the dispute and approving the assumption, or assumption and assignment, of such Executory Contract or Unexpired Lease; provided, however, the Wind Down Debtors or any assignee, as applicable (including any Purchaser), may settle any dispute regarding the amount of any Cure Costs without further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity; provided, further, notwithstanding anything to the contrary herein, prior to the Effective Date or such other date as determined by the Bankruptcy Court and prior to the entry of a Final Order resolving any dispute and approving the assumption, or assumption and assignment, of such Executory Contract or Unexpired Lease, the Debtors reserve the right, subject to any Asset Purchase Agreement, to reject any Executory Contract or Unexpired Lease which is subject to dispute.

Assumption, or assumption and assignment, of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed, or assumed and assigned, Executory Contract or Unexpired Lease at any time prior to the effective date of assumption, or assumption and assignment.

*D. Pre-existing Obligations to Debtors Under Executory Contracts and Unexpired Leases*

Rejection of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise shall not constitute a termination of pre-existing obligations owed to the Debtors under such contracts or leases. In particular, notwithstanding any non-bankruptcy law to the contrary, the Debtors or Wind Down Debtors expressly reserve and do not waive any right to receive, or any continuing obligation of a counterparty to provide, warranties or continued maintenance obligations on goods previously purchased by the contracting Debtors or the Wind Down Debtors, as applicable, from non-Debtor counterparties to rejected Executory Contracts or Unexpired Leases.

*E. Intercompany Contracts, Contracts, and Leases Entered into After Petition Date, Assumed Executory Contracts, and Unexpired Leases*

Any (1) Intercompany Contracts, (2) contracts and leases entered into after the Petition Date by any Debtor to the extent not rejected prior to the Effective Date, and (3) any Executory Contracts and Unexpired Leases assumed, or assumed and assigned, by any Debtor and not rejected prior to the Effective Date, may be performed by the applicable Wind Down Debtor in the ordinary course of business.

*F. Modifications, Amendments, Supplements, Restatements, or Other Agreements*

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed, or assumed and assigned, shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or

Unexpired Lease and all Executory Contracts and Unexpired Leases related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or is rejected under the Plan.

Modifications, amendments, supplements, and restatements to Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

*G. Reservation of Rights*

Neither the exclusion nor inclusion of any contract or lease by the Debtors on any exhibit to the Plan Supplement, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is or is not, in fact, an Executory Contract or Unexpired Lease or that the Debtors, or their respective Affiliates, have any liability thereunder.

The Debtors and the Wind Down Debtors, with the consent of the Purchaser(s) (if any), reserve the right to alter, amend, modify, or supplement the Schedule of Assumed Agreements until and including the Effective Date or as otherwise provided by Bankruptcy Court order; provided, however, if there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption, assumption and assignment, or with respect to asserted Cure Costs, then the Wind Down Debtors shall have thirty (30) days following the entry of a Final Order resolving such dispute to amend their decision to assume, or assume and assign, such Executory Contract or Unexpired Lease.

*H. Nonoccurrence of Effective Date*

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any consensual request to extend the deadline for assuming, assuming and assigning, or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code.

**ARTICLE VI.  
PROVISIONS GOVERNING DISTRIBUTIONS**

*A. Distribution Record Date*

As of the close of business on the Distribution Record Date, the various transfer registers for each of the Classes of Claims or Equity Interests as maintained by the Debtors, the DIP Inc. Agent, the Prepetition Inc. Agent, or the Prepetition LP Agent, or their respective agents, shall be deemed closed, and there shall be no further changes in the record Holders of any of the Claims or Equity Interests. The Debtors shall have no obligation to recognize any transfer of the Claims or Equity Interests occurring on or after the Distribution Record Date. The Debtors shall be entitled to recognize and deal for all purposes hereunder only with those record Holders stated on the transfer ledgers as of the close of business on the Distribution Record Date, to the extent applicable.



*B. Timing and Calculation of Amounts To Be Distributed*

Unless otherwise provided in the Plan, on the Effective Date or as soon thereafter as reasonably practicable (or if a Claim or an Equity Interest is not Allowed on the Effective Date, on the date that such a Claim or an Equity Interest is Allowed, or as soon thereafter as reasonably practicable), each Holder of an Allowed Claim or an Allowed Equity Interest shall receive the full amount of the Plan Distribution that such Holder is entitled to pursuant to the Plan; provided, however, Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases, or assumed by the Debtors prior to the Effective Date, shall be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business, or industry practice; provided, further, the Debtors reserve the right to make Plan Distributions prior to the Effective Date in the event of a Sale Closing that occurs prior to the Effective Date in accordance with the terms of the relevant Asset Purchase Agreement.

The Wind Down Debtors are authorized to make periodic Plan Distributions on account of Allowed Claims and Allowed Equity Interests and, if such periodic Plan Distributions are made, the Wind Down Debtors shall reserve Cash from Plan Distributions to applicable Holders equal to the Plan Distributions to which Holders of Disputed Claims or Disputed Equity Interests would be entitled if such Disputed Claims or Disputed Equity Interests become Allowed.

*C. Disbursing Agent*

All Plan Distributions shall be made by the Wind Down Debtors as Disbursing Agent or such other Entity designated by the Wind Down Debtors as a Disbursing Agent. A Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court. Additionally, in the event that a Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be as agreed by and between the Wind Down Debtors and such Disbursing Agent.

Plan Distributions of Cash to the Holders of Allowed Claims and Allowed Equity Interests shall be made by the Debtors or the Wind Down Debtors to the Disbursing Agent for the benefit of the Holders of such Allowed Claims and Allowed Equity Interests. All Plan Distributions by the Disbursing Agent shall be at the discretion of the Wind Down Debtors, and the Disbursing Agent shall not have any liability to any Entity for Plan Distributions made by them under the Plan.

*D. Rights and Powers of Disbursing Agent*

1. Powers of Disbursing Agent

The Disbursing Agent shall be empowered to: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all Plan Distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof without any further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

2. Expenses Incurred on or After Effective Date

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including taxes), and any reasonable compensation and expense reimbursement claims (including reasonable attorneys' fees and expenses) made by the Disbursing Agent, shall be paid in Cash by the Wind Down Debtors.

*E. Plan Distributions on Account of Claims and Equity Interests Allowed After Effective Date*

1. Payments and Plan Distributions on Disputed Claims and Disputed Equity Interests

Plan Distributions made after the Effective Date to Holders of Claims or Equity Interests that are not Allowed as of the Effective Date, but which later become Allowed Claims or Allowed Equity Interests, shall be deemed to have been made on the Effective Date.

2. Special Rules for Plan Distributions to Holders of Disputed Claims and Disputed Equity Interests

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to by the relevant parties: (a) no partial payments and no partial Plan Distributions shall be made with respect to a Disputed Claim or Disputed Equity Interest until all such disputes in connection with such Disputed Claim or Disputed Equity Interest, respectively, have been resolved by settlement or Final Order; and (b) any Entity that holds both (i) an Allowed Claim or an Allowed Equity Interest and (ii) a Disputed Claim or a Disputed Equity Interest shall not receive any Plan Distribution on the Allowed Claim or Allowed Equity Interest unless and until all objections to the Disputed Claim or Disputed Equity Interest, respectively, have been resolved by settlement or Final Order and the Disputed Claims or Disputed Equity Interests have been Allowed.

*F. Delivery of Plan Distributions and Undeliverable or Unclaimed Plan Distributions*

1. Delivery of Plan Distributions in General

Except as otherwise provided herein, the Disbursing Agent shall make Plan Distributions to Holders of Allowed Claims and Allowed Equity Interests at the address for each such Holder as indicated on the Wind Down Debtors' records as of the date of any such Plan Distribution; provided, however, the manner of such Plan Distributions shall be determined at the discretion of the Wind Down Debtors; provided, further, the address for each Holder of an Allowed Claim shall be deemed to be the address set forth in any Proof of Claim Filed by that Holder. Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Disbursing Agent by check or by wire transfer.

Except as set forth in Articles VI.F.3 and VI.F.4, each Plan Distribution referred to in Article VI hereof shall be governed by the terms and conditions set forth herein applicable to such Plan Distribution and by the terms and conditions of the instruments evidencing or relating

to such Plan Distribution, which terms and conditions shall bind each Entity receiving such Plan Distribution.

2. Delivery of Plan Distributions to Holders of Allowed DIP Inc. Facility Claims

The Plan Distributions provided for Allowed DIP Inc. Facility Claims pursuant to Article II.C hereof shall be made to the DIP Inc. Agent. To the extent possible, the Wind Down Debtors and the Disbursing Agent shall provide that the applicable Cash is eligible to be distributed to the DIP Inc. Lenders at the direction of the DIP Inc. Agent.

3. Delivery of Plan Distributions to Holders of Allowed Prepetition Inc. Facility Claims

The Plan Distribution provided by Article III.B.5 and Article III.B.6 (and, to the extent applicable, Article III.B.8) hereof shall be made to the Prepetition Inc. Agent. To the extent possible, the Debtors and the Disbursing Agent shall provide that the applicable Inc. Plan Consideration is eligible to be distributed to the Prepetition Inc. Lenders at the direction of the Prepetition Inc. Agent. Notwithstanding anything to the contrary herein, any Holder of a Disputed Prepetition Inc. Facility Claim shall not (a) receive any Plan Distribution or (b) be entitled to invoke any rights or remedies under the applicable Sharing Provision, until any such Disputed Prepetition Inc. Facility Claim is Allowed in accordance with Article VII hereof.

4. Delivery of Plan Distributions to Holders of Allowed Prepetition LP Facility Claims

The Plan Distribution provided by Article III.B.7 (and, to the extent applicable, Article III.B.9) hereof shall be made to the Prepetition LP Agent. To the extent possible, the Debtors and the Disbursing Agent shall provide that the applicable LP Plan Consideration is eligible to be distributed to Prepetition LP Lenders at the direction of the Prepetition LP Agent. Notwithstanding anything to the contrary herein, any Holder of a Disputed Prepetition LP Facility Claim shall not (a) receive any Plan Distribution or (b) be entitled to invoke any rights or remedies under the applicable Sharing Provision, until any such Disputed Prepetition LP Facility Claim is Allowed in accordance with Article VII hereof.

5. Minimum Plan Distributions

Notwithstanding anything herein to the contrary, the Disbursing Agent shall not be required to make Plan Distributions or payments of Cash of less than the amount of \$100 and shall not be required to make partial Plan Distributions or payments of fractions of dollars. Whenever any payment or Plan Distributions of a fraction of a dollar under the Plan would otherwise be called for, the actual payment or Plan Distribution shall reflect a rounding of such fraction to the nearest whole dollar, with half dollars or less being rounded down. The Wind Down Debtors shall not be required to make partial or fractional Plan Distributions and such fractions shall be deemed to be zero.

6. Undeliverable Plan Distributions and Unclaimed Property

In the event that any Plan Distribution to any Holder is returned as undeliverable, no Plan Distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then current address of such Holder, at which time such Plan Distribution shall be made to such Holder without interest; provided, however, such Plan Distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one (1) year from the Effective Date. After such date, all unclaimed property or interests in property shall revert to the Wind Down Debtors (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder to such property or Equity Interest in such property shall be discharged and forever barred.

G. *Compliance with Tax Requirements/Allocations*

In connection with the Plan, to the extent applicable, the Wind Down Debtors shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all Plan Distributions pursuant hereto shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Wind Down Debtors and the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the Plan Distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding Plan Distributions pending receipt of information necessary to facilitate such Plan Distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Wind Down Debtors reserve the right to allocate all Plan Distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, Liens, and encumbrances.

Plan Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent that the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

H. *Setoffs*

Except as otherwise expressly provided for in the Plan, each Wind Down Debtor pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the Holder of a Claim or Equity Interest, may set off against any Allowed Claim or Allowed Equity Interest and the Plan Distributions to be made pursuant to the Plan on account of such Allowed Claim or Equity Interest (before any Plan Distribution is made on account of such Allowed Claim or Equity Interest) any claims, rights, and Causes of Action of any nature that such Debtor or Wind Down Debtor, as applicable, may hold against the Holder of such Allowed Claim or Equity Interest, to the extent such claims, rights, or Causes of Action against such Holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided, however, neither the failure to effect such a setoff nor the allowance of any Claim or Equity Interest pursuant to the Plan shall constitute a waiver or release by such Wind Down Debtor of any such claims, rights, or Causes of Action that such Wind Down Debtor may possess against such

Holder. In no event shall any Holder of Claims or Equity Interests be entitled to set off any Claim or Equity Interest against any claim, right, or Cause of Action of the Debtor or Wind Down Debtor, as applicable, unless such Holder has Filed a motion with the Bankruptcy Court requesting the authority to perform such setoff on or before the Confirmation Date, and notwithstanding any indication in any Proof of Claim or proof of Equity Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 or otherwise.

*I. Recoupment*

In no event shall any Holder of Claims against, or Equity Interests in, the Debtors be entitled to recoup any such Claim or Equity Interest against any claim, right, or Cause of Action of the Debtors or the Wind Down Debtors, as applicable, unless such Holder actually has performed such recoupment and provided notice thereof in writing to the Debtors on or before the Confirmation Date, notwithstanding any indication in any Proof of Claim or proof of Equity Interest or otherwise that such Holder asserts, has, or intends to preserve any right of recoupment.

*J. Claims Paid or Payable by Third Parties*

1. Claims Paid by Third Parties

The Debtors or the Wind Down Debtors, as applicable, shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be Filed and without any further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity, to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor or Wind Down Debtor. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a Plan Distribution on account of such Claim and receives payment from an Entity that is not a Debtor or a Wind Down Debtor on account of such Claim, such Holder shall, within two (2) weeks of receipt thereof, repay or return the Plan Distribution to the applicable Wind Down Debtor, to the extent that the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such Plan Distribution under the Plan. The failure of such Holder to timely repay or return such Plan Distribution shall result in the Holder owing the applicable Wind Down Debtor annualized interest at the Federal Judgment Rate on such amount owed for each calendar day after the two (2)-week grace period specified above until the amount is repaid.

2. Claims Payable by Third Parties

No Plan Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, such Claim may be expunged without a Claims objection having to be Filed and without further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

3. Applicability of Insurance Policies

Except as otherwise provided in the Plan, Plan Distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors, the Wind Down Debtors, or any other Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

**ARTICLE VII.  
PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED,  
AND DISPUTED CLAIMS AND DISPUTED EQUITY INTERESTS**

A. *Allowance of Claims and Equity Interests*

After the Effective Date, the Wind Down Debtors shall have and retain any and all rights and defenses that the Debtors had with respect to any Claim and Equity Interest immediately prior to the Effective Date, including the Causes of Action referenced in Article IV.G.6 hereof. Except as expressly provided herein, no Claim or Equity Interest shall become Allowed unless and until such Claim or Equity Interest is deemed Allowed under Article I.A.6 hereof or the Bankruptcy Code.

B. *Claims and Equity Interests Administration Responsibilities*

Except as otherwise provided in the Plan, after the Effective Date, the Wind Down Debtors shall have the sole and exclusive authority to (1) File, withdraw, or litigate to judgment, objections to Claims or Equity Interests, (2) settle or compromise any Disputed Claim or Disputed Equity Interest without any further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity, and (3) administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

The Wind Down Debtors shall maintain the Disputed Claims and Equity Interests Reserve on account of the Disputed Claims. The Inc. Debtors (or the Wind Down Debtors, as applicable) shall fund 15% of the Disputed Claims and Equity Interests Reserve from the Inc. Plan Consideration Carve-Out and the LP Debtors (or the Wind Down Debtors, as applicable) shall fund 85% of the Disputed Claims and Equity Interests Reserve from the LP Plan Consideration Carve-Out. The Disputed Claims and Equity Interests Reserve may be adjusted from time to time, and funds previously held in such reserve on account of Disputed Claims that have subsequently become Disallowed Claims shall be released from such reserve and used to fund the other reserves and Plan Distributions.

C. *Estimation of Claims*

Before the Effective Date, the Debtors, and after the Effective Date, the Wind Down Debtors, may at any time request that the Bankruptcy Court estimate (1) any Disputed Claim pursuant to applicable law and (2) any contingent or unliquidated Claim pursuant to applicable

law, including, without limitation, section 502(c) of the Bankruptcy Code, for any reason, regardless of whether any Entity previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection.

The Bankruptcy Court shall retain jurisdiction to estimate any Claim, any group of Claims, or any Class of Claims, at any time during litigation concerning any objection, including, without limitation, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any Disputed Claim, that estimated amount shall constitute either (1) the Allowed amount of such Disputed Claim, (2) a maximum limitation on such Disputed Claim, or (3) in the event such Disputed Claim is estimated in connection with the estimation of other Claims within the same Class, a maximum limitation on the aggregate amount of Allowed Claims on account of such Disputed Claims so estimated, in each case for all purposes under the Plan (including for purposes of Plan Distributions); provided, however, the Debtors or Wind Down Debtors may elect to pursue supplemental proceedings to object to any ultimate allowance of any Disputed Claim and any ultimate Plan Distributions on such Claim. Notwithstanding any provision in the Plan to the contrary, a Claim that has been disallowed or 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. Notwithstanding section 502(j) of the Bankruptcy Code, in no event shall any Holder of a Claim that has been estimated pursuant to section 502(c) of the Bankruptcy Code or otherwise be entitled to seek reconsideration of such estimation unless such Holder has Filed a motion requesting the right to seek such reconsideration on or before twenty-one (21) days after the date on which such Claim is estimated.

All of the aforementioned Claims and objection, estimation, and resolution procedures are cumulative and not exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn, or resolved by any mechanism approved by the Bankruptcy Court.

*D. Expungement or Adjustment to Claims Without Objection*

Any Claim that has been paid, satisfied, superseded, or compromised in full may be expunged on the Claims Register by the Wind Down Debtors, and any Claim that has been amended may be adjusted thereon by the Wind Down Debtors, in both cases without a Claims objection having to be Filed and without any further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity. Additionally, any Claim that is duplicative or redundant with another Claim against the same Debtor may be adjusted or expunged on the Claims Register by the Wind Down Debtors without a Claims objection having to be Filed and without any further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

*E. No Interest*

Unless otherwise specifically provided for in the Plan or the Confirmation Order, agreed to by the Debtors or Wind Down Debtors, or provided for in a postpetition agreement in writing between the Debtors or Wind Down Debtors and a Holder of a Claim, postpetition interest shall not accrue or be paid on Claims, and no Holder of a Claim shall be entitled to interest accruing

on or after the Petition Date on any Claim or right. Additionally, and without limiting the foregoing, interest shall not accrue or be paid on any Disputed Claim with respect to the period from the Effective Date to the date a final Plan Distribution is made on account of such Disputed Claim, if and when such Disputed Claim becomes an Allowed Claim.

*F. Deadline To File Objections to Claims*

Any objections to Claims shall be Filed no later than the Claims Objection Bar Date.

*G. Disallowance of Claims or Equity Interests*

Any Claims or Equity Interests held by Entities from which property is recoverable under sections 542, 543, 550, or 553 of the Bankruptcy Code, or that are transferees of transfers avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code or otherwise, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims or Equity Interests may not receive any Plan Distributions on account of such Claims or Equity Interests until such time as such Causes of Action against that Entity have been settled or a Final Order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid.

EXCEPT AS PROVIDED HEREIN OR OTHERWISE AGREED, ANY AND ALL PROOFS OF CLAIM FILED AFTER THE APPLICABLE CLAIMS BAR DATE SHALL BE DEEMED DISALLOWED AND EXPUNGED AS OF THE EFFECTIVE DATE WITHOUT ANY FURTHER NOTICE TO, OR ACTION, ORDER, OR APPROVAL OF, THE BANKRUPTCY COURT OR ANY OTHER ENTITY, AND HOLDERS OF SUCH CLAIMS MAY NOT RECEIVE ANY PLAN DISTRIBUTIONS ON ACCOUNT OF SUCH CLAIMS, UNLESS ON OR BEFORE THE CONFIRMATION HEARING SUCH LATE CLAIM HAS BEEN DEEMED TIMELY FILED BY A FINAL ORDER.

*H. Amendments to Claims*

On or after the later of the Effective Date or the applicable deadline set by the Bankruptcy Court, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court or the Wind Down Debtors, and any such new or amended Claim Filed shall be deemed disallowed in full and expunged without any further notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

**ARTICLE VIII.  
SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS**

*A. Discharge of Claims and Termination of Equity Interests*

Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, the Plan Distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of Claims, Equity Interests, and Causes of Action of any nature whatsoever, including any interest accrued on Claims or Equity Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Equity Interests in,



the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims or Equity Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability to the extent such Claims or Equity Interests relate to services performed by employees of the Debtors prior to the Effective Date and that arise from a termination of employment or a termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not (1) a Proof of Claim or proof of Equity Interest based upon such debt, right, or Equity Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (2) a Claim or Equity Interest based upon such debt, right, or Equity Interest is Allowed pursuant to section 502 of the Bankruptcy Code, or (3) the Holder of such a Claim or Equity Interest has accepted the Plan. Any default by the Debtors or their Affiliates with respect to any Claim or Equity Interest that existed immediately prior to or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Equity Interests subject to the occurrence of the Effective Date.

*B. Subordinated Claims*

The allowance, classification, and treatment of all Allowed Claims and Allowed Equity Interests and the respective Plan Distributions and treatments under the Plan shall give effect to the relative priority and rights of the Claims and 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 of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Debtors or Wind Down Debtors reserve the right to re-classify any Allowed Claim or Equity Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

*C. Compromise and Settlement of Claims and Controversies*

Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the Plan Distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Equity Interests, Causes of Action, and controversies resolved pursuant to the Plan and relating to any contractual, legal, and subordination rights that a Holder of a Claim or Equity Interest may have with respect to any Allowed Claim or Equity Interest, or any Plan Distributions to be made on account of such an Allowed Claim or Equity Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Equity Interests, Causes of Action, controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims or Equity Interests and is fair, equitable, and reasonable. Plan Distributions made to Holders of Allowed Claims or Equity Interests are intended to be final. In accordance with the provisions of the Plan, pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order, or approval of the Bankruptcy Court or any other Entity, after the Effective Date, the Wind Down Debtors may

compromise and settle Claims against, or Equity Interests in, the Wind Down Debtors, and Causes of Action against other Entities.

*D. Releases by Debtors*

Pursuant to section 1123(b) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan, for good and valuable consideration, including the service of the Released Parties to facilitate the expeditious implementation of the transactions contemplated by the Plan, on and after the Effective Date, the Released Parties are deemed released and discharged by the Debtors, the Wind Down Debtors, and the Estates from any and all claims, interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that the Debtors, the Wind Down Debtors, the Estates, or their Affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim or Equity Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors, the Sale, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims or Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan and the Debtors' Disclosure Statement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct (including fraud) or gross negligence.

*E. Exculpation*

Except as otherwise specifically provided in the Plan, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, Cause of Action, or liability for any exculpated Claim, except for willful misconduct (including fraud) or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. The Exculpated Parties have, and upon Confirmation of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code with regard to the distributions of the Securities pursuant to the Plan and the Sale, and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan.

*F. Third-Party Releases by Holders of Claims or Equity Interests*

Except as otherwise specifically provided in the Plan, on and after the Effective Date, the Releasing Parties shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever released and discharged the Released Parties from any and all claims, interests, obligations, rights, suits, damages, Claims, Equity Interests, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, existing or hereafter arising, in law, equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, that each Releasing Party would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors, the Sale, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of Claims or Equity Interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan and the Debtors' Disclosure Statement, or related agreements, instruments, or other documents, upon any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes willful misconduct (including fraud) or gross negligence.

*G. Injunction*

Except as otherwise expressly provided in the Plan or for obligations issued pursuant to the Plan, all Entities who have held, hold, or may hold Claims or Equity Interests that have been released pursuant to Article VIII.D hereof or Article VIII.F hereof, discharged pursuant to Article VIII.A hereof, or are subject to exculpation pursuant to Article VIII.E hereof are permanently enjoined, from and after the Effective Date, from taking any of the following actions against the Debtors or the Wind Down Debtors: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of, in connection with, or with respect to any such Claims or Equity Interests; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of, in connection with, or with respect to any such Claims or Equity Interests; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or estates of such Entities on account of, in connection with, or with respect to any such Claims or Equity Interests; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property or Estates of such Entities on account of, in connection with, or with respect to any such Claims or Equity Interests unless such Holder has Filed a motion requesting the right to perform such setoff on or before the Confirmation Date, and notwithstanding an indication in a Proof of Claim or proof of Equity Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 of the Bankruptcy Code or otherwise; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of, in connection with, or with respect to any such Claims or Equity

**Interests released or settled pursuant to the Plan. Nothing in the Plan or Confirmation Order shall preclude any Entity from pursuing an action against one or more of the Debtors in a nominal capacity to recover insurance proceeds so long as the Debtors or Wind Down Debtors, as applicable, and any such Entity agree in writing that such Entity shall (1) waive all Claims against the Debtors, the Wind Down Debtors, and the Estates related to such action and (2) enforce any judgment on account of such Claim solely against applicable insurance proceeds, if any.**

*H. Release of Liens*

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, (1) on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and (2) in the case of a Secured Claim, upon satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released, settled, discharged, and compromised and all rights, titles, and interests of any Holder of such mortgages, deeds of trust, Liens, pledge, or other security interests against any property of the Estates shall revert to the Wind Down Debtors and their successors and assigns. The Wind Down Debtors shall be authorized to file any necessary or desirable documents to evidence such release in the name of such Holder of a Secured Claim.

**ARTICLE IX.  
CONDITIONS PRECEDENT TO EFFECTIVE DATE OF PLAN**

*A. Conditions Precedent to Effective Date*

It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.B hereof:

1. The Confirmation Order shall have been entered in a form and in substance reasonably satisfactory to the Debtors.

2. The Plan Documents, to the extent applicable to the transactions to be consummated pursuant to the Confirmation Order, shall have been executed and delivered, and any conditions (other than the occurrence of the Effective Date or certification by the Debtors that the Effective Date has occurred) contained therein shall have been waived or satisfied in accordance therewith, including, but not limited to:

- (a) the Asset Purchase Agreement(s), in form(s) and substance acceptable to the Debtors and the Purchaser(s), shall have been executed and delivered by all of the Entities that are parties thereto, and all conditions to each Sale Closing and the consummation of each Sale shall have been waived or satisfied in accordance with the terms thereof;
- (b) the Chief Wind Down Officer Agreement, in form and substance acceptable to the Debtors, shall have been executed and delivered by all of the Entities that are parties thereto, and all conditions precedent to the

consummation thereof shall have been waived or satisfied in accordance with the terms thereof; and

- (c) the Debtors shall have sufficient Cash on hand to fund the Wind Down Reserve (including the Professional Fee Reserve and the Disputed Claims and Equity Interests Reserve).

3. The Bankruptcy Court shall have entered the Disclosure Statement Order and the Bid Procedures Order, and the Canadian Court shall have entered the Disclosure Statement Recognition Order, the Bid Procedures Recognition Order, and the Confirmation Recognition Order.

4. The final version of the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall have been Filed in form and substance reasonably acceptable to the Debtors, without prejudice to the Wind Down Debtors' rights under the Plan to alter, amend, or modify certain of the schedules, documents, and exhibits contained in the Plan Supplement; provided, however, each such altered, amended, or modified schedule, documents, or exhibit shall be in form and substance acceptable to the Wind Down Debtors.

5. All necessary 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 the applicable governmental units in accordance with applicable laws.

6. All authorizations, consents, and regulatory approvals required by applicable law in order to effect the transactions to be consummated pursuant to the Confirmation Order shall have been obtained from the FCC, Industry Canada, or any other regulatory agency including, without limitation, any approvals required in connection with the transfer, change of control, or assignment of FCC and Industry Canada licenses, and no appeals of such approvals remain outstanding.

*B. Waiver of Conditions*

The conditions to the Effective Date of the Plan set forth in this Article IX.A may be waived by the Debtors without notice to, or action, order, or approval of, the Bankruptcy Court or any other Entity.

**ARTICLE X.  
MODIFICATION, REVOCATION, OR WITHDRAWAL OF PLAN**

*A. Modification and Amendments*

Except as otherwise specifically provided in the Plan, the Debtors reserve the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, and those restrictions on modifications set forth in the Plan, each of the Debtors expressly reserves its respective rights to revoke or withdraw, or, to alter, amend, or modify materially the Plan with respect to such Debtor, one or more times, after

Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court or Canadian Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Debtors' Disclosure Statement, the Confirmation Order, or the Confirmation Recognition Order, in such matters as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with this Article X.A.

*B. Effect of Confirmation on Modifications*

Entry of a Confirmation Order or Confirmation Recognition Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or re-solicitation under Bankruptcy Rule 3019.

*C. Revocation or Withdrawal of Plan*

The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent chapter 11 plans. If the Debtors revoke or withdraw the Plan, or if the Confirmation or Consummation does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claims or Equity Interests or Class of Claims or Equity Interests), assumption, assumption and assignment, or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void in all respects; and (3) nothing contained in the Plan or the Debtors' Disclosure Statement shall (a) constitute a waiver or release of any Claims or Equity Interests in any respect, (b) prejudice in any manner the rights of such Debtor or any other Entity in any respect, or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by such Debtor or any other Entity in any respect.

**ARTICLE XI.  
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain jurisdiction over all matters arising out of, or relating to, the Chapter 11 Cases and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Equity Interest, including the resolution of any request for payment of any Administrative Claim, of any request for the payment or Plan Distribution on account of Claims entitled to priority pursuant to section 507 of the Bankruptcy Code, and of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Equity Interests;

2. Decide and resolve all matters relating to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. Resolve any matters relating to the following: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Claims arising therefrom, including Cure Costs pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed, or assumed and assigned; (c) the Wind Down Debtors' amending, modifying, or supplementing, after the Effective Date, pursuant to Article V hereof, any Executory Contracts or Unexpired Leases to the list of Executory Contracts and Unexpired Leases to be assumed, or assumed and assigned; and (d) any dispute regarding whether a contract or lease is or was executory or unexpired;

4. Ensure that Plan Distributions to Holders of Allowed Claims and Allowed Equity Interests are accomplished pursuant to the provisions of the Plan;

5. Adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;

6. Adjudicate, decide, or resolve any and all matters related to Causes of Action;

7. Adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;

8. Enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan or the Debtors' Disclosure Statement;

9. To hear and determine any matters relating to the implementation of the Sale, including arising out of, or in connection with, the Asset Purchase Agreement(s), or the Chief Wind Down Officer Agreement, and any ancillary or related agreements thereto, and to enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

10. Resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with the Consummation, interpretation, or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

11. Issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with the Consummation or enforcement of the Plan;

12. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, injunctions, and other provisions contained in Article VIII hereof and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

13. Hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

14. Resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of Plan Distributions and the recovery of additional amounts owed by the Holder of a Claim or Equity Interest for amounts not timely repaid pursuant to Article VI.J hereof;

15. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;

16. Determine any other matters that may arise in connection with or relate to the Plan, the Debtors' Disclosure Statement, the Confirmation Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Debtors' Disclosure Statement;

17. Enter an order or final decree concluding or closing the Chapter 11 Cases;

18. Adjudicate any and all disputes arising from or relating to Plan Distributions under the Plan or any transactions contemplated therein;

19. Consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;

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

21. Enforce all orders previously entered by the Bankruptcy Court; and

22. Hear any other matter not inconsistent with the Bankruptcy Code.

## **ARTICLE XII. MISCELLANEOUS PROVISIONS**

### **A. *Immediate Binding Effect***

Subject to Article IX.A hereof, and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan, the Plan Supplement, and the Confirmation Order shall be immediately effective and enforceable and deemed binding upon the Debtors, the Wind Down Debtors, and any and all Holders of Claims or Equity Interests (irrespective of whether such Claims or Equity Interests are deemed to have accepted the Plan), all Entities that are parties, or are subject, to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring or receiving property under the Plan, and any and all non-Debtor parties to Executory Contracts or Unexpired Leases with the Debtors. All Claims and debts shall be as fixed, adjusted, or compromised, as



applicable, pursuant to the Plan regardless of whether any Holder of a Claim or debt has voted on the Plan.

*B. Additional Documents*

On or before the Effective Date, the Debtors may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors or the Wind Down Debtors, as applicable, and all Holders of Claims or Equity Interests receiving Plan Distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or appropriate to effectuate the provisions and intent of the Plan.

*C. Reservation of Rights*

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court shall have entered the Confirmation Order. None of the Filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by any Debtor with respect to the Plan or the Debtors' Disclosure Statement, shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders of Claims or Equity Interests prior to the Effective Date.

*D. Successors and Assigns*

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor or assign, affiliate, officer, director, agent, representative, attorney, beneficiary, or guardian, if any, of each Entity.

*E. Service of Documents*

After the Effective Date, any pleading, notice, or other document required by the Plan to be served on or delivered to:

the Debtors or the Reorganized Debtors, shall be served on:

LightSquared Inc.  
Attn: General Counsel  
10802 Parkridge Boulevard  
Reston, VA 20191

Milbank, Tweed, Hadley & McCloy LLP  
Matthew S. Barr  
Steven Z. Szanzer  
Karen Gartenberg  
One Chase Manhattan Plaza  
New York, NY 10005

the Ad Hoc Secured Group of Prepetition LP Lenders or any members thereof, shall be served on:

White & Case LLP  
Thomas E Lauria

Glenn M. Kurtz  
1155 Avenue of the Americas  
New York, NY 10036

the DIP Inc. Agent, the Prepetition Inc. Agent, or the Prepetition Inc. Lenders, shall be served on:

Akin, Gump, Strauss, Hauer & Feld LLP  
Philip C. Dublin  
Kenneth A. Davis  
One Bryant Park  
New York, NY 10036

Harbinger Capital Partners, LLC or its affiliates, shall be served on:

Kasowitz, Benson, Torres & Friedman LLP  
David M. Friedman  
Adam L. Shiff  
1633 Broadway  
New York, NY 10019

After the Effective Date, the Wind Down Debtors have authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, they must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Wind Down Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

*F. Term of Injunctions or Stays*

Unless otherwise provided in the Plan, the Confirmation Order, or the Confirmation Recognition Order, all injunctions or stays in effect in the Chapter 11 Cases pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan, the Confirmation Order, or the Confirmation Recognition Order), shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan, the Confirmation Order, or the Confirmation Recognition Order shall remain in full force and effect in accordance with their terms.

*G. Plan Supplement*

All exhibits and documents included in the Plan Supplement are incorporated into, and are a part of, the Plan as if set forth in full in the Plan, and any reference to the Plan shall mean the Plan and the Plan Supplement. Upon its Filing, the Plan Supplement may be inspected in the office of the clerk of the Bankruptcy Court or its designee during normal business hours, at the Bankruptcy Court's website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov), and at the website of the Claims and Solicitation Agent at <http://www.kccllc.net/lightsquared>. The documents contained in the Plan

Supplement are an integral part of the Plan and shall be deemed approved by the Bankruptcy Court pursuant to the Confirmation Order.

*H. Entire Agreement*

Except as otherwise indicated, the Plan and the Plan Supplement supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

*I. Non-severability of Plan Provisions*

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall be deemed to provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (1) valid and enforceable pursuant to its terms, (2) integral to the Plan and may not be deleted or modified without the Debtors' or Wind Down Debtors' (as applicable) consent, and (3) non-severable and mutually dependent.

*J. Votes Solicited in Good Faith*

Upon entry of the Confirmation Order, the Debtors shall be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtors and each of their respective Affiliates, subsidiaries, members, principals, shareholders, officers, directors, employees, representatives, agents, financial advisors, attorneys, accountants, investment bankers, consultants, and other professionals shall be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under the Plan, and, therefore, shall have no liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Securities offered and sold under the Plan.

*K. Waiver or Estoppel*

**Each Holder of a Claim or an Equity Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Equity Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or their counsel or any other Entity, if such agreement was not disclosed in the Plan, the Debtors' Disclosure Statement, or papers Filed with the Bankruptcy Court prior to the Confirmation Date.**

*L. Conflicts*

Except as set forth in the Plan, to the extent that any provision of the Debtors' Disclosure Statement, the Plan Supplement, or any other order (other than the Confirmation Order) referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), conflicts with or is in any way inconsistent with any provision of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or non-document portion of the Plan shall govern and control.

New York, New York  
Dated: August 30, 2013

LightSquared Inc. (for itself and all other Debtors)

/s/ Douglas Smith

Douglas Smith  
Chief Executive Officer, President, and  
Chairman of the Board of LightSquared Inc.