



ENTERED
09/23/2020

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

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In re:	:	Chapter 11
	:	
HI-CRUSH INC., <i>et al.</i> , ¹	:	Case No. 20-33495 (DRJ)
	:	
Debtors.	:	(Jointly Administered)
	:	
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**FINDINGS OF FACT, CONCLUSIONS OF
LAW AND ORDER CONFIRMING THE JOINT
PLAN OF REORGANIZATION FOR HI-CRUSH INC. AND ITS
AFFILIATE DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

The *Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code*, dated August 15, 2020 [Docket No. 289] (as amended, modified or supplemented, the “**Plan**”),² having been filed with the Bankruptcy Court (the “**Court**”) by the above-captioned debtors and debtors-in-possession (each a “**Debtor**” and, collectively, the “**Debtors**”); and the *Disclosure Statement for the Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors under Chapter 11 of the Bankruptcy Code*, dated August 15, 2020 [Docket No. 290] (the “**Disclosure Statement**”) having been filed with this Court; and the Disclosure Statement and the Ballots having been approved, and transmitted to Holders of Claims, pursuant to that certain *Order (I) Approving Adequacy of the Disclosure Statement, (II)*

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Hi-Crush Inc. (0530), OnCore Processing LLC (9403), Hi-Crush Augusta LLC (0668), Hi-Crush Whitehall LLC (5562), PDQ Properties LLC (9169), Hi-Crush Wyeville Operating LLC (5797), D & I Silica, LLC (9957), Hi-Crush Blair LLC (7094), Hi-Crush LMS LLC, Hi-Crush Investments Inc. (6547), Hi-Crush Permian Sand LLC, Hi-Crush Proppants LLC (0770), Hi-Crush PODS LLC, Hi-Crush Canada Inc. (9195), Hi-Crush Holdings LLC, Hi-Crush Services LLC (6206), BulkTracer Holdings LLC (4085), Pronghorn Logistics Holdings, LLC (5223), FB Industries USA Inc. (8208), PropDispatch LLC, Pronghorn Logistics, LLC (4547), and FB Logistics, LLC (8641). The Debtors’ address is 1330 Post Oak Blvd, Suite 600, Houston, Texas 77056.

² All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in the Plan. A copy of the Plan is attached hereto as Exhibit 1.



*Scheduling Hearing on Confirmation of Plan, (III) Establishing Deadline to Object to Plan and Form of Notice Thereof, (IV) Approving (A) Solicitation Procedures, (B) Forms of Ballots, (C) Rights Offering Materials, (V) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Cure Notice, and (VI) Granting Related Relief, entered by this Court on August 14, 2020 [Docket No. 288] (the “**Disclosure Statement Order**”); and the *Notice of Cure Amounts in Connection with Contracts and Leases* [Docket No. 344] (the “**Cure Notice**”) having been filed on September 4, 2020; and the Plan Supplement having been filed on September 11, 2020 [Docket No. 365] (the “**Plan Supplement**”); and the *Declaration of Varouj Bakhshian Regarding the Solicitation and Tabulation of Votes on the Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors* having been filed with this Court on September 21, 2020 [Docket No. 400] (the “**Voting Report**”); and the Debtors having filed their *Memorandum of Law in Support of Confirmation of the Joint Plan of Reorganization For Hi-Crush Inc. And Its Affiliate Debtors Under Chapter 11 of The Bankruptcy Code*, on September 22, 2020 [Docket No. 409] (the “**Confirmation Memorandum**”); and the *Declaration of Ryan Omohundro in Support of Confirmation of the Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code*, having been filed with this Court prior to the Confirmation Hearing [Docket No. 398] (the “**Omohundro Declaration**”); the *Declaration of Ari Lefkovits in Support of Confirmation of the Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code*, having been filed with this Court prior to the Confirmation Hearing [Docket No. 399] (the “**Lefkovits Declaration**”); and the *Declaration of J. Philip McCormick, Jr. in Support of Confirmation of the Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code*, having been filed*

with this Court prior to the Confirmation Hearing [Docket No. 397] (the “**McCormick Declaration**” and together with the Omohundro Declaration and the Lefkovits Declaration, collectively, the “**Confirmation Declarations**”); and the hearing to consider the Confirmation of the Plan having been held before this Court on September 23, 2020 (the “**Confirmation Hearing**”) after due and sufficient notice was given to Holders of Claims against, and Equity Interests in, the Debtors and other parties-in-interest in accordance with the Disclosure Statement Order, title 11 of the United States Code (the “**Bankruptcy Code**”), the Federal Rules of Bankruptcy Procedure (the “**Bankruptcy Rules**”) and the local bankruptcy rules of this Court (the “**Local Rules**”), in each case as established by the affidavits of service, mailing and/or publication filed with this Court prior to the Confirmation Hearing (collectively, the “**Notice Affidavits**”);³ and upon all of the proceedings held before this Court and after full consideration of: (i) each of the objections to the Confirmation of the Plan filed with this Court and not subsequently resolved, withdrawn, settled or deemed moot (the “**Objections**”); (ii) the Plan Supplement; (iii) the Confirmation Memorandum; (iv) the Voting Report; (v) testimony proffered or presented at the Confirmation Hearing; (vi) the declarations and/or affidavits filed with this Court; and (vii) all other evidence proffered or adduced at, memoranda and objections filed in connection with and arguments of counsel made at, the Confirmation Hearing; and after due deliberation thereon; and good cause appearing therefor;

³ The Notice Affidavits are located at Docket Nos. 323 and 324.

IT IS HEREBY FOUND AND DETERMINED THAT:

A. Findings and Conclusions. The determinations, findings, judgments, decrees, orders and conclusions set forth in this order (the “**Confirmation Order**”) and in the record of the Confirmation Hearing constitute this Court’s findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute a conclusion of law, it is adopted as such. To the extent any of the following conclusions of law constitutes a finding of fact, it is adopted as such.

B. Chapter 11 Petition. On July 12, 2020 (the “**Petition Date**”), each of the Debtors filed a voluntary petition for relief under chapter 11 of the Bankruptcy Code with this Court (the “**Chapter 11 Cases**”). By order of this Court, the Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015 [Docket No. 6]. Since the Petition Date, the Debtors have operated their businesses and managed their properties as debtors-in-possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in these Chapter 11 Cases. On August 18, 2020, the United States Trustee (the “**U.S. Trustee**”) informed this Court that it was unable to appoint an official committee of unsecured creditors pursuant to section 1102 of the Bankruptcy Code [Docket No. 300].

C. Exclusive Jurisdiction; Venue; Core Proceeding (28 U.S.C. §§ 157(b)(2) and 1334(a)). This Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334. Venue is proper pursuant to 28 U.S.C. §§ 1408 and 1409 and continues to be proper during these Chapter 11 Cases. The Confirmation of the Plan is a core proceeding under 28 U.S.C.

§ 157(b)(2) upon which this Court may issue a final order, and confirmation of a plan by this Court is a constitutional exercise of the jurisdiction conferred by Congress on this Court. This Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334. This Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

D. Solicitation of Votes. Votes for acceptance or rejection of the Plan were solicited in good faith and in compliance with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018 and all other applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws and regulations. All procedures used to distribute Ballots to the applicable Holders of Claims and to tabulate the Ballots were fair and reasonable and conducted in accordance with the Disclosure Statement Order and the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations.

E. Notice of Confirmation Hearing. The Debtors have given proper and sufficient notice of the Confirmation Hearing as required by Bankruptcy Rule 3017(d). Due, adequate and sufficient notice of the Confirmation Hearing, along with the deadlines for voting on or filing objections to the Plan, has been given to all known Holders of Claims and Equity Interests substantially in accordance with the procedures set forth in the Disclosure Statement Order. The Disclosure Statement, Plan, Ballots, and Disclosure Statement Order were transmitted and served in compliance with the Disclosure Statement Order and the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and

regulations. Such transmittal and service were adequate and sufficient under the circumstances, and no further notice is or shall be required.

F. Burden of Proof. The Debtors, as the proponents of the Plan, have met their burden of proving the satisfaction of the elements of sections 1129(a) and (b) of the Bankruptcy Code by a preponderance of the evidence. Further, each witness who testified on behalf of the Debtors at or in connection with the Confirmation Hearing was credible, reliable and qualified to testify as to the topics addressed in his or her testimony.

G. Plan Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(1)). The Plan complies with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(1) of the Bankruptcy Code, including, without limitation, sections 1122 and 1123 of the Bankruptcy Code.

(1) Proper Classification (11 U.S.C. §§ 1122 & 1123(a)(1)). In addition to Administrative Claims, DIP Facility Claims, and Priority Tax Claims, which need not be classified, the Plan designates eight Classes of Claims and Equity Interests, based on the differences in the legal nature or priority of such Claims and Equity Interests. The Claims and Equity Interests placed in each Class are substantially similar to the other Claims or Equity Interests, as the case may be, in each such Class. Valid business, factual and legal reasons exist for separately classifying the various Classes of Claims and Equity Interests created under the Plan, and such Classes are proper and the creation of such Classes does not unfairly discriminate between or among holders of Claims or Equity Interests. Thus, the Plan satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

(2) Specify Unimpaired Classes (11 U.S.C. § 1123(a)(2)). The Plan specifies that Other Priority Claims (Class 1), Other Secured Claims (Class 2), Secured Tax Claims (Class 3), and Old Affiliate Interests in any Parent Subsidiary (Class 7) are Unimpaired under the Plan, thereby satisfying section 1123(a)(2) of the Bankruptcy Code (collectively, the “**Unimpaired Classes**”).

(3) Specify Treatment of Impaired Classes (11 U.S.C. § 1123(a)(3)). The Plan designates Prepetition Notes Claims (Class 4), General Unsecured Claims (Class 5), Intercompany Claims (Class 6), and Old Parent Interests (Class 8) as Impaired and specifies the treatment of the Claims and the Equity Interests in those Classes, thereby satisfying section 1123(a)(3) of the Bankruptcy Code.

(4) No Discrimination Within Classes (11 U.S.C. § 1123(a)(4)). The Plan provides for the same treatment by the Debtors for each Claim or Equity Interest in each respective Class unless the Holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest, thereby satisfying section 1123(a)(4) of the Bankruptcy Code.

(5) Implementation of Plan (11 U.S.C. § 1123(a)(5)). The Plan and the various documents and agreements set forth in the Plan Supplement provide adequate and proper means for implementation of the Plan, thereby satisfying section 1123(a)(5) of the Bankruptcy Code.

(6) Non-Voting Equity Securities (11 U.S.C. § 1123(a)(6)). The Plan provides that the certificate of incorporation of each of the Reorganized Debtors shall prohibit the issuance of non-voting equity securities to the extent required by section 1123(a)(6) of the Bankruptcy Code, thereby satisfying section 1123(a)(6) of the Bankruptcy Code.

(7) Selection of Directors and Officers (11 U.S.C. §§ 1123(a)(7) and 1129(a)(5)). The members of the boards of directors of the Reorganized Debtors were identified by the Debtors at or prior to the Confirmation Hearing. Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors disclosed, at or prior to the Confirmation Hearing, the identity and affiliations of those Persons proposed to serve on the initial boards of directors or as officers of each of the Reorganized Debtors, and, to the extent such Person is an insider other than by virtue of being a director or an officer, the nature of any compensation for such Person. The directors and officers of the Reorganized Debtors were selected in a manner consistent with the interests of creditors and with public policy, thereby satisfying section 1123(a)(7) of the Bankruptcy Code.

(8) Additional Plan Provisions (11 U.S.C. § 1123(b)). The Plan contains certain provisions that may be construed as permissive, but are not required for Confirmation under the Bankruptcy Code. These discretionary provisions comply with section 1123(b) of the Bankruptcy Code, are appropriate, in the best interests of the Debtors and their Estates and are not inconsistent with the applicable provisions of the Bankruptcy Code, including, without limitation, provisions for (i) the assumption or rejection of executory contracts and unexpired leases; (ii) the Reorganized Debtors' retention of certain Retained Causes of Action that the Debtors had or had power to assert immediately prior to the Effective Date, whether directly or derivatively; and (iii) releases and exculpation of various Persons and Entities.

(9) Identification of Plan (Bankruptcy Rule 3016(a)). The Plan is dated and identifies the entities submitting it, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the Clerk of this Court satisfied Bankruptcy Rule 3016(a).

H. The Debtors' Compliance with Bankruptcy Code (11 U.S.C. § 1129(a)(2)). The Debtors have complied with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1129(a)(2) of the Bankruptcy Code. Specifically:

(1) The Debtors are proper debtors under section 109 of the Bankruptcy Code and proper proponents of the Plan under section 1121(a) of the Bankruptcy Code.

(2) The Debtors have complied with the applicable provisions of the Bankruptcy Code, including, without limitation, sections 1125 and 1126, except as otherwise provided or permitted by orders of this Court.

(3) The Debtors have complied with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and the Disclosure Statement Order in transmitting the Plan, the Disclosure Statement, the Ballots and related documents and notices and in soliciting and tabulating votes on the Plan.

I. Plan Proposed in Good Faith (11 U.S.C. § 1129(a)(3)). The Debtors have proposed the Plan in good faith and it is not by any means forbidden by law, thereby satisfying section 1129(a)(3) of the Bankruptcy Code. In determining that the Plan has been proposed in good faith, this Court has examined the totality of the circumstances surrounding the filing of the Chapter 11 Cases, the Plan itself (and the Plan Supplement) and the formulation and Confirmation of the Plan. The good faith of each of the Debtors, the Prepetition Credit Agreement Agent, the Prepetition Credit Agreement Lenders, the Prepetition Notes Indenture Trustee, and the Consenting Noteholders (and each of their respective Related Persons) is evident from the facts and records of the Chapter 11 Cases, the Disclosure Statement and the hearing thereon, the record of the Confirmation Hearing and other proceedings held in the Chapter 11 Cases. The Debtors, the Prepetition Credit Agreement Agent, the Prepetition Credit Agreement Lenders, the Prepetition Notes Indenture Trustee, and the Consenting Noteholders (and each of their respective Related Persons) have negotiated the Plan (and the Plan Supplement) and participated in the Plan (and Plan Supplement) formulation process at arm's length and in good faith. The Plan itself and the process

leading to its formulation provide independent evidence of good faith of the Debtors, the Prepetition Credit Agreement Agent, the Prepetition Credit Agreement Lenders, the Prepetition Notes Indenture Trustee, and the Consenting Noteholders (and each of their respective Related Persons) that negotiated the Plan, served the public interest, and assured fair treatment of holders of Claims and Equity Interests. Consistent with the overriding purpose of the Bankruptcy Code, the Chapter 11 Cases were filed, and the Plan was proposed, with the legitimate and honest purpose of reorganizing the Debtors and maximizing the value of the Debtors' assets.

J. Payments for Services or Costs and Expenses (11 U.S.C. § 1129(a)(4)). Any payment made or to be made by the Debtors or Reorganized Debtors, as applicable, for services or for costs and expenses in or in connection with the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases requiring approval, has been approved by, or is subject to the approval of, this Court as reasonable, thereby satisfying section 1129(a)(4) of the Bankruptcy Code.

K. Directors, Officers and Insiders (11 U.S.C. § 1129(a)(5)). The Debtors have complied with section 1129(a)(5) of the Bankruptcy Code. The identity and affiliations of the Persons proposed to serve as the initial directors and officers of the Reorganized Debtors after Confirmation of the Plan have been fully disclosed to the extent such information is available. The appointment to, or continuance in, such offices of such persons is consistent with the interests of Holders of Claims against and Equity Interests in the Debtors and with public policy. To the extent available, the identity of any insider that will be employed or retained by the Reorganized Debtors and the nature of such insider's compensation have also been fully disclosed.

L. No Rate Changes (11 U.S.C. § 1129(a)(6)). The Debtors are not subject to any governmental regulatory commission with jurisdiction, after Confirmation of the Plan, over the rates of the Debtors. Thus, section 1129(a)(6) of the Bankruptcy Code is not applicable in the Chapter 11 Cases.

M. Best Interests of Creditors Test (11 U.S.C. § 1129(a)(7)). The Plan satisfies section 1129(a)(7) of the Bankruptcy Code. The liquidation analysis set forth in Exhibit C to the Disclosure Statement and other evidence proffered or adduced at the Confirmation Hearing (a) is reasonable, persuasive, and credible; (b) utilizes reasonable and appropriate methodologies and assumptions; (c) has not been controverted by other evidence; and (d) establishes that each Holder of a Claim or Equity Interest in an Impaired Class either (i) has accepted the Plan or (ii) will receive or retain under the Plan, on account of such Claim or Equity Interest, property of a value, as of the Effective Date of the Plan, that is not less than the amount that it would receive if the Debtors were liquidated under Chapter 7 of the Bankruptcy Code on such date.

N. Acceptance by Certain Classes (11 U.S.C. § 1129(a)(8)). Section 1129(a)(8) of the Bankruptcy Code requires that each class of claims or interests must either accept a plan or be unimpaired under a plan. The Holders of Other Priority Claims (Class 1), Other Secured Claims (Class 2), Secured Tax Claims (Class 3), and Old Affiliate Interests in any Parent Subsidiary (Class 7) are Unimpaired and, thus, under section 1126(f) of the Bankruptcy Code, are conclusively presumed to have accepted the Plan. The Holders of Intercompany Claims (Class 6), though Impaired, are conclusively presumed to have accepted the Plan. The Holders of Prepetition Notes Claims (Class 4) and Holders of General Unsecured Claims (Class 5) have voted to accept the Plan in accordance with section 1126 of the Bankruptcy Code. The Holders of Old Parent Interests

(Class 8) are deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Although section 1129(a)(8) of the Bankruptcy Code is not satisfied with respect to rejecting Class 8, the Plan may nevertheless be confirmed because the Plan satisfies section 1129(b) of the Bankruptcy Code with respect to rejecting Class 8. Article IV.E of the Plan contemplates the non-consensual Confirmation of the Plan.

O. Treatment of Administrative Claims, DIP Facility Claims, and Priority Tax Claims (11 U.S.C. § 1129(a)(9)). The treatment of Allowed Administrative Claims under Article II.A of the Plan and the treatment of DIP Facility Claims under Article II.B of the Plan satisfies the requirements of section 1129(a)(9)(A) and (B) of the Bankruptcy Code, and the treatment of Allowed Priority Tax Claims under Article II.C of the Plan satisfies the requirements of section 1129(a)(9)(C) and 1129(a)(9)(D) of the Bankruptcy Code, thereby satisfying section 1129(a)(9) of the Bankruptcy Code.

P. Acceptance by At Least One Impaired Class of Claims (11 U.S.C. § 1129(a)(10)). The Prepetition Notes Claims (Class 4) and General Unsecured Claims (Class 5) are Impaired Classes of Claims that have voted to accept the Plan in accordance with section 1126(c) of the Bankruptcy Code, determined without including any acceptance of the Plan by “insiders,” thereby satisfying section 1129(a)(10) of the Bankruptcy Code.

Q. Feasibility (11 U.S.C. § 1129(a)(11)). The evidence proffered or adduced at or prior to the Confirmation Hearing, including the financial projections set forth in Exhibit B to the Disclosure Statement, the Confirmation Memorandum, the Confirmation Declarations, and the Voting Report, (i) is reasonable, persuasive, and credible, (ii) utilizes reasonable and appropriate methodologies and assumptions, (iii) has not been controverted by other evidence, and

(iv) establishes that the Plan is feasible and that there is a reasonable prospect of the Reorganized Debtors being able to meet their financial obligations under the Plan with respect to operating their businesses in the ordinary course, and that Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Reorganized Debtors or any successor to the Reorganized Debtors, thereby satisfying the requirements of section 1129(a)(11) of the Bankruptcy Code.

R. Payment of Fees (11 U.S.C. § 1129(a)(12)). All fees payable under 28 U.S.C. § 1930 have been paid or will be paid pursuant to Article XII.B of the Plan, thereby satisfying section 1129(a)(12) of the Bankruptcy Code.

S. No Retiree Benefits (11 U.S.C. § 1129(a)(13)). The Debtors do not have obligations to pay retiree benefits and, therefore, section 1129(a)(13) of the Bankruptcy Code, to the extent such section is applicable to the Debtors, is satisfied.

T. Non-Applicability of Certain Sections (11 U.S.C. §§ 1129(a)(14), (15), and (16)). The Debtors do not owe any domestic support obligations, are not individuals, and are not nonprofit corporations, and thus sections 1129(a)(14), 1129(a)(15) and 1129(a)(16) of the Bankruptcy Code do not apply to the Chapter 11 Cases.

U. No Unfair Discrimination; Fair and Equitable (11 U.S.C. § 1129(b)). The Holders of Old Parent Interests (Class 8) are deemed to have rejected the Plan (the “**Rejecting Class**”). The evidence proffered or adduced at the Confirmation Hearing (i) is reasonable, persuasive, and credible, (ii) utilizes reasonable and appropriate methodologies and assumptions, (iii) has not been controverted by other evidence, and (iv) establishes that the Plan does not discriminate unfairly, and is fair and equitable, with respect to the Rejecting Class, as required by sections 1129(b)(1)

and (b)(2) of the Bankruptcy Code, because no Holder of any interest that is junior to the Claims and Equity Interests represented by the Rejecting Class will receive or retain any property under the Plan on account of such junior interest, and no Holder of a Claim in a Class senior to the Rejecting Class is receiving more than 100% recovery on account of its Claim. Thus, the Plan may be confirmed notwithstanding the rejection of the Plan by the Rejecting Class.

V. Only One Plan (11 U.S.C. § 1129(c)). Other than the Plan, no other plan has been filed for the Debtors in the Chapter 11 Cases, and the Plan thereby satisfies the requirements of section 1129(c) of the Bankruptcy Code.

W. Principal Purpose of Plan (11 U.S.C. § 1129(d)). The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of Section 5 of the Securities Act of 1933 (15 U.S.C. § 77e).

X. Small Business Case (11 U.S.C. § 1129(e)). None of these Chapter 11 Cases is a “small business case,” as that term is defined in the Bankruptcy Code, and, accordingly, section 1129(e) of the Bankruptcy Code is inapplicable.

Y. Good Faith Solicitation (11 U.S.C. § 1125(e)). The evidence proffered or adduced at the Confirmation Hearing (i) is reasonable, persuasive and credible, (ii) utilizes reasonable and appropriate methodologies and assumptions, (iii) has not been controverted by other evidence, (iv) establishes that the Debtors, the Reorganized Debtors and each of their respective Related Persons have, as applicable, (a) solicited acceptances or rejections of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including without limitation, sections 1125 and 1126 of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable non-bankruptcy law, rule or regulation governing the adequacy of disclosure in

connection with such solicitation and (b) participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code and any applicable non-bankruptcy law, rule or regulation in the offer and issuance of any securities under the Plan, and (v) establishes that the Debtors, the Reorganized Debtors and each of their respective Related Persons will, as applicable, continue to act in good faith if they consummate the Plan and the agreements, settlements, transactions and transfers contemplated thereby, and take all other actions authorized by this Confirmation Order. Accordingly, each of the foregoing Persons is entitled to and, pursuant to paragraph 39 of this Confirmation Order, granted the full protections afforded by section 1125(e) of the Bankruptcy Code.

Z. Satisfaction of Confirmation Requirements. Based on the foregoing, all other pleadings, documents, exhibits, statements, declarations, and affidavits filed in connection with Confirmation of the Plan and all evidence and arguments made, proffered or adduced at the Confirmation Hearing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

AA. Implementation of Other Necessary Documents and Agreements. All documents and agreements necessary or advisable to implement or carry out the Plan, the Restructuring Transactions and the other transactions contemplated by the Restructuring Documents (including the Plan Supplement and the Exit Facility Credit Agreement) are essential elements of the Plan and entry into and consummation of the transactions contemplated by each such document and agreement is in the best interests of the Debtors, their Estates and holders of Claims and Equity Interests, and shall be valid, binding and enforceable in accordance with their respective terms and conditions. The Debtors have exercised reasonable business judgment in determining which

documents and agreements to enter into and have provided sufficient and adequate notice of such documents and agreements. The terms and conditions of such documents and agreements have been negotiated in good faith, at arm's length, are fair and reasonable and are reaffirmed and approved. The Debtors and the Reorganized Debtors, as applicable, are authorized, without any further notice to or action, order or approval of this Court, to finalize, execute and deliver all agreements, documents, instruments and certificates relating thereto and perform their obligations thereunder in accordance with the Plan.

BB. Retention of Jurisdiction. Upon the Effective Date, this Court shall retain jurisdiction over the matters arising in, and under, and related to, the Chapter 11 Cases, as set forth in Article XI of the Plan and as contemplated herein.

CC. Classification Takes Into Account Subordination Rights. The classification and manner of satisfying all Claims and Equity Interests under the Plan takes into consideration all contractual, legal and equitable rights, including subordination and turnover rights, whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise, that a Holder of a Claim or Equity Interest may have against other Holders of a Claim or Equity Interest with respect to any distribution made pursuant to the Plan.

DD. Additional Findings Regarding Releases. The releases provided pursuant to Article X.B of the Plan (i) represent a sound exercise of the Debtors' business judgment; (ii) were negotiated in good faith and at arms' length; and (iii) formed an essential part of the agreement among the Persons participating in the negotiation and formulation of the Plan. The releases are in the best interests of the Debtors and, in the case of the Third Party Release, is fully-consensual, as all impaired creditors and interest holders were given an opportunity to "opt out" of such release.

The Released Parties played an integral role in the formulation of the Plan, have made significant contributions that are essential to the Plan's success, and have expended significant time and resources analyzing and negotiating the Plan and the issues presented by the Debtors' prepetition capital structure. With respect to the Debtor Release, such release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the Claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; (v) given and made after due notice and opportunity for hearing; and (vi) a bar to any of the Debtors, the Reorganized Debtors, or the Debtors' Estates asserting any claim or Cause of Action released pursuant to the Debtor Release. With respect to the Third Party Release, such release is: (i) consensual; (ii) essential to the confirmation of the Plan; (iii) in exchange for the good and valuable consideration provided by the Released Parties; (iv) a good faith settlement and compromise of the Claims released by the Third Party Release; (v) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (vi) fair, equitable and reasonable; (vii) given and made after due notice and opportunity for hearing; and (viii) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Third Party Release.

EE. Plan Supplement. The filing and notice of the Plan Supplement, and any modifications or supplements thereto, were proper and in accordance with the Plan, the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice is or shall be required.

NOW THEREFORE, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

1. Confirmation of the Plan. All requirements for Confirmation of the Plan have been satisfied. The Plan is approved and confirmed in its entirety under section 1129 of the Bankruptcy Code. Each of the terms and conditions of the Plan and the exhibits and schedules thereto, including, without limitation, the Plan Supplement, are an integral part of the Plan. The Plan complies with all applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules. The Plan is deemed accepted by all creditors who have previously accepted the Plan and such acceptances cannot be withdrawn.

2. Objections. All Objections to Confirmation of the Plan that have not been resolved, withdrawn, waived, or settled and all reservations of rights included therein, are overruled on the merits and for the reasons set forth on the record at the Confirmation Hearing, and all withdrawn objections are deemed withdrawn with prejudice. Notwithstanding the foregoing, the rights and objections of any party that properly Filed and served an objection to its applicable Cure Claim Amount (or that is otherwise identified on Exhibit A and Exhibit B to the Confirmation Memorandum) are reserved with respect to such Cure Claim Amount, and such Cure Claim Amount dispute shall be treated in accordance with paragraph 22(b) of this Confirmation Order.

3. Provisions of Plan Nonseverable and Mutually Dependent. The provisions of the Plan are (i) non-severable and mutually dependent; (ii) valid and enforceable pursuant to their terms; and (iii) integral to the Plan, and may not be deleted or modified except in accordance with Article XII.D of the Plan.

4. Plan Classification Controlling. The classification of Claims and Equity Interests for purposes of the distributions to be made under the Plan shall be governed solely by the terms of the Plan. The classifications set forth on the Ballots tendered to or returned by the Debtors' creditors in connection with voting on the Plan (i) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan, (ii) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims or Equity Interests under the Plan for distribution purposes, (iii) may not be relied upon by any creditor or interest holder as representing the actual classification of such Claims or Equity Interests under the Plan for distribution or any other purpose (other than for evidencing the vote of such party on the Plan), and (iv) shall not be binding on the Debtors, the Reorganized Debtors or holders of Claims or Equity Interests for purposes other than voting on the Plan.

5. Distributions are Fair. The distribution of Cash and applicable Plan Securities and Documents to the Holders of Allowed Claims are fair and for reasonably equivalent value.

6. Binding Effect. Pursuant to section 1141 of the Bankruptcy Code and the other applicable provisions of the Bankruptcy Code, effective as of the Effective Date and without limiting or altering Article X.H of the Plan, the provisions of the Plan (including the exhibits and schedules to, and all documents and agreements executed pursuant to or in connection with, the Plan) and this Confirmation Order shall be binding on (i) the Debtors and the Reorganized Debtors, (ii) all Holders of Claims against and Equity Interests in the Debtors, whether or not Impaired under the Plan and whether or not such Holders have accepted or rejected the Plan or affirmatively voted to reject the Plan, (iii) each Person or Entity receiving, retaining or otherwise acquiring

property under the Plan, and (iv) any non-Debtor party to an Executory Contract or Unexpired Lease with the Debtors.

7. Corporate Existence. Subject to the Restructuring Transactions permitted by paragraph 15 of this Confirmation Order, after the Effective Date, the Reorganized Debtors shall continue to exist as separate legal entities in accordance with the applicable law in the respective jurisdiction in which they are incorporated or formed and pursuant to their respective certificates or articles of incorporation and by-laws, or other applicable organizational documents, in effect immediately prior to the Effective Date, except to the extent such certificates or articles of incorporation and by-laws, or other applicable organizational documents, are amended, restated or otherwise modified under the Plan, and to the extent that such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state, provincial, or federal law). Notwithstanding anything to the contrary herein, the Claims against a particular Debtor or Reorganized Debtor shall remain the obligations solely of such Debtor or Reorganized Debtor and shall not become obligations of any other Debtor or Reorganized Debtor solely by virtue of the Plan or the Chapter 11 Cases.

8. Vesting of Assets in the Reorganized Debtors Free and Clear of Liens and Claims. Except as otherwise expressly provided in the Plan, this Confirmation Order, or any Restructuring Document, pursuant to sections 1123(a)(5), 1123(b)(3), 1141(b) and (c) and other applicable provisions of the Bankruptcy Code, on and after the Effective Date, all property and assets of the Estates of the Debtors, including all claims, rights, and Retained Causes of Action of the Debtors, and any other assets or property acquired by the Debtors or the Reorganized Debtors during the

Chapter 11 Cases or under or in connection with the Plan (other than the Claims or Causes of Action subject to the Debtor Release, any rejected Executory Contracts and/or Unexpired Leases and the Carve-Out Reserve (subject to the Reorganized Debtors' reversionary interest in the Unused Carve-Out Reserve Amount as set forth in Article V.R of the Plan)), shall vest in the Reorganized Debtors free and clear of all Claims, Liens, charges, and other encumbrances, subject to the Restructuring Transactions and Liens which survive the occurrence of the Effective Date as described in Article III of the Plan (including, without limitation, Liens that secure the Exit Facility Loans and the New Secured Convertible Notes and all other obligations of the Reorganized Debtors under the Exit Facility Loan Documents and the New Secured Convertible Notes Documents). On and after the Effective Date, the Reorganized Debtors may (i) operate their respective businesses, (ii) use, acquire, and dispose of their respective property and (iii) compromise or settle any Claims, in each case without notice to, supervision of or approval by this Court and free and clear of any restrictions of the Bankruptcy Code, the Bankruptcy Rules, or the Local Rules, other than restrictions expressly imposed by the Plan, the Exit Facility Loan Documents, the New Secured Convertible Notes Documents, or this Confirmation Order.

9. Exit Facility Loan Documents; New Secured Convertible Notes Documents.

(a) On the Effective Date, the Debtors and the Reorganized Debtors, as applicable, shall be authorized to execute and deliver, and to consummate the transactions contemplated by, the Exit Facility Loan Documents and the New Secured Convertible Notes Documents, in each case in form and substance acceptable to the Required Consenting Noteholders and without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity (other than as expressly required by the Exit Facility Loan Documents and the New Secured Convertible Notes Documents). On the Effective Date, the Exit Facility Loan Documents and the New Secured Convertible Notes Documents shall constitute legal, valid, binding and authorized indebtedness and obligations of the Reorganized Debtors, enforceable in accordance with their respective terms and such indebtedness and obligations shall not be, and shall not be deemed to be, enjoined or subject to discharge, impairment, release or avoidance under the Plan, this Confirmation Order or on account of the Confirmation or Consummation of the Plan.

(b) On the Effective Date, the Exit Facility Loans and the New Secured Convertible Notes shall be secured by liens and security interests to be granted in accordance with the Exit Facility Loan Documents and New Secured Convertible Notes Documents, as applicable. Such liens and security interests (i) shall be valid, legal, binding, and enforceable liens on, and security interests in, the collateral granted in accordance with the Exit Facility Loan Documents and New Secured Convertible Notes Documents, (ii) shall be deemed automatically attached and perfected on the Effective Date, subject only to such liens and security interests as may be permitted under the Exit Facility Loan Documents and New Secured Convertible Notes Documents, and (iii) shall

not be subject to avoidance, recharacterization, or subordination (including equitable subordination) for any purposes whatsoever and shall not constitute preferential transfers, fraudulent conveyances, or other voidable transfers under the Bankruptcy Code or any applicable non-bankruptcy law.

(c) The Reorganized Debtors and the entities granted such liens and security interests are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish, attach, and perfect such liens and security interests under the provisions of the applicable state, provincial, federal, or other law (whether domestic or foreign) that would be applicable in the absence of the Plan and this Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of this Confirmation Order and the occurrence of the Effective Date, and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such liens and security interests to third parties. To the extent that any Holder of a Secured Claim that has been satisfied or discharged in full pursuant to the Plan, or any agent for such Holder, has filed or recorded publicly any liens and/or security interests to secure such Holder's Secured Claim, then as soon as practicable on or after the Effective Date, such Holder (or the agent for such Holder) shall take any and all steps reasonably requested by the Debtors, the Reorganized Debtors, the Exit Facility Agent, or the New Secured Convertible Notes Indenture Trustee that are necessary to release and/or extinguish such liens and security interests.

10. Rights Offering; Put Option Notes. The Debtors are hereby authorized to consummate the Rights Offering on the terms and subject to the conditions set forth in the Rights

Offering Procedures, the Backstop Purchase Agreement, the Backstop Order, and the Disclosure Statement Order. The proceeds received by the Debtors under the Rights Offering from the Rights Offering Participants and the Backstop Parties pursuant to the Backstop Purchase Agreement shall be utilized to, among other things, (i) satisfy the Allowed DIP Term Loan Facility Claims, (ii) satisfy out-of-pocket costs and expenses incurred by the Debtors in connection with the Chapter 11 Cases, (iii) if necessary, to cash collateralize letter of credit obligations that become outstanding under the Exit Facility Loan Documents, and (iv) for working capital and other general corporate purposes of the Reorganized Debtors after the Effective Date. As consideration for the Debtors' right to call on the Backstop Parties' Backstop Commitments and consistent with the Backstop Order, the Reorganized Debtors shall issue the Put Option Notes on the Effective Date to the Backstop Parties under and as set forth in the Backstop Purchase Agreement.

11. New Equity Interests.

(a) On the Effective Date, subject to the terms and conditions of the Restructuring Transactions, Reorganized Parent shall issue the New Equity Interests pursuant to the Plan and the Amended/New Organizational Documents. Except as otherwise expressly provided in the Restructuring Documents, the Reorganized Parent shall not be obligated to register the New Equity Interests under the Securities Act or to list the New Equity Interests for public trading on any securities exchange.

(b) Distributions of the New Equity Interests may be made by delivery or book-entry transfer thereof by the applicable Distribution Agent in accordance with the Plan and the Amended/New Organizational Documents. Upon the Effective Date, after giving effect to the transactions contemplated by the Plan and this Confirmation Order, the authorized capital stock or

other equity securities of Reorganized Parent shall be that number of shares of New Equity Interests as may be designated in the Amended/New Organizational Documents.

12. New Stockholders Agreement; Amended/New Organizational Documents.

(a) Subject to the Restructuring Transactions permitted by Article V.A of the Plan, on the Effective Date, Reorganized Parent shall enter into the New Stockholders Agreement, which shall become effective and binding in accordance with its terms and conditions upon the parties thereto, in each case without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity (other than as expressly required by the New Stockholders Agreement).

(b) On and as of the Effective Date, all of the Holders of New Equity Interests shall be bound by the terms and conditions of the Amended/New Organizational Documents and deemed to be parties to the New Stockholders Agreement, without the need for execution by such Holder. The New Stockholders Agreement and Amended/New Organizational Documents shall be binding on all Persons or Entities receiving, and all Holders of, the New Equity Interests (and their respective successors and assigns), whether such New Equity Interest is received or to be received on or after the Effective Date and regardless of whether such Person or Entity executes or delivers a signature page to the New Stockholders Agreement.

13. New Management Incentive Plan. After the Effective Date, the New Board shall adopt and implement the New Management Incentive Plan pursuant to which New Equity Interests (or restricted stock units, options, or other instruments (including “profits interests” in the Reorganized Parent), or some combination of the foregoing) representing up to ten percent (10%) of the New Equity Interests issued as of the Effective Date on a fully diluted basis may be reserved

for grants to be made from time to time to the directors, officers, and other management of the Reorganized Parent, subject to the terms and conditions set forth in the New Management Incentive Plan. The details and allocation of the New Management Incentive Plan and the underlying awards thereunder shall be determined by the New Board. For the avoidance of doubt, the New Management Incentive Plan Equity shall dilute all of the New Equity Interests equally, including the New Equity Interests issued upon conversion of the New Secured Convertible Notes after the Effective Date.

14. Release of Liens and Claims. To the fullest extent provided under section 1141(c) and other applicable provisions of the Bankruptcy Code, except as otherwise provided in this Confirmation Order or the Plan (including, without limitation, Article V.D of the Plan) or in any contract, instrument, release or other agreement or document entered into or delivered in connection with the Plan (including the Exit Facility Loan Documents and the New Secure Convertible Notes Documents), on the Effective Date and concurrently with the applicable distributions made pursuant to Article VII of the Plan, all Liens, Claims, mortgages, deeds of trust, or other security interests against the assets or property of the Debtors or the Estates shall be fully released, canceled, terminated, extinguished and discharged, in each case without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity. This release, termination, extinguishment, and discharge is necessary to implement the Plan and is appropriate, fair, equitable, and reasonable and in the best interest of the Debtors and their Estates. The filing of this Confirmation Order with any federal, state, or local agency or department shall constitute good and sufficient evidence of, but shall not be required to effect, the termination of such Liens, Claims

and other interests to the extent provided in the immediately preceding sentence. Any Person or Entity holding such Liens, Claims or interests shall, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Reorganized Debtors such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Reorganized Debtors.

15. Restructuring Transactions. On the Effective Date, the applicable Debtors or Reorganized Debtors are authorized to consummate the Restructuring Transactions described in Article V.B of the Plan, subject to the terms and conditions set forth therein, in this Confirmation Order and in the Restructuring Documents.

16. Distributions Exempt from Securities Laws.

(a) On and after the Effective Date, the Debtors and the Reorganized Debtors, as applicable, are authorized to and shall provide or issue, as applicable, the Plan Securities and Documents, in each case in form and substance acceptable to the Required Consenting Noteholders, and without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity.

(b) The offer, distribution and issuance, as applicable, of the Plan Securities and Documents under the Plan shall be exempt from registration and prospectus delivery requirements under applicable securities laws (including Section 5 of the Securities Act or any similar state or local law requiring the registration and/or delivery of a prospectus for offer or sale of a security or registration or licensing of an issuer of a security) pursuant to section 1145(a) of the Bankruptcy Code, Section 4(a)(2) of the Securities Act and/or other applicable exemptions. An

offering of Plan Securities provided in reliance on the exemption from registration under the Securities Act pursuant to section 1145(a) of the Bankruptcy Code may be sold without registration to the extent permitted under section 1145 of the Bankruptcy Code and is deemed to be a public offering, and such Plan Securities may be resold without registration to the extent permitted under section 1145 of the Bankruptcy Code. Any Plan Securities and Documents provided in reliance on the exemption from registration under the Securities Act provided by Section 4(a)(2) of such act will be provided in a private placement.

(c) All Plan Securities issued to Holders of Allowed Claims on account of their respective Claims shall be issued without registration under the Securities Act or any similar federal, state, or local law in reliance on Section 1145(a) of the Bankruptcy Code. All Plan Securities issued (a) to Holders of Allowed Claims as Rights Offering Participants in the Rights Offering upon exercise of their respective Subscription Rights or upon subsequent conversion of their New Secured Convertible Notes into New Equity Interests, or (b) to the Backstop Parties pursuant to the Backstop Purchase Agreement (i) in satisfaction of their obligations to purchase any Unsubscribed Notes or (ii) in connection with the Put Option Notes, in each case, including upon any subsequent conversion of such New Secured Convertible Notes into New Equity Interests, shall be issued without registration under the Securities Act or any similar federal, state, or local law in reliance on Section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder.

17. Discharge of the Debtors.

(a) To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by the Plan or this Confirmation Order, effective as of the Effective Date, all consideration distributed under the Plan shall be in exchange for, and in complete satisfaction, discharge, and release of, all Claims,

Equity Interests and Causes of Action of any kind or nature whatsoever against the Debtors or any of their respective assets or properties, including any interest accrued on such Claims or Equity Interests from and after the Petition Date, and regardless of whether any property shall have been abandoned by order of this Court, distributed or retained pursuant to the Plan on account of such Claims, Equity Interests or Causes of Action.

(b) Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date, the Debtors and their Estates shall be deemed discharged and released under and to the fullest extent provided under sections 524 and 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, but excluding for the avoidance of doubt any obligations arising under the Exit Facility Loan Documents and the New Secured Convertible Notes Documents. Such discharge shall void any judgment obtained against the Debtors or the Reorganized Debtors at any time, to the extent that such judgment relates to a discharged Claim.

(c) Except as otherwise expressly provided by the Plan or this Confirmation Order, upon the Effective Date: (i) the rights afforded by the Plan and the treatment of all Claims and Equity Interests shall be in exchange for and in complete satisfaction, discharge, and release of all Claims and Equity Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtors or any of their respective assets, property, or Estates; (ii) all Claims and Equity Interests shall be satisfied, discharged, and released in full, and each of the Debtor's liability with respect thereto shall be extinguished completely

without further notice or action; and (iii) all Entities shall be precluded from asserting against the Debtors, the Estates, the Reorganized Debtors, each of their respective successors and assigns, and each of their respective assets and properties, any such Claims or Equity Interests, whether based upon any documents, instruments or any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date or otherwise.

18. Releases and Exculpation. The releases and exculpation provisions contained in the Plan, including, but not limited to, those provided in Article X of the Plan, are hereby authorized, approved and binding on all Persons and Entities described therein.

19. Injunctions. The injunctions contained in the Plan, including, but not limited to, those provided in Article X.G of the Plan, are hereby authorized, approved and binding on all Persons and Entities described therein. Except as otherwise expressly provided in the Plan or this Confirmation Order, from and after the Effective Date, all Persons and Entities are, to the fullest extent provided under section 524 and other applicable provisions of the Bankruptcy Code, permanently enjoined from (i) commencing or continuing, in any manner or in any place, any suit, action or other proceeding, (ii) enforcing, attaching, collecting, or recovering in any manner any judgment, award, decree, or order, (iii) creating, perfecting, or enforcing any Lien or encumbrance, (iv) asserting a setoff (except to the extent such setoff was exercised prior to the Petition Date) (or right of subrogation of any kind, or (v) commencing or continuing in any manner any action or other proceeding of any kind, in each case on account of or with respect to any Claim, demand, liability, obligation, debt, right, Cause of Action, Equity Interest, or remedy released or to be released, exculpated or to be exculpated, settled or to be settled or discharged or to be discharged pursuant to the Plan or this Confirmation Order against any Person or Entity so released,

discharged, or exculpated (or the property or estate of any Person or Entity so released, discharged, or exculpated). All injunctions or stays provided for in the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

20. D&O Insurance & Indemnity. The terms and provisions of the Plan set forth in Article VI.E (D&O Liability Insurance Policies) and Article VI.F (Indemnification Provisions) are hereby approved in full. The Debtors are further authorized to take such actions, and to execute and deliver such documents, as may be reasonably necessary or appropriate to implement, maintain, cause the inception or binding of, satisfy any terms or conditions of, or otherwise secure for the insureds the benefits of any “tail”, “runoff” or extended reporting period coverage in relation to any such D&O Liability Insurance Policies, without further notice to or order of this Court or approval or consent of any Person or Entity.

21. Contracts and Leases Generally.

(a) The Debtors have exercised reasonable business judgment in determining whether to assume or reject each of the Executory Contracts and Unexpired Leases as set forth within the Plan, the Plan Supplement, this Confirmation Order or otherwise. All Executory Contracts and Unexpired Leases of the Debtors are hereby assumed by the Debtors in accordance with, and subject to, the provisions and requirements of, sections 365(a) and 1123(b)(2) of the Bankruptcy Code, except for those Executory Contracts and Unexpired Leases that (i) have been assumed or rejected by the Debtors by prior order of this Court; (ii) are the subject of a motion to reject filed by the Debtors pending on the Effective Date; (iii) are identified in the Schedule of Rejected Executory Contracts and Unexpired Leases, which may be amended by the Debtors to

add or remove Executory Contracts and Unexpired Leases by filing with this Court an amended Schedule of Rejected Executory Contracts and Unexpired Leases and serving it on the affected non-Debtor contract parties prior to the Effective Date; or (iv) are rejected by the Debtors pursuant to the terms of the Plan (subject to such exclusions, collectively, the “**Assumed Contracts**”).

(b) The Debtors have provided sufficient notice to each non-Debtor counter-party to the Executory Contracts and Unexpired Leases of the assumptions or rejections described in the Plan or the Plan Supplement. The Debtors have also provided adequate assurances of future performance, as that term is used in section 365 of the Bankruptcy Code, with respect to the assumption of any Executory Contract or Unexpired Lease that is to be assumed pursuant to the Plan.

(c) To the extent any provision in any Executory Contract or Unexpired Lease assumed or assumed and assigned (as applicable) pursuant to the Plan or any prior order of this Court (including, without limitation, any “change in control” provision, “change of control” provision, or provision with words of similar import) prohibits, restricts or conditions, or purports to prohibit, restrict or condition, or is modified, breached or terminated, or deemed modified, breached or terminated by, (i) the commencement of these Chapter 11 Cases or the insolvency or financial condition of any Debtor at any time before the closing of its respective Chapter 11 Case, (ii) any Debtor’s or any Reorganized Debtor’s assumption or assumption and assignment (as applicable) of such Executory Contract or Unexpired Lease or (iii) the Confirmation or Consummation of the Plan, then such provision shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-debtor party thereto to modify or terminate such Executory Contract or Unexpired Lease or to exercise any other default-related

rights or remedies with respect thereto, and any required consent under any such contract or lease shall be deemed satisfied by the Confirmation of the Plan. The inclusion or exclusion of a contract or lease on any schedule or exhibit shall not constitute an admission by any Debtor that such contract or lease is an Executory Contract or Unexpired Lease or that any Debtor has any liability thereunder.

(d) Each Executory Contract and Unexpired Lease assumed and/or assigned pursuant to the Plan shall revest in and be fully enforceable by the applicable Reorganized Debtor or the applicable assignee in accordance with its terms and conditions, except as modified by the provisions of the Plan, any order of this Court approving its assumption and/or assignment, or applicable law.

22. Approval of Assumption of Assumed Contracts.

(a) Court Approval. The Debtors' assumption of the Assumed Contracts that (i) are identified by the Debtors (with the consent of the Required Consenting Noteholders) for assumption in the Plan Supplement, which may be amended by the Debtors (with the consent of the Required Consenting Noteholders) to add or remove Executory Contracts and Unexpired Leases prior to the Effective Date, provided that notice of the same is provided to the counterparties, or (ii) are assumed by the Debtors pursuant to the terms of the Plan is hereby approved pursuant to sections 365(a) and 1123 of the Bankruptcy Code. The Assumed Contracts shall remain in full force and effect in accordance with their respective terms and conditions for the benefit of the Reorganized Debtors, notwithstanding any provision in such Assumed Contract (including, without limitation, those described in sections 365(b), (c), (e) and (f) of the Bankruptcy Code) or under applicable non-bankruptcy law that purports to (i) terminate, modify, or restrict, or

permit the applicable non-Debtor party to terminate, modify or restrict, such contract or lease or the Debtors' rights, benefits and privileges thereunder; or (ii) create or impose, or permit the applicable non-Debtor party to create or impose, any additional duties, obligations, penalties, default rates of interest or payments (monetary and non-monetary) upon any Debtor or Reorganized Debtor, in each case as a result of or in connection with (a) the filing of a petition for relief under Chapter 11 of the Bankruptcy Code by the Debtors; (b) the Debtors' insolvency or financial condition at any time before the Chapter 11 Cases are closed; or (c) the Confirmation or Consummation of the Plan.

(b) Cure Disputes. Any counterparty to an Assumed Contract that failed to object timely to the proposed assumption, proposed assumption and assignment, or cure amount is hereby deemed to have consented to such matters and is deemed to have forever released and waived any objection to the proposed assumption, proposed assumption and assignment, and cure amount. The amounts, if any, due by the Debtors pursuant to each Assumed Contract that are required to be paid as cure under section 365 of the Bankruptcy Code shall be satisfied by payment of such amount in Cash on the Effective Date, or as soon thereafter as is practicable, or on such other terms as the parties to such Assumed Contract may otherwise agree in writing. In the event of a dispute regarding the amount and timing of any cure payments, the Debtors and applicable non-Debtor parties shall promptly confer after the Effective Date to attempt to resolve any such dispute consensually without further order of this Court. In the event such dispute cannot be resolved consensually by the applicable parties, then the Reorganized Debtors shall, within thirty (30) days after the Effective Date, file a notice of dispute with this Court (and promptly serve such notice on the applicable counter-party) and such dispute shall be set for a status conference at the

next scheduled omnibus hearing in these Chapter 11 Cases, with subsequent evidentiary hearings to be established by this Court as and if necessary. The payments, if any, or other actions, if any, that this Court determines the Debtors are required to pay or otherwise perform to assume the applicable Assumed Contract pursuant to section 365(b)(1) of the Bankruptcy Code shall be promptly paid or undertaken as required by Final Order resolving the applicable dispute. If an objection to the proposed cure amount is sustained by Final Order of this Court, the Debtors or Reorganized Debtors, as applicable, in their sole option, may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming or assigning it by filing written notice thereof with this Court, and serving such notice on the applicable counter-party, within ten (10) days of the entry of such Final Order.

(c) Full Release and Satisfaction of Claims. Subject to any cure claims Filed with respect thereto, assumption or assumption and assignment of any Assumed Contract pursuant to the Plan 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 Contract at any time prior to the effective date of assumption or assumption and assignment, in each case as provided in section 365 of the Bankruptcy Code.

23. Approval of Rejection of Rejected Contracts. All of the executory contracts and unexpired leases identified in the Schedule of Rejected Executory Contracts and Unexpired Leases (collectively, the “**Rejected Contracts**”) are rejected by the applicable Debtors, and such rejection is hereby approved by this Court pursuant to sections 365(a) and 1123 of the Bankruptcy Code, with such rejection effective as of, and subject to the occurrence of, the Effective Date (the

“Rejection Date”). Rejection of any Rejected Contract pursuant to the Plan or otherwise shall not constitute a termination of any preexisting obligations owed to the Debtors or the Reorganized Debtors, as applicable, under such Rejected Contract. All Proofs of Claim with respect to Claims arising from or in connection with the rejection of the Rejected Contracts, if any, must be filed with this Court within thirty (30) days after service of the Notice of Effective Date in the form annexed as Exhibit 2 hereto or of a separate order of this Court approving such rejection, whichever occurs earlier (such Claims, the **“Rejection Claims”**). Any and all Rejection Claims not filed within such time will, without any further notice to or action of any Person, be forever barred from assertion against the Debtors or Reorganized Debtors, their Estates, or property, unless otherwise ordered by this Court or provided for in the Plan. All Rejection Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in the Plan and this Confirmation Order.

24. Corporate Action

(a) Each of the Debtors and the Reorganized Debtors may take any and all actions to 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 and implement the provisions of the Plan, including, without limitation, the issuance and the distribution of the securities to be issued pursuant thereto, in each case in form and substance acceptable to the Required Consenting Noteholders, and without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the unit holders, interest holders, security holders, officers or directors of the Debtors or the Reorganized Debtors or by any other Person or

Entity (except for those expressly required pursuant to the Plan, this Confirmation Order, or the Restructuring Documents).

(b) Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to the Plan that would otherwise require approval of the stockholders, directors, officers, managers, members or partners of the Debtors (as of prior to the Effective Date) shall be deemed to have been so approved and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, directors, officers, managers, members or partners of the Debtors or the Reorganized Debtors, or the need for any approvals, authorizations, actions or consents of any Person or Entity.

(c) As of the Effective Date, all matters provided for in the Plan involving the legal or corporate structure of the Debtors or the Reorganized Debtors (including, without limitation, the adoption of the Amended/New Organization Documents and similar constituent and organizational documents, and the selection of managers, directors, managing members, and/or officers for, each of the Reorganized Debtors), and any legal or corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan, shall be deemed to have occurred and shall be in full force and effect in all respects, in each case without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the stockholders, directors, officers, managers, members or partners of the Debtors or the Reorganized Debtors or by any other Person or Entity.

(d) On and after the Effective Date, the appropriate officers of the Debtors and the Reorganized Debtors are authorized to issue, execute, deliver, consummate, and take all such

actions as may be necessary or appropriate to effectuate and implement, the transactions contemplated by, the contracts, agreements, documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in the Plan in the name of and on behalf of the Debtors and the Reorganized Debtors, in each case in form and substance acceptable to the Required Consenting Noteholders, and without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person or Entity. The secretary and any assistant secretary of the Debtors and the Reorganized Debtors shall be authorized to certify or attest to any of the foregoing actions.

25. Authority to Act. Each Debtor and Reorganized Debtor and their respective officers and directors, are authorized and empowered pursuant to Section 303 of the Delaware General Corporation Law and other applicable corporation, limited liability company and limited partnership laws, to take any and all actions necessary or desirable to implement the transactions contemplated by the Plan and this Confirmation Order, in each case without any requirement of further vote, consent, approval, authorization or other action by the stockholders, security holders, officers, directors, partners, managers, members or other applicable owners or notice to, order of, or hearing before this Court. Each federal, state, and local (domestic or foreign) governmental agency or department is hereby authorized and directed to accept any and all documents and instruments necessary and appropriate to consummate the Plan and the transactions contemplated thereby.

26. Exemption From Transfer Taxes. Pursuant to and to the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any issuance, transfer, or exchange of a security, or the

making or delivery of an instrument of transfer of property, pursuant to or in connection with the Plan, this Confirmation Order, or the Restructuring Documents (including the Exit Facility Loan Documents and the New Secured Convertible Notes Documents) shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States or by any other Governmental Unit, and this Court hereby directs the appropriate federal, state or local (domestic or foreign) governmental officials or agents to forgo the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents evidencing such action or event without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to evidence and implement the provisions of, transactions contemplated by and the distributions to be made under the Plan, this Confirmation Order, or the Restructuring Documents, (ii) the issuance and distribution of the New Equity Interests or Plan Securities and Documents, and (iii) the attachment, perfection, maintenance, or creation of security interests or any Lien as contemplated by the Plan or the Restructuring Documents (including the Exit Facility Loan Documents and the New Secured Convertible Notes Documents).

27. Bar Date for Administrative Claims. Except as otherwise provided herein, in the Plan, or under section 503(b)(1)(D) of the Bankruptcy Code, or unless previously Filed or paid, requests for payment of Administrative Claims must be Filed with this Court and served on the Reorganized Debtors pursuant to the procedures specified in this Confirmation Order and in the notice of the occurrence of the Effective Date, substantially in the form attached hereto as Exhibit 2 (the “**Notice of Effective Date**”) (as applicable) by no later than the Business Day which is thirty

(30) days after the Effective Date (the “**Administrative Claims Bar Date**”); provided that the foregoing shall not apply to either the Holders of Claims arising under section 503(b)(1)(D) of the Bankruptcy Code or 28 U.S.C. § 1930 to either this Court or the United States Trustee. 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, the Reorganized Debtors and their respective Estates and property and such Administrative Claims shall be deemed discharged as of the Effective Date without further notice to or action, order, or approval of this Court. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Article X.G of the Plan and this Confirmation Order. Nothing in this Confirmation Order or Article II.A of the Plan shall limit, alter, or impair the terms and conditions of the Claims Bar Date Order with respect to the Claims Bar Date for filing administrative expense claims arising under Section 503(b)(9) of the Bankruptcy Code. Any objections to such requests for payment of Administrative Claims must be Filed with this Court and served on the Reorganized Debtors and the requesting party by the later of (a) 120 days after the Effective Date and (b) 60 days after the Filing of the applicable request for payment of Administrative Claims, if applicable, as the same may be modified or extended from time to time by Final Order of this Court.

28. Professional Fee Claims.

(a) Professional Fees Bar Date. The Professionals or other Entities asserting a Professional Fee Claim for services rendered before the Effective Date must File with this Court and serve on the Reorganized Debtors and such other Entities designed by this Confirmation Order

an application for final allowance of such Professional Fee Claim (each a “**Final Fee Application**”) by no later than the Business Day that is forty-five (45) days after the Effective Date, or such other date as approved by order of this Court (the “**Professional Fees Bar Date**”); provided, however, that, subject to Article XII.R of the Plan, the Reorganized Debtors shall pay Professionals in the ordinary course of business for any work performed on and after the Effective Date, including those fees and expenses incurred by Professionals in connection with the implementation and consummation of the Plan, in each case without further application or notice to, hearing before or order of this Court; provided, further, that any professional who may receive compensation or reimbursement of expenses pursuant to that certain *Order Authorizing Debtors to Retain and Compensate Professionals Used in the Ordinary Course of Business* [Docket No. 306] (the “**Ordinary Course Professionals Order**”) may continue to receive such compensation and reimbursement of expenses from the Debtors and Reorganized Debtors for services rendered before the Effective Date, without further Court order, pursuant to the Ordinary Course Professionals Order. Each Holder of an Allowed Professional Fee Claim shall be paid in full in Cash by the Reorganized Debtors, including from the Carve-Out Reserve, within five (5) Business Days after entry of the order approving such Allowed Professional Fee Claim. The Reorganized Debtors shall not commingle any funds contained in the Carve-Out Reserve and shall use such funds to pay only the Professional Fee Claims, as and when allowed by order of this Court. Notwithstanding anything to the contrary contained in the Plan, the failure of the Carve-Out Reserve to satisfy in full the Professional Fee Claims shall not, in any way, operate or be construed as a cap or limitation on the amount of Professional Fee Claims due and payable by the Reorganized Debtors.

(b) Service of Final Fee Applications. All Final Fee Applications of Professionals shall be filed with this Court and actually served on or prior to the Professional Fees Bar Date upon the following parties (collectively, the “**Notice Parties**”): (i) Hi-Crush Inc., 1330 Post Oak Blvd., Suite 600, Houston, Texas 77056 (Attn: Mark C. Skolos (email: mskolos@hicrush.com)); (ii) Latham & Watkins LLP, 885 Third Avenue, New York, New York 10022 (Attn: Keith A. Simon, Esq. and Annemarie V. Reilly, Esq., (emails: keith.simon@lw.com and annemarie.reilly@lw.com)); (iii) Hunton Andrews Kurth LLP, 600 Travis Street, Suite 4200, Houston, Texas, 77002 (Attn: Timothy A. Davison II, Esq. and Ashley L. Harper, Esq. (TadDavidson@HuntonAK.com and AshleyHarper@HuntonAK.com)); (iv) Simpson, Thacher & Bartlett LLP, 425 Lexington Avenue, New York, NY 10017 (Attn: Elisha Graff, Esq. and Daniel L. Biller, Esq. (emails: egraff@stblaw.com and daniel.biller@stblaw.com)); (v) Paul, Weiss, Rifkind, Wharton & Garrison, LLP, 1285 Avenue of the Americas, New York, NY 10019 (Attn: Brian S. Hermann, Esq. and Elizabeth R. McColm, Esq. (emails: bhermann@paulweiss.com and emccolm@paulweiss.com)); (vi) Porter Hedges LLP, 1000 Main St., 36th Floor, Houston, TX 77002 (Attn: John F. Higgins, Esq. (email: JHiggins@porterhedges.com)), and (vii) the Office of the U.S. Trustee, 515 Rusk Street, Suite 3516, Houston, TX 77002 (Attn: Stephen Statham, Esq. and Hector Duran, Esq. (emails: stephen.statham@usdoj.gov and hector.duran.jr@usdoj.gov)).

(c) Objections to and Hearing to Approve Final Fee Applications. Any objection to any Final Fee Application must be Filed with this Court, and served upon the applicable Professional and the other Notice Parties, so as to be actually received no later than 4:00 p.m. (prevailing Eastern Time) on the date that is thirty (30) days after the Filing of the applicable Final Fee Application (the “**Professional Fees Objection Deadline**”), with proof of service

thereof filed as and when required by the Local Rules of this Court. Only those objections made in writing and timely filed and received by the Professional Fees Objection Deadline will be considered by this Court. If no objection to a Final Fee Application is timely filed and served in accordance with the procedures set forth herein, then this Court may enter a Final Order approving such uncontested Final Fee Application without further notice and the Debtors or the Reorganized Debtors, as applicable, may pay the amounts described in such uncontested Final Fee Application upon the entry of such Final Order (or if any Final Fee Application is the subject of an objection, the Debtors or the Reorganized Debtors, as applicable, may pay the undisputed amounts described in such Final Fee Application on an interim basis). The hearing to consider approval of the Final Fee Applications, if necessary, will be held as soon as reasonably practicable after the expiration of the Professional Fees Objection Deadline and the date of such hearing will be promptly provided to the applicable Professional and Notice Parties and posted on the Debtors' restructuring website.

29. Funding and Use of Carve-Out Reserve.

(a) On the Effective Date, the Debtors shall fund the Carve-Out Reserve in Cash in accordance with the terms of the Plan.

(b) The Cash contained in the Carve-Out Reserve shall be used solely to pay the Allowed Professional Fee Claims, with the Unused Carve-Out Reserve Amount (if any) being returned to the Reorganized Debtors. The Debtors and the Reorganized Debtors, as applicable, shall maintain detailed records of all payments made from the Carve-Out Reserve, such that all payments and transactions shall be adequately and promptly documented in, and readily ascertainable from, their respective books and records. After the Effective Date, neither the Debtors nor the Reorganized Debtors shall deposit any other funds or property into the Carve-Out

Reserve absent further order of this Court, or otherwise commingle funds in the Carve-Out Reserve. To the extent that funds held in the Carve-Out Reserve do not or are unable to satisfy the full amount of the Allowed Professional Fee Claims, such Professionals shall have an Allowed Administrative Claim for any such deficiency, which shall be satisfied in full in Cash in accordance with Article II.A of the Plan.

30. Distributions Under the Plan. All distributions under the Plan shall be made in accordance with Article VII of the Plan.

31. Resolution of Contingent, Unliquidated and Disputed Claims. Except as otherwise ordered by this Court, any Claim that is not an Allowed Claim as of the Confirmation Date shall be determined, resolved, or adjudicated in accordance with the terms of this Confirmation Order and the Plan, including, without limitation, Article VIII of the Plan.

32. No Distributions Pending Allowance. Notwithstanding any other provision of the Plan or this Confirmation Order to the contrary, no payments or distributions of any kind or nature shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled, withdrawn, or have been determined by Final Order, and the Disputed Claim has become an Allowed Claim pursuant to a Final Order.

33. No Postpetition Interest on Claims. Unless otherwise specifically provided for in the Plan, this Confirmation Order, or Final Order of this Court, or required by applicable bankruptcy law (including, without limitation, as required pursuant to section 506(b) or section 511 of the Bankruptcy Code), postpetition interest shall not accrue or be paid on any Claims and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim. Notwithstanding the foregoing, postpetition interest on Prepetition Credit Agreement

Claims shall accrue and be paid in accordance with the terms set forth in the agreement governing such Claims, including, without limitation, the Final DIP Order and the Prepetition Credit Agreement.

34. Reserve for Disputed Claims. The Debtors, the Reorganized Debtors and the Distribution Agent may, in their respective sole discretion, establish such appropriate reserves for Disputed Claims in the applicable Class(es) as it determines necessary and appropriate, in each case with the consent of the Required Consenting Noteholders or as approved by order of this Court. On the Effective Date, the Reorganized Debtors shall make distribution of the New Equity Interests to Holders of Allowed Prepetition Notes Claims consistent with Article III of the Plan; provided, that the Reorganized Debtors shall reserve the amount of New Equity Interests necessary to make distributions to all Holders of General Unsecured Claims in the Face Amount of such Holder's General Unsecured Claims as if such General Unsecured Claims were determined to be Allowed Claims (the "**Reserved New Equity Interests**"). The Reserved New Equity Interests shall be distributed to Holders of General Unsecured Claims, as such claims become Allowed, in accordance with the terms of the Plan.

35. Payment of Statutory Fees. All fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code ("**Quarterly Fees**") prior to the Effective Date shall be paid by the Debtors on the Effective Date. The Debtors shall file all quarterly reports that become due prior to the Effective Date when they become due, in a form reasonably acceptable to the U.S. Trustee. On and after the Effective Date, the Reorganized Debtors shall pay any and all Quarterly Fees when due and payable, and shall file with this Court quarterly reports when they become due in a form reasonably acceptable to the United States Trustee. Each Debtor and Reorganized Debtor

shall remain obligated to pay Quarterly Fees to the Office of the United States Trustee until the earliest of that particular Debtor's case being closed, dismissed, or converted to a case under Chapter 7 of the Bankruptcy Code.

36. Payment of Fees and Expenses of Certain Creditors. Subject to and in accordance with Article V.T of the Plan, the Debtors shall, on and after the Effective Date and to the extent invoiced, pay (i) the Prepetition Credit Agreement Agent and Lender Fees and Expenses, (ii) the Ad Hoc Noteholders Committee Fees and Expenses and (iii) the Backstop Expenses (in each case whether accrued prepetition or postpetition and to the extent not otherwise paid during the Chapter 11 Cases), without application by any such parties to this Court, and without notice and a hearing pursuant to section 1129(a)(4) of the Bankruptcy Code or otherwise. Notwithstanding anything to the contrary in this Confirmation Order or the Plan, the fees and expenses described in this paragraph shall not be subject to the Administrative Claims Bar Date.

37. Old Parent Interests; Old Affiliate Interests. On the Effective Date, the Old Parent Interests will be terminated and cancelled without further notice to or order of this Court, act, or action under applicable law, regulation, order, or rule or any requirement of further action, vote, or other approval or authorization by any Person or Entity. On the Effective Date, the Old Affiliate Interests shall remain effective and outstanding, and shall be owned and held by the same applicable Person or Entity that held and/or owned such Old Affiliate Interests immediately prior to the Effective Date. Each Parent Subsidiary shall continue to be governed by the terms and conditions of its applicable organizational documents as in effect immediately prior to the Effective Date, except as amended or modified by the Plan or this Confirmation Order.

38. Notice of Confirmed Plan. In accordance with Bankruptcy Rules 2002(f)(7), 2002(k) and 3020(c), as soon as reasonably practicable after the Confirmation Date, the Debtors shall serve a notice of entry of this Confirmation Order, substantially in the form attached hereto as Exhibit 3 (the “**Notice of Confirmed Plan**”) by first-class mail, postage prepaid on all known creditors, equity security holders, the U.S. Trustee and other parties-in-interest in these Chapter 11 Cases; provided, however, that such notice need not be given or served under or pursuant to the Bankruptcy Code, the Bankruptcy Rules, the Local Rules or this Confirmation Order to any Person or Entity to whom the Debtors mailed a notice of the Confirmation Hearing, but received such notice returned marked “undeliverable as addressed,” “moved-left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtors have been informed in writing by such Person or Entity of that Person’s or Entity’s new mailing address. The notice described herein is adequate and appropriate under the particular circumstances and no other or further notice is necessary or required. The Notice of Confirmed Plan shall constitute sufficient notice of the

entry of this Confirmation Order to filing and recording officers and shall be a recordable instrument notwithstanding any contrary provision of applicable non-bankruptcy law.

39. No Liability for Solicitation. Based on the factual findings described in this Confirmation Order, the Debtors, the Reorganized Debtors and each of their respective Related Persons are not, and on account of or with respect to the offer, issuance, sale, or purchase of any security under the Plan, and/or solicitation of votes on the Plan, shall not be, liable at any time for any violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the distribution, offer, issuance, sale, or purchase of any securities, including, without limitation, the applicable Plan Securities and Documents under the Plan. The Debtors, the Reorganized Debtors and each of their respective Related Persons have solicited votes on the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and all other applicable rules, laws, and regulations and are, therefore, entitled to, and are hereby granted, the protections afforded by section 1125(e) of the Bankruptcy Code.

40. Estimation Proceedings and Other Rights. Any and all rights of the Debtors and Reorganized Debtors under section 502(c) and section 502(e) of the Bankruptcy Code are reserved.

41. Failure to Consummate Plan. If the Confirmation or the Consummation of the Plan does not occur with respect to one or more of the Debtors, then the Plan shall, with respect to such applicable Debtor or Debtors, be null and void in all respects upon the filing of a notice to such effect by the applicable Debtor and nothing contained in the Plan, the Disclosure Statement, or this Confirmation Order shall: (1) constitute a waiver or release of any claims by or Claims against or Equity Interests in the Debtors; (2) prejudice in any manner the rights of the Debtors, any Holders

or any other Person or Entity; (3) constitute an Allowance of any Claim or Equity Interest; or (4) constitute an admission, acknowledgment, offer or undertaking by the Debtors, any Holders or any other Person or Entity in any respect.

42. Successors and Assigns. The rights, benefits and obligations of any Person or Entity named or referred to in the Plan or this Confirmation Order shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of each such Person or Entity.

43. No Successors In Interest. Except as to obligations expressly assumed pursuant to the Plan, the Reorganized Debtors shall not be deemed to be successors to the Debtors and shall not assume, nor be deemed to assume, or in any way be responsible for, any successor liability or similar liability with respect to the Debtors or the Debtors' operations that are not expressly assumed or reinstated in connection with, or expressly provided by, the Plan or this Confirmation Order.

44. Return of Deposits. Notwithstanding anything to the contrary in the Plan or in an order previously entered by this Court, all adequate assurance deposits provided by the Debtors to utility providers pursuant to the *Order (I) Prohibiting Utility Companies from Altering or Discontinuing Service on Account of Prepetition Invoices, (II) Approving Deposit as Adequate Assurance of Payment, and (III) Establishing Procedures for Resolving Requests by Utility Companies for Additional Assurance of Payment* [Docket No. 94] shall be returned to the Reorganized Debtors within ten (10) Business Days of the applicable utility receiving written notice of the occurrence of the Effective Date.

45. Retention of Jurisdiction. Pursuant to sections 105(a) and 1142 of the Bankruptcy Code and notwithstanding the entry of this Confirmation Order or the occurrence of the Effective Date, this Court shall retain exclusive jurisdiction over the Chapter 11 Cases and all Entities with respect to all matters arising under or in, or related to, the Chapter 11 Cases, the Debtors, and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction over the matters set forth in Article XI of the Plan. This Court shall retain jurisdiction to hear and determine all matters arising from the implementation of this Confirmation Order. Notwithstanding the foregoing or any provision of this Confirmation Order to the contrary, any dispute arising under or in connection with the Exit Facility Loans shall be dealt with in accordance with the provisions of the applicable Exit Facility Loan Document.

46. Headings. The headings contained within this Confirmation Order are used for the convenience of the parties and shall not alter or affect the meaning of the text of this Confirmation Order.

47. Existing Board of Directors. The existing boards of directors and other governing bodies of the Debtors shall be deemed to have resigned on and as of the Effective Date, in each case without further notice to or order of this Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity.

48. References to Plan Provisions. The failure specifically to include or reference any particular article, section or provision of the Plan (and the Plan Supplement) or any related document in this Confirmation Order shall not diminish or impair the effectiveness of such article, section or provision, it being the intent of this Court that the Plan (and the exhibits and schedules

thereto) be confirmed in its entirety and any related documents be approved in their entirety and incorporated herein by reference.

49. No Admission or Waiver. None of the filing of the Plan, any statement or provision contained within the Plan or the taking of any action by any Debtor with respect to the Plan (and Plan Supplement), the Disclosure Statement or Confirmation Order shall be or shall be deemed to be an admission or wavier of any rights of any Debtor.

50. Confirmation Order Controlling. The provisions of the Plan, any Plan Documents and of this Confirmation Order shall be construed in a manner consistent with each other so as to effect the purposes of each; *provided*, however, that if there is any conflict or inconsistency between the Plan and/or any Plan Documents on the one hand and this Confirmation Order on the other that cannot be so reconciled, then, solely to the extent of such inconsistency, the terms of this Confirmation Order shall control and govern.

51. Immediate Effectiveness of this Confirmation Order. Pursuant to Bankruptcy Rule 3020(e), the fourteen (14) day stay of this Confirmation Order imposed thereby is waived and the Debtors are hereby authorized to consummate the Plan and the transactions contemplated thereby immediately upon the entry of this Confirmation Order upon this Court's docket, subject to the satisfaction or waiver of the conditions set forth in Article IX of the Plan.

52. Final Order. This Confirmation Order is a final order and the period in which an appeal thereof must be filed shall commence upon its entry.

53. Chevron Agreements. Notwithstanding anything to the contrary in the Plan, this Confirmation Order, or any other order entered in these Chapter 11 Cases, the Debtors' agreements with Chevron U.S.A. Inc. and its Affiliates (collectively, "Chevron") including, but not limited

to, that certain Contract dated as of April 15, 2017 by and between Chevron and Hi-Crush LMS LLC, as amended by those certain amendments: (i) Amendment No. 1 dated as of July 1, 2018; (ii) Amendment No. 2 dated as of July 1, 2019; and (iii) Amendment No. 3 dated as of June 30, 2020, and/or other agreements, and any document or instrument referred to or contemplated by any of the foregoing, including but not limited to all work orders entered into in connection with such agreements (all the Debtors' agreements with Chevron, collectively, the "**Chevron Agreements**") shall be deemed assumed and affirmed upon the occurrence of the Effective Date. The Debtors and Reorganized Debtors shall continue to have and perform the obligations under the Chevron Agreements in accordance with their terms. Subject to Section 365(e) of the Bankruptcy Code in connection with these Chapter 11 Cases, all rights and claims of the parties under the Chevron Agreements are expressly preserved and nothing in, about or related to these Chapter 11 Cases (including but not limited to the confirmation of the Plan and the entry of the Confirmation Order) shall prevent the parties from maintaining, asserting or pursuing any right, claim or defense against the other party arising under the Chevron Agreements. Notwithstanding anything to the contrary in the Plan, this Confirmation Order, or any other order entered in these Chapter 11 Cases, nothing in, about or related to these Chapter 11 Cases (including, but not limited to, the confirmation of the Plan and entry of the Confirmation Order) releases any entity from any claim, defense or Cause of Action of Chevron.

54. Wisconsin Tort Claimants.

(a) Prepetition Claims Subject to Pending Litigation. The Wisconsin Tort Claimants⁴ assert Claims against certain of the Debtors, which are the subject of the following state court cases (collectively, the “**Wisconsin Tort Litigation**”):

- *Michael Sylla, et al. v. Hi-Crush Whitehall, LLC, et al.*, Trempealeau (Wis.) County Case No. 19-CV-63;
- *Darrell Bork, et al. v. Hi-Crush Whitehall, LLC, et al.*, Trempealeau (Wis.) County Case No. 19-CV-64;
- *Cory Berg, et al. v. Hi-Crush Blair, LLC, et al.*, Trempealeau (Wis.) County Case No. 19-CV-65; and
- *Leland and Mary Drangstveit v. Hi-Crush Blair, LLC, et al.*, Trempealeau (Wis.) County Case No. 19-CV-66.

The Claims asserted in the Wisconsin Tort Litigation, together with any other Claims, Causes of Action, rights, or remedies of the Wisconsin Tort Claimants, whether arising under contract or tort, at law, in equity, or otherwise are hereinafter referred to as the “**Wisconsin Tort Claimants’ Claims**”. The Debtors dispute the Claims asserted by the Wisconsin Tort Claimants in the Wisconsin Tort Litigation and reserve all rights to object to or otherwise contest the Wisconsin Tort Claimants’ Claims on any grounds and to assert any defenses or counterclaims in connection therewith.

⁴ “**Wisconsin Tort Claimants**” shall mean the following persons represented by Fitzpatrick, Skemp & Butler, LLC: (A) (i) Cory Berg, Julie Berg, and Danielle Holstad; (ii) Greg Bluem and Lorraine Bluem; (iii) Dianna Brown; (iv) Michael Johnson and Paula Knutson; (v) Patrick Mathson and Deborah Clare; (vi) Randy Rose, Cara Rose, and S.S. (a minor child, by her natural parent and guardian Cara Rose); (vii) James Syverson and Kimberly Syverson; (B) (i) Darrell Bork, Mary Jo Bork, Dakotah Bork, and Colton Bork; (ii) Robert Guza, Lisa Guza, Emily Guza, and Kaitie Guza; (iii) Todd Kulig, Amy Kulig, and H.K. (a minor child by his natural parents and guardians Todd and Amy Kulig); (iv) Broney Manka; (v) Jared Manka; and (vi) John Manka and Mary Manka; (C) Leland Drangstveit and Mary Drangstveit; (D) (i) Michael J. Sylla, Stacy L. Sylla, Chase Sylla, and M.S. (a minor child by her natural parents and guardians Michael and Stacy Sylla); (ii) William J. Sylla, Angela Sylla, W.S. and Z.S. (minor children by their natural parents and guardians William and Angela Sylla); and (iii) Ann Sylla and (E) the following additional claimants with as yet unfiled claims: Kate Connell, Scott Dykstra, Glenn Willers, and Beth Willers.

Notwithstanding anything in the Plan or in this Confirmation Order to the contrary, the Wisconsin Tort Claimants' right to seek resolution of the Wisconsin Tort Claimants' Claims in state court is hereby preserved, and the automatic stay applicable to the Wisconsin Tort Claimants' Claims arising prior to the Petition Date shall be deemed modified and lifted upon the Effective Date. The Debtors' or the Reorganized Debtors' (as applicable) rights to seek resolution of the Wisconsin Tort Claimants' Claims in this Court as a part of the claims resolution process set forth herein and in the Plan is hereby preserved. Nothing in the Solicitation Order [Docket No. 288], the Plan, or this Confirmation Order shall affect or prejudice the Wisconsin Tort Claimants' ability to prosecute the Wisconsin Tort Claimants' Claims, and the Debtors' or the Reorganized Debtors' (as applicable) rights to object to, contest, or assert any defenses or counterclaims in connection with the Wisconsin Tort Claimants' prosecution of the Wisconsin Tort Claimants' Claims are hereby fully preserved. To the extent any of the Wisconsin Tort Claimants' Claims accrued prior to the Petition Date, such Claims shall constitute General Unsecured Claims under the Plan and any recovery on account of such Claims shall be in accordance with the treatment provided to holders of General Unsecured Claims in Class 5 under the Plan; *provided that*, for the avoidance of doubt, nothing herein shall prevent the Wisconsin Tort Claimants from pursuing recovery for their Claims against the Debtors arising prior to the Petition Date from any applicable insurance or their Claims against third-parties whether or not covered by insurance.

(b) Postpetition to Pre-Effective Date and Administrative Claims. Nothing in the Plan or this Confirmation Order shall modify or otherwise alter: (i) the right of the Wisconsin Tort Claimants to file an Administrative Claim for alleged damages related to postpetition, but pre-Effective Date, actions of the Debtors in respect of the Wisconsin Tort Claimants' Claims; (ii)

the rights of the Debtors or the Reorganized Debtors (as applicable) to contest or otherwise assert any defenses, counterclaims, or objections on any basis to any such alleged Administrative Claims; (iii) the Wisconsin Tort Claimants' retention of all equitable remedies that do not constitute Claims; or (iv) the rights of the Debtors or the Reorganized Debtors (as applicable) to contest or otherwise assert any defenses, counterclaims, or objections on any basis to the Wisconsin Tort Claimants' exercise of any equitable remedies that do not constitute Claims.

(c) Post-Effective Date Rights. Notwithstanding anything to the contrary in the Plan or this Confirmation Order, any Wisconsin Tort Claimants' Claims that accrue after the Effective Date shall continue unaffected by the Plan or this Confirmation Order after the Effective Date; provided that the rights of the Reorganized Debtors to contest or otherwise assert any defenses, counterclaims, or objections on any basis to any such alleged Claims are fully preserved.

(d) Rights and Claims Against Contractors, Directors, and Officers. The Wisconsin Tort Claimants are hereby deemed to have opted out of any Third Party Release provided for in the Plan or in this Confirmation Order that have the effect of releasing from liability any third parties, including: (i) any contractor or person who operated on the Debtors' facilities that are the subject of the Wisconsin Tort Claimants' Claims for alleged damages related to the Wisconsin Tort Claimants' Claims, and (ii) any director or officer of Hi-Crush Blair LLC or Hi-Crush Whitehall LLC in regard to the operation of the Debtors' facilities that are the subject of the Wisconsin Tort Claimants' Claims for alleged damages related to the Wisconsin Tort Claimants' Claims. The Debtors' and all other parties' rights to contest or otherwise assert any defenses, counterclaims, or objections in connection with any claims asserted by the Wisconsin Tort Claimants against the aforementioned third parties are hereby fully preserved.

55. Governmental Units. Nothing in this Confirmation Order, the Plan or any implementing plan documents (collectively, the “Plan Documents”) discharges, releases, precludes, or enjoins: (1) any liability to any Governmental Unit that is not a “claim” as defined in 11 U.S.C. § 101(5) (“Claim”); (2) any Claim of a Governmental Unit arising on or after the Effective Date; (3) any police or regulatory liability to a Governmental Unit that any Entity would be subject to as the owner or operator of property after the Effective Date; or (4) any liability to a Governmental Unit (including a Claim) on the part of any Person other than the Debtors or the Reorganized Debtors. Nor shall anything in the Plan Documents: (1) enjoin or otherwise bar a Governmental Unit from asserting or enforcing, outside this Court, any liability described in the preceding sentence; (2) enjoin or affect any Governmental Unit’s setoff rights under federal law as recognized in section 553 of the Bankruptcy Code and recoupment rights, and such rights shall be preserved and are unaffected; (3) divest any tribunal of any jurisdiction it may have under police or regulatory law to interpret the Plan Documents or to adjudicate any defense asserted under the Plan Documents; or (4) be construed as a compromise or settlement of any Claim, liability, cause of action or interest of any Governmental Unit. For the avoidance of doubt, any prepetition Claims of a Governmental Unit shall be treated in accordance with the terms of the Plan and this Confirmation Order, and the Debtors’ and Reorganized Debtors’ rights and defenses under applicable non-bankruptcy law with respect to the foregoing are fully preserved.

56. Surety Bond Obligations. Notwithstanding any other provisions of the Plan, this Confirmation Order, or any other order of this Bankruptcy Court, on the Effective Date, all rights and obligations related to the (i) Debtors’ current surety bonds issued by Lexon Insurance Company and/or Endurance American Insurance Company (collectively, “Lexon” and such surety

bonds, collectively, the “**Surety Bonds**”)) and maintained in the ordinary course of business; (ii) surety payment and indemnity agreements, if any, setting forth Lexon’s rights against the Debtors, and the Debtors’ obligations, if any, to pay and indemnify Lexon from any loss, cost, or expense that Lexon may incur, in each case, on account of the issuance of any Surety Bonds on behalf of the Debtors; (iii) surety collateral agreements governing collateral, if any, in connection with the Surety Bonds; and/or (iv) ordinary course premium payments to Lexon for the Debtors’ Surety Bonds (collectively, the “**Surety Bond Program**,” and the Debtors’ obligations arising therefrom, the “**Surety Bond Obligations**”) shall be reaffirmed and ratified by the applicable Reorganized Debtors and continue in full force and effect and are not discharged, enjoined or released by the Plan in any way. For the avoidance of doubt, nothing in the Plan or this Confirmation Order, including, without limitation, any exculpation, release, injunction, exclusions and discharge provision of the Plan, including, without limitation, any of those provisions contained in Article X of the Plan, shall bar, alter, limit, impair, release or modify or enjoin any Surety Bond Obligations. Lexon is deemed to have opted out of any release provisions of the Plan that apply or could be interpreted to apply to Lexon, its rights or claims in any respect, and is otherwise not a Releasing Party under the Plan. The Surety Bond Program and all Surety Bond Obligations related thereto shall be treated by the Reorganized Debtors and Lexon in the ordinary course of business as if these Chapter 11 Cases had not been commenced. For the avoidance of any doubt, with a reservation of rights to all parties, and only to the extent applicable, any agreements related to the Surety Bond Program are assumed by the Debtors and the Reorganized Debtors pursuant to section 365 of the Bankruptcy Code upon the Effective Date. Nothing in the Plan or this paragraph shall

affect in any way Lexon's rights against any non-debtor, or any non-debtor's rights against Lexon, including under the Surety Bond Program or with regard to the Surety Bond Obligations.

57. Storlie, et al. For the avoidance of doubt and notwithstanding anything to the contrary in the Plan and any other documents related to the Plan, nothing in the foregoing shall alter Storlie, et al.'s⁵ right to invoke any purchase option they may have relating to: (1) the Purchase and Sale Agreement between Hi-Crush Blair, LLC and The Robert E. and Gretchen W. Chalsma Trust, dated September 18, 2014; (2) The Purchase and Sale Agreement between Hi-Crush Blair, LLC and Susan E. Storlie and Sarah Chalsma Graves, dated September 18, 2014, and any related documents. Further, nothing in the Plan shall impact any right to payment for related royalties, or any failure to comply with the terms of the purchase options, and such rights shall continue in full force and effect after the Effective Date.

58. Paddock Family Limited Partnership Matter. For the avoidance of doubt and notwithstanding anything to the contrary in the Plan and any other documents related to the Plan, nothing in the foregoing shall alter any of the terms and provisions of the Easement Agreement and Easement Consideration Agreement entered between Paddock Family Limited Partnership, a Wisconsin limited partnership ("**Paddock**"), and Hi-Crush Augusta LLC, a Delaware limited liability company, entered on May 29, 2012, and the Easement Agreement and Easement Consideration Agreement entered between Paddock and Hi-Crush Augusta LLC on March 17, 2015. Further, nothing in the Plan shall impact any right to payment Paddock has relating to any royalty payment or payment relating to any easement, and such terms and provisions shall continue in full force and effect after the Effective Date.

⁵ "**Storlie, et al.**" shall mean Gretchen Chalsma, Sarah Chalsma Graves, Susan E. Storlie, and the Robert E. Chalsma and Gretchen W. Chalsma Trust.

59. CyrusOne. CyrusOne LLC (“**CyrusOne**”) and Hi-Crush Services LLC are parties to a Master Services Agreement dated August 12, 2019 (with order forms thereunder, the “**CyrusOne MSA**”). The CyrusOne MSA will be assumed by the Debtors. Any earned and payable amounts outstanding on account of unpaid invoices under the CyrusOne MSA, including the invoices dated July 1, 2020 in the amount of \$2,435.64, dated July 1, 2020 in the amount of \$324.75, and dated July 1, 2020 in the amount of \$3,323.51 (\$6,083.90 in total), shall be paid in accordance with the terms of the Plan to CyrusOne as a cure pursuant to the assumption.

60. Texas Taxing Authorities. Notwithstanding anything to the contrary in the Plan or this Confirmation Order, with respect to the Allowed Claims of Midland Central Appraisal District, Kermit Independent School District, Midland County, Howard County Tax Office, Harris County, Cypress-Fairbanks ISD, and Ector CAD (the “**Texas Taxing Authorities**,” and such Allowed Claims, the “**Texas Taxing Authority Claims**”), (a) to the extent the Texas Tax Code provides for interest and/or penalties with respect to any portion of the Texas Taxing Authority Claims, nothing in the Plan or this Confirmation Order prevents the inclusion of such interest and/or penalties in the Texas Taxing Authority Claims, and the Debtors’ defenses and rights to object to such Claims or to the inclusion of such interest or penalties in such Claims are fully preserved, (b) to the extent the Texas Taxing Authority Claims constitute Allowed Secured Claims against the Debtors, the liens securing the Texas Taxing Authority Claims shall be retained until the applicable Texas Taxing Authority Claims are paid in full, and (c) the Debtors or the Reorganized Debtors, as applicable, shall pay any Allowed Texas Taxing Authority Claims on the later of (i) the date the Texas Taxing Authority Claims become due pursuant to the Texas Tax Code (subject to any applicable extensions, grace periods, or similar rights under the Texas Tax

Code) and (ii) the Effective Date. All rights and defenses of the Debtors and the Reorganized Debtors under non-bankruptcy law are reserved and preserved with respect to such Texas Taxing Authority Claims. The Texas Taxing Authorities' lien priority shall not be primed or subordinated by any Exit Financing approved by the Court in conjunction with the Confirmation or Consummation of this Plan. Reorganized Debtor shall have sixty (60) days from the later of (i) the Effective Date and (ii) the date of the filing of the Proof of Claim on account of the Texas Taxing Authority Claims, to object to the Texas Taxing Authority Claims; otherwise, said claims shall be deemed as an allowed claim in the amount of their last filed Proofs of Claims. Notwithstanding any provision in the Plan or this Order to the contrary, the Texas Taxing Authorities may amend their respective Proofs of Claims once the current year ad valorem taxes are actually assessed without further agreement with the Reorganized Debtor or leave of Court for approval to amend their Claims. The Debtors and the Reorganized Debtors reserve all their defenses and rights to object to such amended Proofs of Claims.

61. RS Energy. On the Effective Date, the Debtors shall assume that certain Information Services Subscription Agreement, dated as of March 26, 2019 between the Debtors and RS Energy Group, Inc. ("**RS Energy**," and such agreement, the "**RS Energy Agreement**"). The cure amount in connection with the assumption of the RS Energy Agreement shall be \$19,987.50 (the "**RS Energy Cure Amount**"), as agreed to by the Debtors and RS Energy. The Debtors shall pay the RS Energy Cure Amount to RS Energy within thirty (30) days of entry of this Confirmation Order.

62. EOG. Notwithstanding any other provision in this Confirmation Order or the Plan to the contrary, nothing in this Confirmation Order or the Plan (and neither the confirmation nor

consummation of the Plan) shall eliminate, alter or impair any of the objections of EOG Resources Inc. (“**EOG**”) set forth in EOG Resources Inc.’s Objection to Assumption of Sand Purchase Agreement (the “**EOG Objection**”) [Docket No. 386], including, but not limited to EOG’s position that the Sand Purchase Agreement dated February 13, 2017, as amended (the “**Sand Purchase Agreement**”), was properly terminated prior to the Petition Date. The Debtors’ rights, defenses, and arguments with respect to any of the objections raised in the EOG Objection are hereby fully preserved, and any affirmative claims or causes of action the Debtors’ maintain against EOG shall constitute Retained Causes of Action under the Plan. All of EOG’s defenses, arguments or appellate rights to the extent related to the proposed assumption of the Sand Purchase Agreement are hereby preserved and are not being determined at this time, but shall be adjudicated by the Court at a later date with the rights, defense and arguments of each party to such dispute hereby full preserved.

63. Bowlin; Endeco.

(a) Entry of this Confirmation Order shall constitute approval of the rejection of that certain License Agreement, dated January 23, 2020 (the “**License Agreement**”), by and among Debtor Hi-Crush, Inc. (“**Hi-Crush**”), Bowlin Enterprises, LLC (“**Bowlin**”) and Endeco Engineers, LLC (together with Bowlin, the “**Licensors**”). The Licensors shall be deemed to opt-out of the Third Party Release set forth in Article X.B.2 of the Plan.

(b) Notwithstanding anything in the Plan or this Confirmation Order to the contrary, nothing in the Plan or this Confirmation Order shall limit the rights of the Licensors to (i) issue notices to Debtors and Reorganized Debtors (as applicable), their officers, agents, employees or representatives, solely to the extent the Licensors are required to issue such notices

regarding termination of the License Agreement and requiring the return or destruction of documents and information set forth in the License Agreement; (ii) to take action to preserve and protect Confidential Information, Licensed Proprietary Technology, Licensed Know-How, Licensed Patents, and Licensed Products (each as defined in the License Agreement) including, but not limited to, the right to enforce any duties incumbent upon Hi-Crush under the License Agreement which may survive the rejection thereof, which may include: (1) the immediate cessation by Hi-Crush (and its affiliates) of any activities concerning, including any practice and use of, the Licensed Patents and Licensed Know-How (except as otherwise provided in the License Agreement, including the continued use of the Licensed Patents or Licensed Know-How as provided under the License Agreement, including such uses that are needed (A) to continue to operate any Paid-Up Plants and (B) to complete the manufacture of the Licensed Products during the Sell-Off period (as such term is defined under the License Agreement) so long as with respect to this sub-clause (B) the Licensors receive the applicable royalty payment pursuant to the License Agreement related to the Licensed Products completed during the Sell-Off period); (2) except as otherwise provided in the License Agreement, cessation by Hi-Crush of the use of any Licensed Proprietary Technology, Licensed Know-How, Licensed Patents, and Licensed Products in the construction of Plants; (3) the return or destruction by Hi-Crush (or Reorganized Debtors, as applicable) of any documents and tangible materials (and any copies) containing, reflecting, incorporating or based on Bowlin's Confidential Information (except as permitted under the License Agreement); and (4) a certification in writing to Bowlin that Hi-Crush has complied with the foregoing requirements in (1)-(3) and other requirements under the License Agreement; and (iii) bring suit, claims and causes of action, in law or in equity, against Debtors or Reorganized

Debtors (as applicable), and present, past, or future agents, employees and representatives of these entities, as well as all other parties, to enforce any rights and remedies under the License Agreement and applicable non-bankruptcy law that relate to the misappropriation of the aforementioned confidential and proprietary information and actions arising from any attempt by the above-referenced parties to, except as otherwise provided in the License Agreement, continue construction on any Plant or initiate construction on a new Plant using the Licensed Proprietary Technology, Licensed Know-How, Licensed Patents, and Licensed Products, after the termination of the License Agreement (such suit, claims or causes of action, “**Infringement Actions**”); provided; that (x) any Infringement Actions arising from conduct that occurred prior to the Effective Date shall constitute General Unsecured Claims or Administrative Claims, as applicable, under the Plan, and (y) any Infringement Actions arising from conduct occurring post-Effective Date shall constitute actions against the Reorganized Debtors that shall be addressed in the ordinary course of business.

(c) For the avoidance of doubt, any claim for monetary damages asserted by Licensors against Debtors’ estates arising from the rejection of the License Agreement shall be determined pursuant to the Plan; provided, that the Licensors reserve the right to bring any Infringement Action in any court of competent jurisdiction; provided, further, all procedural and substantive rights related to any Infringement Action are preserved by the Debtors or Reorganized Debtors, as applicable, and the Licensors. To the extent that it may apply after the Effective Date, the automatic stay shall not apply to any Infringement Action or action by Licensors to enforce any rights or remedies under the License Agreement related to matters arising from acts or omissions of Debtors and Reorganized Debtors (as applicable), or their officers, agents, employees

or representatives. The Debtors' and the Reorganized Debtors', as applicable, defenses, counterclaims, and rights to object to any claim, suit, or cause of action brought by Licensors is hereby fully reserved and preserved.

64. Texas Comptroller.

(a) Notwithstanding anything else to the contrary in the Plan or Confirmation Order, these provisions will govern the treatment of the claims of the Texas Comptroller of Public Accounts (the "**Comptroller**"): (1) nothing provided in the Plan or Confirmation Order shall affect or impair any statutory or common law setoff rights of the Comptroller in accordance with 11 U.S.C. § 553; (2) nothing provided in the Plan or Confirmation Order shall affect or impair any rights of the Comptroller to pursue any non-debtor third parties for tax debts or claims; (3) any and all pre- and postpetition tax liabilities owed by the Debtors to the Texas Comptroller shall be determined and resolved in accordance with the laws of the state of Texas and paid in accordance with Article II of the Plan, sections 1129(a)(9)(C) and (D) of the Bankruptcy Code, or applicable nonbankruptcy law, as applicable; (4) the Comptroller is not required to file a motion or application for payment of administrative expense claims pursuant to 11 U.S.C. § 503(b)(1)(D) and such post-petition tax claim(s) may instead be paid as and when they arise in the ordinary course of the Debtors' business; and (5) should a dispute arise between the Debtors and the Comptroller with regard to post-petition tax claim(s), the Comptroller may file a request for allowance of an administrative claim with such dispute to be resolved by the Bankruptcy Court.

(b) Notwithstanding anything else to the contrary in the Plan or Confirmation Order, all rights of the Comptroller related to any claims filed by the Comptroller, including with

respect to the priority thereof, are reserved and all parties reserve their rights thereto, including the Debtors' rights to object to any such claims.

Signed: September 23, 2020.



DAVID R. JONES
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Plan of Reorganization

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

	X	
In re:	:	Chapter 11
	:	
HI-CRUSH INC., <i>et al.</i> , ¹	:	Case No. 20-33495 (DRJ)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	

**JOINT PLAN OF REORGANIZATION FOR
HI-CRUSH INC. AND ITS AFFILIATE DEBTORS
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

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Proposed Counsel for the Debtors and Debtors-in-Possession

Dated: August 15, 2020

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Hi-Crush Inc. (0530), OnCore Processing LLC (9403), Hi-Crush Augusta LLC (0668), Hi-Crush Whitehall LLC (5562), PDQ Properties LLC (9169), Hi-Crush Wyeville Operating LLC (5797), D & I Silica, LLC (9957), Hi-Crush Blair LLC (7094), Hi-Crush LMS LLC, Hi-Crush Investments Inc. (6547), Hi-Crush Permian Sand LLC, Hi-Crush Proppants LLC (0770), Hi-Crush PODS LLC, Hi-Crush Canada Inc. (9195), Hi-Crush Holdings LLC, Hi-Crush Services LLC (6206), BulkTracer Holdings LLC (4085), Pronghorn Logistics Holdings, LLC (5223), FB Industries USA Inc. (8208), PropDispatch LLC, Pronghorn Logistics, LLC (4547), and FB Logistics, LLC (8641). The Debtors’ address is 1330 Post Oak Blvd, Suite 600, Houston, Texas 77056.



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EXHIBITS

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**JOINT PLAN OF REORGANIZATION FOR
HI-CRUSH INC. AND ITS AFFILIATE DEBTORS
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Hi-Crush Inc. and the other above-captioned debtors and debtors-in-possession (each a “**Debtor**” and, collectively, the “**Debtors**”) jointly propose the following chapter 11 plan of reorganization (this “**Plan**”) for the resolution of the outstanding Claims (as defined below) against, and Equity Interests (as defined below) in, each of the Debtors. Although proposed jointly for administrative purposes, this Plan constitutes a separate Plan for each Debtor for the resolution of outstanding Claims against and Equity Interests in each Debtor pursuant to the Bankruptcy Code (as defined below). The Debtors are the proponents of this Plan within the meaning of section 1129 of the Bankruptcy Code. Reference is made to the Disclosure Statement (as such term is defined herein and distributed contemporaneously herewith) for a discussion of the Debtors’ history, business, results of operations, historical financial information, and projections, and for a summary and analysis of this Plan, the treatment provided for herein and certain related matters. There also are other agreements and documents, which will be filed with the Bankruptcy Court (as defined below), that are referenced in this Plan or the Disclosure Statement as Exhibits or are a part of the Plan Supplement. All such Exhibits and the Plan Supplement are incorporated into and are a part of this Plan as if set forth in full herein. Subject to certain restrictions and requirements set forth in 11 U.S.C. § 1127, Fed. R. Bankr. P. 3019 and the terms and conditions set forth in this Plan, the Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan prior to its substantial consummation.

ARTICLE I.

RULES OF INTERPRETATION, COMPUTATION OF TIME AND DEFINED TERMS

A. Rules of Interpretation; Computation of Time

For purposes herein: (a) 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; (b) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced item shall be substantially in that form or substantially on those terms and conditions; (c) except as otherwise provided herein, any reference herein to an existing or to be Filed contract, lease, instrument, release, indenture, or other agreement or document shall mean as it may be amended, modified or supplemented from time to time; (d) any reference to an Entity as a Holder of a Claim or an Equity Interest includes that Entity’s successors and assigns; (e) unless otherwise specified, all references herein to “Articles”, “Sections”, and “Exhibits” are references to Articles, Sections, and Exhibits hereof or hereto; (f) unless otherwise stated, the words “herein,” “hereof,” “hereunder” and “hereto” refer to this Plan in its entirety rather than to a particular portion of this Plan; (g) subject to the provisions of any contract, certificate of incorporation, by-law, instrument, release, indenture, or other agreement or document entered into in connection with this Plan and except as expressly provided in Article XII.C of this Plan, the rights and obligations arising pursuant to this Plan shall be governed by, and construed and enforced in accordance with the applicable federal law, including the Bankruptcy Code and Bankruptcy Rules; (h) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation hereof; (i) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply to this Plan; (j) references to a specific article, section, or subsection of any statute, rule, or regulation expressly referenced herein shall, unless otherwise specified, include any amendments to or successor provisions of such article, section, or subsection; (k) 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 assigned to that term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be; (l) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court's CM/ECF system; (m) references to "shareholders," "directors," and/or "officers" shall also include "members" and/or "managers," as applicable, as such terms are defined under the applicable state limited liability company laws; (n) the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words "without limitation"; (o) any reference in this Agreement to "\$" or "dollars" shall mean U.S. dollars; and (p) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated. Except as otherwise specifically provided in this Plan to the contrary, references in this Plan to "the Debtors" or to "the Reorganized Debtors" shall mean "the Debtors and the Reorganized Debtors", as applicable, to the extent the context requires.

Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein. If the date on which a transaction may occur pursuant to this Plan shall occur on a day that is not a Business Day, then such transaction shall instead occur on the next succeeding Business Day.

B. Defined Terms

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

"*510(b) Equity Claim*" means any Claim subordinated pursuant to section 510(b) of the Bankruptcy Code.

"*Accredited Investor*" has the same meaning ascribed to such term in Rule 501 under the Securities Act.

"*Ad Hoc Noteholders Committee*" means that certain ad hoc committee of Holders of the Prepetition Notes represented by the Ad Hoc Noteholders Committee Professionals.

"*Ad Hoc Noteholders Committee Fees and Expenses*" means all unpaid reasonable and documented costs, fees, disbursements, charges and out-of-pocket expenses of the Ad Hoc Noteholders Committee, in their capacity as DIP Term Loan Lenders and Backstop Parties, incurred in connection with the Chapter 11 Cases, including, but not limited to, the reasonable and documented costs, fees, disbursements, charges and out-of-pocket expenses of the Ad Hoc Noteholders Committee Professionals.

"*Ad Hoc Noteholders Committee Professionals*" means, collectively, (i) Paul, Weiss, Rifkind, Wharton & Garrison LLP, as counsel to the Ad Hoc Noteholders Committee, (ii) Porter Hedges LLP, as local counsel to the Ad Hoc Noteholders Committee, (iii) Moelis & Company LLC, as financial advisor and investment banker to the Ad Hoc Noteholders Committee, and (iv) any other professional retained by the Ad Hoc Noteholders Committee during the Chapter 11 Cases.

"*Administrative Claim*" means a Claim for costs and expenses of administration of the Chapter 11 Cases that are Allowed under sections 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code, including, without limitation: (a) any actual and necessary costs and expenses incurred on or after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors; (b) Professional Fee Claims and any other compensation for legal, financial, advisory, accounting, and other services and reimbursement of expenses Allowed by the Bankruptcy Court under sections 328,

330, 331 or 503(b) of the Bankruptcy Code to the extent incurred on or after the Petition Date and through the Effective Date; (c) all fees and charges assessed against the Estates under section 1930, chapter 123, of title 28, United States Code; (d) the Backstop Expenses; (e) the Liquidated Damages Payment; (f) the Put Option Notes (which is only payable in New Secured Convertible Notes); (g) the Backstop Indemnification Obligations; and (h) the Cure Claim Amounts.

“Administrative Claims Bar Date” means the Business Day which is thirty (30) days after the Effective Date, or such other date as approved by Final Order of the Bankruptcy Court.

“Affiliate” means an “affiliate” as defined in section 101(2) of the Bankruptcy Code.

“Affiliate Debtor(s)” means, individually or collectively, any Debtor or Debtors other than Parent.

“AI Questionnaire” means the accredited investor questionnaire sent to each Holder of an Allowed Prepetition Notes Claim or an Eligible General Unsecured Claim in accordance with the Rights Offering Procedures.

“Allowed” means, with respect to a Claim or Equity Interest, an Allowed Claim or Equity Interest in a particular Class or category specified. Any reference herein to the allowance of a particular Allowed Claim includes both the secured and unsecured portions of such Claim.

“Allowed Claim” means any Claim that is not a Disputed Claim or a Disallowed Claim and (a) for which a Proof of Claim has been timely Filed by the applicable Claims Bar Date and as to which no objection to allowance thereof has been timely interposed within the applicable period of time fixed by this Plan, the Bankruptcy Code, the Bankruptcy Rules or order of the Bankruptcy Court; (b) that has been listed by the Debtors in their Schedules as liquidated in a specified amount and is not disputed or contingent and for which no contrary Proof of Claim has been timely Filed; or (c) that is expressly Allowed pursuant to the terms of this Plan or a Final Order of the Bankruptcy Court. The term “Allowed Claim” shall not, for purposes of computing distributions under this Plan, include interest on such Claim from and after the Petition Date, except as provided in sections 506(b) or 511 of the Bankruptcy Code or as otherwise expressly set forth in this Plan or a Final Order of the Bankruptcy Court.

“Amended/New Organizational Documents” means, as applicable, the amended and restated or new applicable organizational documents of Reorganized Parent in substantially the form Filed with the Plan Supplement.

“Avoidance Actions” means any and all actual or potential avoidance, recovery, subordination or similar actions or remedies that may be brought by and on behalf of the Debtors or their Estates under the Bankruptcy Code or applicable non-bankruptcy law, including, without limitation, actions or remedies arising under chapter 5 of the Bankruptcy Code.

“Backstop Commitment” has the meaning set forth in the Backstop Purchase Agreement.

“Backstop Parties” has the meaning set forth in the Backstop Purchase Agreement.

“Backstop Expenses” has the meaning set forth in the Backstop Purchase Agreement.

“Backstop Indemnification Obligations” means the Debtors’ obligations to indemnify the parties identified in the Backstop Purchase Agreement on the terms and conditions set forth in the Backstop Purchase Agreement.

“*Backstop Order*” means that certain *Order (I) Authorizing Debtors to (A) Enter into Backstop Purchase Agreement, (B) Pay Certain Amounts and Related Expenses, and (C) Provide Indemnification Obligations to Certain Parties, and (II) Granting Related Relief*, entered by the Bankruptcy Court on August 14, 2020 (Docket No. 287), a copy of which is attached hereto as Exhibit A, as such order may be amended, supplemented or modified from time to time.

“*Backstop Purchase Agreement*” means the Backstop Purchase Agreement approved by the Bankruptcy Court in the Backstop Order, a copy of which is attached hereto as Exhibit B.

“*Ballots/Opt-Out Forms*” means the ballots and opt-out forms accompanying the Disclosure Statement and approved by the Bankruptcy Court in the Disclosure Statement Order.

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

“*Bankruptcy Court*” means the United States Bankruptcy Court for the Southern District of Texas, having jurisdiction over the Chapter 11 Cases and, to the extent of the withdrawal of any reference under section 157 of title 28 of the United States Code and/or the Order of the United States District Court for the Southern District of Texas pursuant to section 157(a) of the Judicial Code, the United States District Court for the Southern District of Texas.

“*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure and the Local Rules of the Bankruptcy Court, in each case as amended from time to time and as applicable to the Chapter 11 Cases.

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

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

“*Carve-Out Reserve*” means the reserve, established and maintained by the Reorganized Debtors in an interest-bearing escrow account, funded by the Debtors from Cash on hand on the Effective Date in an amount equal to the Carve-Out Reserve Amount, to pay in full in Cash the Professional Fee Claims incurred on or prior to the Effective Date.

“*Carve-Out Reserve Amount*” means the estimated amount determined by the Debtors, with the consent of the Required Consenting Noteholders or approved by order of the Bankruptcy Court, to satisfy the aggregate amount of Professional Fee Claims and other unpaid fees, costs, and expenses that the Debtors have incurred or are reasonably expected to incur from the Professionals for services rendered to the Debtors prior to and as of the Effective Date.

“*Causes of Action*” means any and all actions, claims, proceedings, causes of action, suits, accounts, demands, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment and claims, whether known, unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured, and whether asserted or assertable directly or derivatively, in law, equity or otherwise, including actions brought prior to the Petition Date, Avoidance Actions, and actions against any Person or Entity for failure to pay for products or services provided or rendered by the Debtors, all claims, suits or proceedings relating to enforcement of the Debtors’ intellectual property rights, including patents, copyrights and trademarks, and all claims or causes of action seeking recovery of the Debtors’ or the Reorganized Debtors’ accounts receivable or other receivables or rights to payment created or arising in the ordinary course of the Debtors’ or the Reorganized Debtors’ businesses, based in whole or in part upon any act or omission or

other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

“*Chapter 11 Case(s)*” means (a) when used with reference to a particular Debtor, the case under chapter 11 of the Bankruptcy Code commenced by such Debtor in the Bankruptcy Court, and (b) when used with reference to all Debtors, the cases under chapter 11 of the Bankruptcy Code commenced by the Debtors in the Bankruptcy Court being jointly administered under Case No. 20-33495 (DRJ)

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

“*Claims Bar Date*” means the last date for filing a Proof of Claim in these Chapter 11 Cases, as provided in the Claims Bar Date Order.

“*Claims Bar Date Order*” means that certain *Order (I) Establishing (A) Bar Dates and (B) Related Procedures for Filing Proofs of Claim (II) Approving the Form and Manner of Notice Thereof, and (III) Granting Related Relief* entered by the Bankruptcy Court on July 13, 2020 (Docket No. 88), as amended, supplemented or modified from time to time.

“*Claims Objection Deadline*” means, with respect to any Claim, the latest of (a) one hundred eighty (180) days after the Effective Date; (b) ninety (90) days after the Filing of an applicable Proof of Claim, or (c) such other date as may be specifically fixed by Final Order of the Bankruptcy Court for objecting to such Claim.

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

“*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.

“*CM/ECF*” means the Bankruptcy Court’s Case Management and Electronic Case Filing system.

“*Collateral*” means any property or interest in property of the Debtors’ Estates that is subject to a valid and enforceable Lien to secure a Claim.

“*Commission*” means the U.S. Securities and Exchange Commission.

“*Committee*” means the official committee of unsecured creditors appointed in the Chapter 11 Cases, if any.

“*Confirmation*” means the occurrence of the Confirmation Date, subject to all conditions specified in Article IX of this Plan having been satisfied or waived pursuant to Article IX of this Plan.

“*Confirmation Date*” means the date on which the clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court in the Chapter 11 Cases.

“*Confirmation Hearing*” means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

“*Confirmation Order*” means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code, which order shall be consistent in all material respects with the Restructuring Support Agreement and the Restructuring Term Sheet, and otherwise in form and substance acceptable to the Debtors and the Required Consenting Noteholders in the manner set forth in the Restructuring Support Agreement.

“*Consenting Noteholders*” means those Holders of the Prepetition Notes that are party to the Restructuring Support Agreement as “Consenting Noteholders” thereunder.

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

“*Cure Claim Amount*” has the meaning set forth in Article VI.B of this Plan.

“*D&O Liability Insurance Policies*” means all unexpired insurance policies (including, without limitation, the D&O Tail Policy, any general liability policies, any errors and omissions policies, and, in each case, any agreements, documents, or instruments related thereto) issued at any time and providing coverage for liability of any Debtor’s directors, managers, and officers.

“*D&O Tail Policy*” means that certain directors’ & officers’ liability insurance policy purchased by the Debtors prior to the Petition Date.

“*Debtor(s)*” means, individually, any of the above-captioned debtors and debtors-in-possession and, collectively, all of the above-captioned debtors and debtors-in-possession.

“*Debtor Release*” has the meaning set forth in Article X.B hereof.

“*Debtor Releasing Parties*” has the meaning set forth in Article X.B hereof.

“*Designated Persons*” means, collectively, any of the Debtors’ senior officers or managers, as applicable, who (i) received retention payments from the Debtors in July 2020 and prior to the Petition Date and (ii) are not employed by the Reorganized Debtors as of June 30, 2021.

“*DIP ABL Agent*” means JPMorgan Chase Bank, N.A., or its duly appointed successor, in its capacity as administrative agent and collateral agent under the DIP ABL Credit Agreement.

“*DIP ABL Credit Agreement*” means that certain Senior Secured Debtor-in-Possession Credit Agreement, dated as of July 14, 2020, by and among the Debtors, the DIP ABL Agent, and the DIP ABL Lenders, as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof prior to the Effective Date.

“*DIP ABL Facility*” means the debtor-in-possession financing facility provided by the DIP ABL Lenders.

“*DIP ABL Facility Claims*” means any and all Claims arising from, under, or in connection with the DIP ABL Credit Agreement or any other DIP ABL Loan Documents, including Claims for all principal amounts outstanding, interest, fees, expenses, costs, and other charges and all other “Secured Obligations” as defined in the DIP ABL Credit Agreement.

“*DIP ABL Facility Liens*” means the Liens securing the payment of the DIP ABL Facility Claims.

“*DIP ABL Loan Documents*” means the “Loan Documents” as defined in the DIP ABL Credit Agreement, as well as any documents evidencing “Banking Services Obligations” and any documents evidencing obligations owing to an “Swap Counterparties” under any “Hedging Arrangements” (each as defined in the DIP ABL Credit Agreement), and the DIP Orders, in each case as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof prior to the Effective Date.

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

“*DIP Agents*” means the DIP ABL Agent and the DIP Term Loan Agent.

“*DIP Credit Agreements*” means the DIP ABL Credit Agreement and the DIP Term Loan Credit Agreement.

“*DIP Contingent Obligations*” means all contingent obligations not due and payable under the DIP Loan Documents on the Effective Date, including any and all indemnification and expense reimbursement obligations of the Debtors that are contingent as of the Effective Date.

“*DIP Facilities*” means the DIP ABL Facility and the DIP Term Loan Facility.

“*DIP Facility Claims*” means the DIP ABL Facility Claims and the DIP Term Loan Facility Claims.

“*DIP Facility Liens*” means the DIP ABL Facility Liens and the DIP Term Loan Facility Liens.

“*DIP Lenders*” means the DIP ABL Lenders and the DIP Term Loan Lenders.

“*DIP Loan Documents*” means the DIP ABL Loan Documents and the DIP Term Loan Documents.

“*DIP Orders*” means the Interim DIP Order and the Final DIP Order.

“*DIP Term Loan Agent*” means Cantor Fitzgerald Securities, or its duly appointed successor, in its capacity as administrative agent and collateral agent under the DIP Term Loan Credit Agreement.

“*DIP Term Loan Credit Agreement*” means that certain that certain Senior Secured Debtor-in-Possession Term Loan Credit Agreement, dated as of July 14, 2020, by and among the Debtors, the DIP Term Loan Agent, and the DIP Term Loan Lenders, as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof prior to the Effective Date.

“*DIP Term Loan Facility*” means the debtor-in-possession financing facility provided by the DIP Term Loan Lenders.

“*DIP Term Loan Facility Claims*” means any and all Claims arising from, under, or in connection with the DIP Term Loan Credit Agreement or any other DIP Term Loan Documents, including Claims for all principal amounts outstanding, interest, fees, expenses, costs, and other charges and all other “Obligations” as defined in the DIP Term Loan Credit Agreement.

“*DIP Term Loan Facility Liens*” means the Liens securing the payment of the DIP Term Loan Facility Claims.

“*DIP Term Loan Documents*” means the “Loan Documents” as defined in the DIP Term Loan Credit Agreement, and the DIP Orders, in each case as amended, amended and restated, supplemented or otherwise modified from time to time in accordance with the terms thereof prior to the Effective Date.

“*DIP Term Loan Lenders*” means the lenders party to the DIP Term Loan Credit Agreement from time to time.

“*Disallowed Claim*” means a Claim, or any portion thereof, that (a) is determined to be disallowed pursuant to a Final Order of the Bankruptcy Court or is deemed disallowed in accordance with the terms of this Plan or the Confirmation Order, (b) (i) is Scheduled at zero, in an unknown amount or as contingent, disputed or unliquidated and (ii) as to which the Claims Bar Date has been established but no Proof of Claim has been timely Filed or deemed timely Filed under applicable law, or (c) (i) is not Scheduled and (ii) as to which the Claims Bar Date has been established but no Proof of Claim has been timely Filed or deemed timely Filed under applicable law.

“*Disclosure Statement*” means that certain *Disclosure Statement for the Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors under Chapter 11 of the Bankruptcy Code*, dated as of August 15, 2020, as amended, supplemented, or modified from time to time and including all exhibits and schedules thereto and references therein that relate to this Plan and as approved by the Disclosure Statement Order.

“*Disclosure Statement Order*” means that certain *Order (I) Approving the Disclosure Statement, (II) Establishing the Voting Record Date, Voting Deadline and Other Dates, (III) Approving Procedures for Soliciting, Receiving and Tabulating Votes on the Plan and for Filing Objections to the Plan, (IV) Approving the Manner and Form of Notice and Other Related Documents, (V) Approving Rights Offering Procedures, (VI) Approving Procedures for Assumption of Contracts and Leases and Form and Manner of Assumption Notice, and (VII) Granting Related Relief*, entered by the Bankruptcy Court on August 14, 2020 (Docket No. 288), as amended, supplemented or modified from time to time.

“*Disputed Claim*” means any Claim, or any portion thereof, that as of any date of determination is not a Disallowed Claim and has not been Allowed pursuant to this Plan or a Final Order of the Bankruptcy Court, and

(a) if a Proof of Claim has been timely Filed by the applicable Claims Bar Date, such Claim is designated on such Proof of Claim as unliquidated, contingent or disputed, or in zero or unknown amount, and has not been resolved by written agreement of the parties or a Final Order of the Bankruptcy Court; or

(b) that is the subject of an objection or request for estimation Filed in the Bankruptcy Court and which such objection or request for estimation has not been withdrawn, resolved or overruled by Final Order of the Bankruptcy Court; or

(c) that is otherwise disputed by any Debtor in accordance with the provisions of this Plan or applicable law, which dispute has not been withdrawn, resolved or overruled by Final Order.

“*Distribution Agent*” means the Reorganized Debtors or any party designated by the Reorganized Debtors to serve as distribution agent under this Plan. For purposes of distributions under this Plan to the Holders of Allowed DIP Facility Claims, Allowed Prepetition Credit Agreement Claims and Allowed Prepetition Notes Claims, the DIP Agents, the Prepetition Credit Agreement Agent, and the Prepetition Notes Indenture Trustee, respectively, will be and shall act as the Distribution Agent.

“*Distribution Record Date*” means the date for determining which Holders of Claims are eligible to receive distributions under this Plan, which date shall be the Effective Date.

“DTC” means The Depository Trust Company.

“Effective Date” means the date on which this Plan shall take effect, which date shall be the first Business Day on which (a) no stay of the Confirmation Order is in effect, and (b) the conditions specified in Article IX of this Plan, have been satisfied or waived in accordance with the terms of Article IX, which date shall be specified in a notice Filed by the Reorganized Debtors with the Bankruptcy Court.

“Eligible General Unsecured Claim” means any General Unsecured Claim that is either Allowed or Disputed; provided, that to the extent such General Unsecured Claim is Disputed, it must become an Allowed Claim by the date that is one (1) Business Day after entry of the Confirmation Order by the Bankruptcy Court.

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

“Equity Interest” means (a) any Equity Security in any Debtor, including, without limitation, all issued, unissued, authorized or outstanding shares of stock and other ownership interests, together with (i) any options, warrants or contractual rights to purchase or acquire any such Equity Securities at any time with respect to any Debtor, and all rights arising with respect thereto and (ii) the rights of any Person or Entity to purchase or demand the issuance of any of the foregoing and shall include: (1) conversion, exchange, voting, participation, and dividend rights; (2) liquidation preferences; (3) options, warrants, and call and put rights; and (4) share-appreciation rights; (b) any Unexercised Equity Interest; and (c) any 510(b) Equity Claim, in each case, as in existence immediately prior to the Effective Date.

“Equity Security” means an “equity security” as defined in section 101(16) of the Bankruptcy Code.

“Estate(s)” means, individually, the estate of each of the Debtors and, collectively, the estates of all of the Debtors created under section 541 of the Bankruptcy Code.

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

“Exculpated Parties” means, collectively, the following:

- (a) the Debtors;
- (b) the Reorganized Debtors;
- (c) the Prepetition Credit Agreement Agent;
- (d) the Prepetition Credit Agreement Lenders;
- (e) the Prepetition Notes Indenture Trustee;
- (f) the DIP Agents;
- (g) the DIP Lenders;
- (h) the Ad Hoc Noteholder Committee and the members thereof in their capacities as such;
- (i) the Consenting Noteholders;
- (j) the Backstop Parties;

(k) the Distribution Agents;

(l) the Exit Facility Agent;

(m) the Exit Facility Lenders;

(n) the New Secured Convertible Notes Indenture Trustee;

(o) the New Secured Convertible Noteholders;

(p) the Releasing Old Parent Interestholders; and

(q) with respect to each of the foregoing Persons or Entities in clauses (a) through (p), the Related Persons of each such Person or Entity, in each case solely in their capacity as such.

“Exculpation” means the exculpation provision set forth in Article X.E hereof.

“Executory Contract” means a contract to which any Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

“Exhibit” means an exhibit annexed to either this Plan or as an appendix to the Disclosure Statement (as such exhibits are amended, modified or otherwise supplemented from time to time).

“Exit Facility Agent” means the administrative agent and collateral agent under the Exit Facility Credit Agreement, solely in its capacity as such.

“Exit Facility Credit Agreement” means the credit agreement, in substantially the form Filed with the Plan Supplement, which credit agreement shall contain terms and conditions consistent in all respects with those set forth on the Exit Facility Term Sheet and shall be on terms and conditions as are acceptable to the Debtors and the Required Consenting Noteholders in the manner set forth in the Restructuring Support Agreement.

“Exit Facility Lenders” means each of the lenders under the Exit Facility Credit Agreement, solely in their respective capacities as such.

“Exit Facility Loan Documents” means the Exit Facility Credit Agreement and any other guarantee, security agreement, deed of trust, mortgage, and other documents (including UCC financing statements), contracts, and agreements entered into with respect to, or in connection with, the Exit Facility Credit Agreement.

“Exit Facility Loans” means the loans contemplated under the Exit Facility Credit Agreement.

“Exit Facility Term Sheet” means the term sheet attached hereto as Exhibit C.

“Face Amount” means (a) when used in reference to a Disputed Claim, the full stated amount of the Claim asserted by the applicable Holder in any Proof of Claim timely Filed with the Bankruptcy Court and (b) when used in reference to an Allowed Claim, the Allowed amount of such Claim.

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

“*Final DIP Order*” means that certain *Final Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Claims, (IV) Granting Adequate Protection to Prepetition ABL Secured Parties, (V) Modifying Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* entered by the Bankruptcy Court on August 4, 2020 (Docket No. 209), as amended, supplemented or modified from time to time.

“*Final Order*” means an order or judgment of the Bankruptcy Court (or any other court of competent jurisdiction) entered by the Clerk of the Bankruptcy Court (or such other court) on the docket in the Chapter 11 Cases (or the docket of such other court), which has not been modified, amended, reversed, vacated or stayed and as to which (x) the time to appeal, petition for certiorari, or move for a new trial, stay, reargument or rehearing has expired and as to which no appeal, petition for certiorari or motion for new trial, stay, reargument or rehearing shall then be pending or (y) if an appeal, writ of certiorari, new trial, stay, reargument or rehearing thereof has been sought, such order or judgment of the Bankruptcy Court (or other court of competent jurisdiction) shall have been affirmed by the highest court to which such order was appealed, or certiorari shall have been denied, or a new trial, stay, reargument or rehearing shall have been denied or resulted in no modification of such order, and the time to take any further appeal, petition for certiorari or move for a new trial, stay, reargument or rehearing shall have expired, as a result of which such order shall have become final in accordance with Rule 8002 of the Federal Rules of Bankruptcy Procedure; provided that no order shall fail to be a Final Order solely due to the possibility that a motion pursuant to section 502(j) of the Bankruptcy Code, Rules 59 or 60 of the Federal Rules of Civil Procedure, or Rule 9024 of the Bankruptcy Rules may be filed with respect to such order.

“*General Unsecured Claim*” means any Claim that is not a/an: Administrative Claim; DIP Facility Claim; Professional Fee Claim; Priority Tax Claim; Secured Tax Claim; Other Priority Claim; Other Secured Claim; Prepetition Credit Agreement Claim; Prepetition Notes Claim; Intercompany Claim; or 510(b) Equity Claim.

“*Governmental Unit*” means a “governmental unit” as defined in section 101(27) of the Bankruptcy Code.

“*Holder*” means an Entity holding a Claim or Equity Interest, as the context requires.

“*Impaired*” means, when used in reference to a Claim or Equity Interest, a Claim or Equity Interest that is “impaired” within the meaning of section 1124 of the Bankruptcy Code.

“*Indemnification Provisions*” means, collectively, each of the provisions in existence immediately prior to the Effective Date (whether in bylaws, certificates of formation or incorporation, board resolutions, employment contracts, or otherwise) whereby any Debtor agrees to indemnify, reimburse, provide contribution or advance fees and expenses to or for the benefit of, defend, exculpate, or limit the liability of, any Indemnified Party.

“*Indemnified Parties*” means each of the Debtors’ and their respective subsidiaries’ current and former directors, officers, and managers in their respective capacities as such, and solely to the extent that such Person was serving in such capacity on or any time after the Petition Date; provided, that the Designated Persons shall not be Indemnified Parties under this Plan.

“*Initial Distribution Date*” means the date that is on or as soon as reasonably practicable after the Effective Date, but no later than thirty (30) days after the Effective Date, when, subject to the “Treatment” sections in Article III hereof, distributions under this Plan shall commence to Holders of Allowed Claims; provided that any applicable distributions under this Plan on account of the DIP Facility Claims and the

Prepetition Debt Claims shall be made to the applicable Distribution Agent on the Effective Date, and each such Distribution Agent shall make its respective distributions as soon as practicable thereafter.

“*Insurance Contract*” means all insurance policies and all surety bonds and related agreements of indemnity that have been issued at any time to, or provide coverage to, any of the Debtors and all agreements, documents, or instruments relating thereto.

“*Insurer*” means any company or other entity that issued any Insurance Contract, and any respective predecessors and/or affiliates thereof.

“*Intercompany Claim*” means any Claim against any of the Debtors held by another Debtor or non-Debtor Affiliate, other than an Administrative Claim.

“*Interim DIP Order*” means that certain *Interim Order (I) Authorizing the Debtors to Obtain Postpetition Financing, (II) Authorizing the Debtors to Use Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Claims, (IV) Granting Adequate Protection to Prepetition ABL Secured Parties, (V) Modifying Automatic Stay, (VI) Scheduling a Final Hearing, and (VII) Granting Related Relief* entered by the Bankruptcy Court on July 13, 2020 (Docket No. 98), as amended, supplemented or modified from time to time.

“*IRC*” means the Internal Revenue Code of 1986, as amended.

“*IRS*” means the Internal Revenue Service of the United States of America.

“*Lien*” means a “lien” as defined in section 101(37) of the Bankruptcy Code, and, with respect to any property or asset, includes, without limitation, any mortgage, lien, pledge, charge, security interest or other encumbrance of any kind, or any other type of preferential arrangement that has the practical effect of creating a security interest, in respect of such property or asset.

“*Liquidated Damages Payment*” has the meaning set forth in the Backstop Purchase Agreement.

“*Local Rules*” means the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of Texas.

“*New Board*” means the initial five (5) member board of directors of Reorganized Parent, which shall comprise the chief executive officer of Reorganized Parent and other directors designated by the Backstop Parties prior to the Effective Date. The members of the New Board shall be Filed with the Plan Supplement.

“*New Equity Interests*” means the ownership interests in Reorganized Parent authorized to be issued pursuant to this Plan (and subject to the Restructuring Transactions) and the Amended/New Organizational Documents.

“*New Equity Interests Pool*” means 100% of the New Equity Interests issued and outstanding on the Effective Date to be distributed to the Holders of Allowed Prepetition Notes Claims and Allowed General Unsecured Claims in accordance with Article III of this Plan, subject to dilution by (a) the New Equity Interests issued upon conversion of the New Secured Convertible Notes and (b) the New Management Incentive Plan Equity.

“*New Management Incentive Plan*” means the management equity incentive plan to be adopted by the New Board as described in Article V.H hereof.

“*New Management Incentive Plan Equity*” means the New Equity Interests issued under or pursuant to the New Management Incentive Plan.

“*New Registration Rights Agreement*” means, if applicable, that certain registration rights agreement with respect to the New Equity Interests, in substantially the form Filed with the Plan Supplement, which agreement shall contain terms and conditions as are acceptable to the Debtors and the Required Consenting Noteholders in the manner set forth in the Restructuring Support Agreement.

“*New Secured Convertible Noteholder*” means a Holder of the New Secured Convertible Notes.

“*New Secured Convertible Notes*” means the new secured convertible notes to be issued by the Reorganized Debtors on the Effective Date, consisting of (a) the new secured convertible notes to be issued pursuant to the Rights Offering and (b) the Put Option Notes, which will each have the terms set forth in the New Secured Convertible Notes Indenture.

“*New Secured Convertible Notes Documents*” means the New Secured Convertible Notes Indenture and any other guarantee, security agreement, deed of trust, mortgage, and other documents (including UCC financing statements), contracts, and agreements entered into with respect to, or in connection with, the New Secured Convertible Notes Indenture.

“*New Secured Convertible Notes Indenture*” means the indenture governing the New Secured Convertible Notes, in substantially the form Filed with the Plan Supplement, which indenture shall contain terms and conditions consistent in all respects with those set forth on the Restructuring Term Sheet and shall be on terms and conditions as are acceptable to the Debtors and the Required Consenting Noteholders in the manner set forth in the Restructuring Support Agreement.

“*New Secured Convertible Notes Indenture Trustee*” means the indenture trustee under the New Secured Convertible Notes Indenture, to be selected by the Required Backstop Parties.

“*New Stockholders Agreement*” means that certain stockholders agreement of Reorganized Parent, in substantially the form Filed with the Plan Supplement, which agreement shall contain terms and conditions acceptable to the Debtors and the Required Consenting Noteholders in the manner set forth in the Restructuring Support Agreement.

“*Non-Debtor Releasing Parties*” means, collectively, the following:

- (a) the Prepetition Credit Agreement Agent;
- (b) the Prepetition Credit Agreement Lenders;
- (c) the Prepetition Notes Indenture Trustee;
- (d) the DIP Agents;
- (e) the DIP Lenders;
- (f) the Ad Hoc Noteholder Committee and the members thereof in their capacities as such;
- (g) the Releasing Prepetition Noteholders;
- (h) the Backstop Parties;

- (i) the Distribution Agents;
- (j) the Exit Facility Agent and the Exit Facility Lenders;
- (k) the New Secured Convertible Notes Indenture Trustee and the New Secured Convertible Noteholders;
- (l) those Holders of Claims deemed to accept this Plan that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots/Opt-Out Forms;
- (m) those Holders of General Unsecured Claims that do not affirmatively opt out of the Third Party Release as provided on their respective Ballots/Opt-Out Forms;
- (n) all Holders of Claims that vote to accept this Plan; and
- (o) the Releasing Old Parent Interestholders.

“*Non-Voting Classes*” means, collectively, Classes 1-3 and 6-8.

“*Notice*” has the meaning set forth in Article XII.J of this Plan.

“*Old Affiliate Interests*” means, collectively, the Equity Interests in each Parent Subsidiary, in each case as in existence immediately prior to the Effective Date.

“*Old Parent Interest*” means the Equity Interests in Parent, as in existence immediately prior to the Effective Date.

“*Ordinary Course Professionals Order*” means that certain *Order Authorizing Debtors to Retain and Compensate Professionals Used in the Ordinary Course of Business* as may be entered by the Bankruptcy Court, as amended, supplemented or modified from time to time.

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

“*Other Secured Claim*” means any Secured Claim other than an Administrative Claim, Secured Tax Claim, DIP Facility Claim, or Prepetition Credit Agreement Claim.

“*Parent*” means Hi-Crush Inc. (formerly known as Hi-Crush Partners LP), a Delaware corporation, and a debtor-in-possession in these Chapter 11 Cases.

“*Parent Subsidiary*” means each direct and indirect, wholly-owned subsidiary of Parent.

“*Person*” means a “person” as defined in section 101(41) of the Bankruptcy Code and also includes any natural person, corporation, general or limited partnership, limited liability company, firm, trust, association, government, governmental agency or other Entity, whether acting in an individual, fiduciary or other capacity.

“*Petition Date*” means July 12, 2020.

“*Plan*” means this *Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors under Chapter 11 of the Bankruptcy Code*, dated August 15, 2020, including the Exhibits and all supplements, appendices, and schedules thereto (including any appendices, exhibits, schedules, and supplements to this

Plan that are contained in the Plan Supplement), either in its present form or as the same may be amended, supplemented, or modified from time to time.

“*Plan Objection Deadline*” means the date and time by which objections to Confirmation and Consummation of this Plan must be Filed with the Bankruptcy Court and served in accordance with the Disclosure Statement Order, which date is September 18, 2020 as set forth in the Disclosure Statement Order.

“*Plan Securities*” has the meaning set forth in Article V.I of this Plan.

“*Plan Securities and Documents*” has the meaning set forth in Article V.I of this Plan.

“*Plan Supplement*” means, collectively, the compilation of documents and forms of documents, schedules, and exhibits to this Plan (as amended, supplemented, or modified from time to time in accordance with the terms hereof, the Bankruptcy Code, the Bankruptcy Rules, and the Restructuring Support Agreement), all of which are incorporated by reference into, and are an integral part of, this Plan, to be Filed by the Debtors no later than seven (7) days before the Plan Objection Deadline or such later date as may be approved by the Bankruptcy Court on notice to parties in interest, and additional documents or amendments to previously Filed documents, Filed before the Effective Date as amendments to the Plan Supplement, including the following, as applicable: (a) the Exit Facility Credit Agreement; (b) the Amended/New Organizational Documents; (c) the Retained Causes of Action; (d) to the extent known, a disclosure of the members of the New Board; (e) the New Secured Convertible Notes Indenture; (f) the Schedule of Rejected Executory Contracts and Unexpired Leases; (g) the New Stockholders Agreement and (h) the New Registration Rights Agreement (if applicable). The Debtors shall have the right to amend the documents contained in, and exhibits to, the Plan Supplement through the Effective Date subject in all respects to the consent rights set forth herein and in the Restructuring Support Agreement.

“*Prepetition Credit Agreement*” means that certain Credit Agreement, dated as August 1, 2018 (as the same may be amended, modified or supplemented from time to time) among Parent, as borrower, the guarantors party thereto from time to time, the Prepetition Credit Agreement Agent, the Prepetition Credit Agreement Lenders, and the other agents and parties party thereto.

“*Prepetition Credit Agreement Agent*” means JPMorgan Chase Bank, N.A. in its capacity as administrative agent under the Prepetition Credit Agreement.

“*Prepetition Credit Agreement Agent and Lender Fees and Expenses*” means all unpaid fees and reasonable and documented out-of-pocket costs and expenses (regardless of whether such fees, costs, and expenses were incurred before or after the Petition Date) of the Prepetition Credit Agreement Agent and the Prepetition Credit Agreement Lenders, including, without limitation, the reasonable fees, costs, and expenses of attorneys, advisors, consultants, or other professionals retained by the Prepetition Credit Agreement Agent, that are payable in accordance with the terms of the Prepetition Credit Agreement or the DIP Orders.

“*Prepetition Credit Agreement Claims*” means all claims and obligations arising under or in connection with the Prepetition Credit Agreement or any other Prepetition Loan Document.

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

“*Prepetition Credit Agreement Liens*” means the Liens securing the payment of the Prepetition Credit Agreement Claims.

“Prepetition Debt Claims” means, collectively, the Prepetition Credit Agreement Claims and the Prepetition Notes Claims.

“Prepetition Debt Documents” means, collectively, the Prepetition Credit Agreement, the Prepetition Loan Documents, the Prepetition Notes, and the Prepetition Notes Indenture.

“Prepetition Loan Documents” means the “Loan Documents” as defined in the Prepetition Credit Agreement, in each case as amended, supplemented, or modified from time to time prior to the Petition Date.

“Prepetition Noteholder” means a Holder of the Prepetition Notes.

“Prepetition Notes” means those certain 9.500% senior unsecured notes due 2026 issued by Parent pursuant to the Prepetition Notes Indenture.

“Prepetition Notes Claims” means any and all Claims arising from, under, or in connection with the Prepetition Notes, the Prepetition Notes Indenture or any other related document or agreement.

“Prepetition Notes Indenture” means that certain indenture, dated as of August 1, 2018 among Parent, the guarantors named therein or party thereto, and the Prepetition Notes Indenture Trustee, as may be amended modified or supplemented from time to time.

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

“Prepetition Notes Indenture Trustee Charging Lien” means any Lien or other priority in payment arising prior to the Effective Date to which the Prepetition Notes Indenture Trustee is entitled, pursuant to the Prepetition Notes Indenture, against distributions to be made to Holders of Allowed Prepetition Notes Claims for payment of any Prepetition Notes Indenture Trustee Fees and Expenses.

“Prepetition Notes Indenture Trustee Fees and Expenses” means the reasonable and documented compensation, fees, expenses, disbursements and indemnity claims incurred by the Prepetition Notes Indenture Trustee, including without limitation, attorneys’ and agents’ fees, expenses and disbursements, incurred by the Prepetition Notes Indenture Trustee, whether prior to or after the Petition Date and whether prior to or after consummation of this Plan, in each case to the extent payable or reimbursable under the Prepetition Notes Indenture.

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

“Pro Rata” means the proportion that (a) the Face Amount of a Claim in a particular Class or Classes (or portions thereof, as applicable) bears to (b) the aggregate Face Amount of all Claims (including Disputed Claims, but excluding Disallowed Claims) in such Class or Classes (or portions thereof, as applicable), unless this Plan provides otherwise.

“Professional” means any Person or Entity retained by the Debtors or the Committee in the Chapter 11 Cases pursuant to section 327, 328, 363, and/or 1103 of the Bankruptcy Code (other than an ordinary course professional).

“*Professional Fee Claim*” means all Claims for accrued, contingent, and/or unpaid fees, costs, and expenses earned, accrued or incurred by a Professional in the Chapter 11 Cases on or after the Petition Date and through and including the Effective Date.

“*Professional Fees Bar Date*” means the Business Day that is forty-five (45) days after the Effective Date or such other date as approved by Final Order of the Bankruptcy Court.

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

“*Put Option Notes*” has the meaning set forth in the Backstop Purchase Agreement.

“*Questionnaire Deadline*” means September 4, 2020, as set forth in the Rights Offering Procedures.

“*Related Persons*” means, with respect to any Person or Entity, such Person’s or Entity’s respective predecessors, successors, assigns and present and former Affiliates (whether by operation of law or otherwise) and subsidiaries, and each of their respective current and former officers, directors, principals, employees, shareholders, members (including *ex officio* members and managing members), managers, managed accounts or funds, management companies, fund advisors, advisory or subcommittee board members, partners, agents, financial advisors, attorneys, accountants, investment bankers, investment advisors, consultants, representatives, and other professionals, in each case acting in such capacity at any time on or after the Petition Date, and any Person or Entity claiming by or through any of them, including such Related Persons’ respective heirs, executors, estates, servants, and nominees; provided, however, that no insurer of any Debtor shall constitute a Related Person.

“*Release*” means the release given by the Releasing Parties to the Released Parties as set forth in Article X.B hereof.

“*Released Party*” means, collectively, the following:

- (a) the Debtors;
- (b) the Reorganized Debtors;
- (c) the Prepetition Credit Agreement Agent;
- (d) the Prepetition Credit Agreement Lenders;
- (e) the Prepetition Notes Indenture Trustee;
- (f) the DIP Agents;
- (g) the DIP Lenders;
- (h) the Ad Hoc Noteholder Committee and the members thereof in their capacities as such;
- (i) the Releasing Prepetition Noteholders;
- (j) the Backstop Parties;
- (k) the Distribution Agents;
- (l) the Exit Facility Agent and the Exit Facility Lenders;

(m) the New Secured Convertible Notes Indenture Trustee and the New Secured Convertible Noteholders;

(n) the Releasing Old Parent Interestholders; and

(o) with respect to each of the foregoing Persons or Entities in clauses (a) through (n), the Related Persons of each such Person or Entity, in each case solely in their capacity as such; provided, that the Designated Persons shall not be Released Parties under this Plan.

“Releasing Old Parent Interestholder” means a Holder of an Old Parent Interest that does not affirmatively opt out of the Third Party Release as provided on its respective Ballot/Opt-Out Form.

“Releasing Prepetition Noteholder” means, collectively, (a) each Consenting Noteholder and (b) any other Prepetition Noteholder that does not affirmatively opt out of the Third Party Release as provided on its respective Ballot/Opt-Out Form.

“Releasing Party” has the meaning set forth in Article X.B hereof.

“Reorganized Debtors” means, subject to the Restructuring Transactions, the Debtors as reorganized pursuant to this Plan on or after the Effective Date, and their respective successors.

“Reorganized Parent” means, subject to the Restructuring Transactions, Hi-Crush Inc., a Delaware corporation, as reorganized pursuant to this Plan on or after the Effective Date, and its successors.

“Required Backstop Parties” has the meaning set forth in the Backstop Purchase Agreement.

“Required Consenting Noteholders” has the meaning set forth in the Restructuring Support Agreement.

“Reserved New Equity Interests” has the meaning set forth in Article V.I of this Plan

“Restricted Holders” has the meaning set forth in Article V.I of this Plan.

“Restructuring Documents” means, collectively, the documents and agreements (and the exhibits, schedules, annexes and supplements thereto) necessary to implement, or entered into in connection with, this Plan, including, without limitation, the Plan Supplement, the Exhibits, and the Plan Securities and Documents.

“Restructuring Support Agreement” means that certain Restructuring Support Agreement, dated as of July 12, 2020, by and between the Debtors and the Consenting Noteholders (as amended, supplemented or modified from time to time), a copy of which is attached hereto as Exhibit D.

“Restructuring Term Sheet” means the term sheet attached as Exhibit A to the Restructuring Support Agreement.

“Restructuring Transaction” has the meaning ascribed thereto in Article V.A of this Plan.

“Retained Causes of Action” means all claims, rights of action, suits or proceedings, whether in law or in equity, whether known or unknown, that any Debtor or any Estate may hold against any Person or Entity, including, without limitation, the Causes of Action of the Debtors or their Estates, in each case solely to the extent of the Debtors’ or their Estates’ interest therein. A non-exclusive list of the Retained

Causes of Action held by the Debtors as of the Effective Date shall be Filed with the Plan Supplement, which shall be deemed to include any derivative actions filed against any Debtor as of the Effective Date.

“Rights Offering” means that certain rights offering pursuant to which each Rights Offering Participant is entitled to receive Subscription Rights to acquire New Secured Convertible Notes on a Pro Rata basis in accordance with the Rights Offering Procedures and which will be fully backstopped by the Backstop Parties pursuant to the Backstop Purchase Agreement.

“Rights Offering Participant” means a Holder of an Allowed Prepetition Notes Claim or an Eligible General Unsecured Claim as of the Rights Offering Record Date who is an Accredited Investor and has completed an AI Questionnaire in accordance with the Rights Offering Procedures.

“Rights Offering Procedures” means the procedures for the implementation of the Rights Offering as approved in the Disclosure Statement Order, a copy of which is attached hereto as Exhibit E.

“Rights Offering Record Date” means September 4, 2020, the record date specified in the Disclosure Statement Order.

“Rights Offering Termination Time” means 5:00 p.m. (Prevailing Central Time) on September 29, 2020, as set forth in the Rights Offering Procedures.

“Schedule of Rejected Executory Contracts and Unexpired Leases” means the schedule of Executory Contracts and Unexpired Leases to be rejected by the Debtors pursuant to this Plan and Filed as part of the Plan Supplement, as such schedule may be amended, modified, or supplemented by the Debtors from time to time prior to the Confirmation Date, which Schedule of Rejected Executory Contracts and Unexpired Leases shall be subject to the consent of the Required Consenting Noteholders.

“Scheduled” means with respect to any Claim, the status and amount, if any, of such Claim as set forth in the Schedules.

“Schedules” means the schedules of assets and liabilities, schedules of Executory Contracts, and statement of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy Code and the applicable Bankruptcy Rules, as such Schedules may be amended, modified, or supplemented from time to time.

“Secured Claim” means a Claim that is secured by a Lien on property in which any of the Debtors’ Estates have an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Claim holder’s interest in such Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or, in the case of setoff, pursuant to section 553 of the Bankruptcy Code.

“Secured Tax Claim” means any Secured Claim which, absent its secured status, would be entitled to priority in right of payment under section 507(a)(8) of the Bankruptcy Code.

“Securities Act” means the Securities Act of 1933, 15 U.S.C. §§ 77c-77aa, as now in effect or hereafter amended, and the rules and regulations promulgated thereunder.

“Specified Employee Plans” has the meaning set forth in Article VI.G of this Plan.

“Stamp or Similar Tax” means any stamp tax, recording tax, conveyance fee, intangible or similar tax, mortgage tax, personal or real property tax, real estate transfer tax, sales tax, use tax, transaction

privilege tax (including, without limitation, such taxes on prime contracting and owner-builder sales), privilege taxes (including, without limitation, privilege taxes on construction contracting with regard to speculative builders and owner builders), and other similar taxes or fees imposed or assessed by any Governmental Unit.

“*Subscription Rights*” means the right to participate in the Rights Offering as set forth in the Rights Offering Procedures.

“*Subsequent Distribution*” means any distribution of property under this Plan to Holders of Allowed Claims other than the initial distribution given to such Holders on the Initial Distribution Date.

“*Subsequent Distribution Date*” means the last Business Day of the month following the end of each calendar quarter after the Effective Date; *provided, however*, that if the Effective Date is within thirty (30) days of the end of a calendar quarter, then the first Subsequent Distribution Date will be the last Business Day of the month following the end of the first (1st) calendar quarter after the calendar quarter in which the Effective Date falls.

“*Third Party Release*” has the meaning set forth in Article X.B hereof.

“*Unexercised Equity Interests*” means any and all unexercised options, performance, stock units, restricted stock units, restricted stock awards, warrants, calls, rights, puts, awards, commitments, or any other agreements, arrangements, or commitments of any character, kind, or nature to acquire, exchange for, or convert into an Old Parent Interest, as in existence immediately prior to the Effective Date.

“*Unexpired Lease*” means a lease to which any Debtor is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

“*Unimpaired*” means, with respect to a Class of Claims or Equity Interests, a Claim or an Equity Interest that is “unimpaired” within the meaning of section 1124 of the Bankruptcy Code.

“*Unsubscribed Notes*” means the New Secured Convertible Notes offered for sale in the Rights Offering that are not subscribed for by the Rights Offering Participants by the Rights Offering Termination Time in accordance with the terms of the Rights Offering Procedures.

“*Unused Carve-Out Reserve Amount*” means the remaining Cash, if any, in the Carve-Out Reserve after all obligations and liabilities for which such reserve was established are paid, satisfied, and discharged in full in Cash or are Disallowed by Final Order in accordance with this Plan.

“*Voting and Claims Agent*” means Kurtzman Carson Consultants LLC, in its capacity as solicitation, notice, claims and balloting agent for the Debtors.

“*Voting Classes*” means Classes 4 and 5.

“*Voting Deadline*” means the date and time by which all Ballots/Opt-Out Forms must be received by the Voting and Claims Agent in accordance with the Disclosure Statement, as set forth in the Disclosure Statement Order.

“*Voting Record Date*” means August 14, 2020, as approved by the Bankruptcy Court in the Disclosure Statement Order, and is the date for determining which Holders of Claims in the Voting Classes are entitled, as applicable, to receive the Disclosure Statement and to vote to accept or reject this Plan.

ARTICLE II.

ADMINISTRATIVE, DIP FACILITY, AND PRIORITY TAX CLAIMS

A. Administrative Claims

Subject to sub-paragraph 1 below, on the later of the Effective Date or the date on which an Administrative Claim becomes an Allowed Administrative Claim, or, in each such case, as soon as reasonably practicable thereafter, each Holder of an Allowed Administrative Claim (other than an Allowed Professional Fee Claim) will receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Claim either (i) Cash equal to the amount of such Allowed Administrative Claim; or (ii) such other less favorable treatment as to which the Debtors (with the consent of the Required Consenting Noteholders) or Reorganized Debtors, as applicable, and the Holder of such Allowed Administrative Claim shall have agreed upon in writing; provided, however, that Administrative Claims incurred by any Debtor in the ordinary course of business may be paid in the ordinary course of business by such applicable Debtor or Reorganized Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court.

1. Bar Date for Administrative Claims

Except as otherwise provided in this Plan, unless previously Filed or paid, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtors pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order or the occurrence of the Effective Date (as applicable) no later than the Administrative Claims Bar Date; provided that the foregoing shall not apply to either the Holders of Claims arising under section 503(b)(1)(D) of the Bankruptcy Code or the Bankruptcy Court or United States Trustee as the Holders of Administrative Claims. 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, the Reorganized Debtors and their respective Estates and property and such Administrative Claims shall be deemed discharged as of the Effective Date. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Article X.G hereof. Nothing in this Article II.A shall limit, alter, or impair the terms and conditions of the Claims Bar Date Order with respect to the Claims Bar Date for filing administrative expense claims arising under Section 503(b)(9) of the Bankruptcy Code.

Objections to such requests must be Filed and served on the Reorganized Debtors and the requesting party by the later of (a) 120 days after the Effective Date and (b) 60 days after the Filing of the applicable request for payment of Administrative Claims, if applicable, as the same may be modified or extended from time to time by Final Order of the Bankruptcy Court.

2. Professional Fee Claims

Professionals or other Entities asserting a Professional Fee Claim for services rendered before the Effective Date must File and serve on the Reorganized Debtors and such other Entities who are designated in the Confirmation Order an application for final allowance of such Professional Fee Claim no later than the Professional Fees Bar Date; provided that the Reorganized Debtors shall pay the reasonable fees, costs, and out-of-pocket expenses of the Debtors' Professionals in the ordinary course of business for any work performed after the Effective Date, including those reasonable and documented fees, costs, and expenses incurred by such Professionals in connection with the implementation and consummation of this Plan, in each case without further application or notice to or order of the Bankruptcy Court; provided, further, that any Debtor Professional who may receive compensation or reimbursement of expenses pursuant to the

Ordinary Course Professionals Order may continue to receive such compensation and reimbursement of expenses from the Debtors and Reorganized Debtors for services rendered before the Effective Date pursuant to the Ordinary Course Professionals Order, in each case without further application or notice to or order of the Bankruptcy Court.

Objections to any Professional Fee Claim must be Filed and served on the Reorganized Debtors and the requesting party by no later than thirty (30) days after the Filing of the applicable final request for payment of the Professional Fee Claim. Each Holder of an Allowed Professional Fee Claim shall be paid in full in Cash by the Reorganized Debtors, including from the Carve-Out Reserve, within five (5) Business Days after entry of the order approving such Allowed Professional Fee Claim. The Reorganized Debtors shall not commingle any funds contained in the Carve-Out Reserve and shall use such funds to pay only the Professional Fee Claims, as and when allowed by order of the Bankruptcy Court. Notwithstanding anything to the contrary contained in this Plan, the failure of the Carve-Out Reserve to satisfy in full the Professional Fee Claims shall not, in any way, operate or be construed as a cap or limitation on the amount of Professional Fee Claims due and payable by the Reorganized Debtors.

B. DIP Facility Claims

Upon entry of the Final DIP Order, and pursuant to the Final DIP Order, the Prepetition Credit Agreement Claims were deemed outstanding under the DIP ABL Facility and constitute DIP ABL Facility Claims. On the Effective Date, the Allowed DIP ABL Facility Claims will, in full satisfaction, settlement, discharge and release of, and in exchange for such DIP ABL Facility Claims, be indefeasibly paid in full in Cash from the proceeds of the Exit Facility, and any unused commitments under the DIP ABL Loan Documents and the outstanding letters of credit thereunder shall be deemed outstanding under the Exit ABL Facility or, if necessary, be cash collateralized at 105% of such outstanding amount as of the Effective Date and remain outstanding.

On the Effective Date, the Allowed DIP Term Loan Facility Claims will, in full satisfaction, settlement, discharge and release of, and in exchange for such DIP Term Loan Facility Claims, be indefeasibly paid in full in Cash from the proceeds of the Rights Offering and Backstop Purchase Agreement, and the DIP Term Loan Facility Liens will be deemed discharged, released, and terminated for all purposes without further action of or by any Person or Entity.

C. Priority Tax Claims

Subject to Article VIII hereof, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Priority Tax Claim is an Allowed Priority Tax Claim as of the Effective Date or (ii) the date on which such Priority Tax Claim becomes an Allowed Priority Tax Claim, each Holder of an Allowed Priority Tax Claim shall receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Priority Tax Claim, at the election of the Debtors or Reorganized Debtors, as applicable: (A) Cash equal to the amount of such Allowed Priority Tax Claim; (B) such other less favorable treatment as to which the Debtors (with the consent of the Required Consenting Noteholders) or Reorganized Debtors, as applicable, and the Holder of such Allowed Priority Tax Claim shall have agreed upon in writing; (C) such other treatment such that it will not be Impaired pursuant to section 1124 of the Bankruptcy Code or (D) pursuant to and in accordance with sections 1129(a)(9)(C) and 1129(a)(9)(D) of the Bankruptcy Code, Cash in an aggregate amount of such Allowed Priority Tax Claim payable in regular installment payments over a period ending not more than five (5) years after the Petition Date, plus simple interest at the rate required by applicable non-bankruptcy law on any outstanding balance from the Effective Date, or such lesser rate as is agreed to in writing by a particular taxing authority and the Debtors or Reorganized Debtors, as applicable, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code; provided, however, that Priority Tax Claims incurred by any Debtor in the ordinary course of business may be paid

in the ordinary course of business by such applicable Debtor or Reorganized Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. Any installment payments to be made under clause (C) or (D) above shall be made in equal quarterly Cash payments beginning on the first applicable Subsequent Distribution Date, and continuing on each Subsequent Distribution Date thereafter until payment in full of the applicable Allowed Priority Tax Claim.

ARTICLE III.

CLASSIFICATION AND TREATMENT OF CLASSIFIED CLAIMS AND EQUITY INTERESTS

A. Summary

This Plan constitutes a separate plan of reorganization for each Debtor. All Claims and Equity Interests, except Administrative Claims, DIP Facility Claims, and Priority Tax Claims, are placed in the Classes set forth below. For all purposes under this Plan, each Class will contain sub-Classes for each of the Debtors (*i.e.*, there will be eight (8) Classes for each Debtor); provided, that any Class that is vacant as to a particular Debtor will be treated in accordance with Article III.D below.

The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including, without limitation, for voting, confirmation and distribution pursuant hereto and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. This Plan deems a Claim or Equity Interest to be classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remaining portion of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that any such Claim or Equity Interest is Allowed in that Class and has not been paid, released, Disallowed or otherwise settled prior to the Effective Date.

Summary of Classification and Treatment of Classified Claims and Equity Interests

<u>Class</u>	<u>Claim/Equity Interest</u>	<u>Status</u>	<u>Voting Rights</u>
1.	Other Priority Claims	Unimpaired	Deemed to Accept
2.	Other Secured Claims	Unimpaired	Deemed to Accept
3.	Secured Tax Claims	Unimpaired	Deemed to Accept
4.	<i>Prepetition Notes Claims</i>	<i>Impaired</i>	<i>Entitled to Vote</i>
5.	<i>General Unsecured Claims</i>	<i>Impaired</i>	<i>Entitled to Vote</i>
6.	Intercompany Claims	Impaired	Deemed to Accept
7.	Old Affiliate Interests in any Parent Subsidiary	Unimpaired	Deemed to Accept
8.	Old Parent Interests	Impaired	Deemed to Reject

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

1. Class 1 - Other Priority Claims

- (a) *Classification:* Class 1 consists of the Other Priority Claims.
- (b) *Treatment:* Subject to Article VIII hereof, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Class 1 Claim is an Allowed Class 1 Claim as of the Effective Date or (ii) the date on which such Class 1 Claim becomes an Allowed Class 1 Claim, each Holder of an Allowed Class 1 Claim shall receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 1 Claim, at the election of the Debtors or Reorganized Debtors, as applicable (with the consent of the Required Consenting Noteholders): (A) Cash equal to the amount of such Allowed Class 1 Claim; (B) such other less favorable treatment as to which the Debtors or Reorganized Debtors, as applicable, and the Holder of such Allowed Class 1 Claim shall have agreed upon in writing; or (C) such other treatment such that it will not be impaired pursuant to section 1124 of the Bankruptcy Code; *provided, however*, that Class 1 Claims incurred by any Debtor in the ordinary course of business may be paid in the ordinary course of business by such applicable Debtor or Reorganized Debtor in accordance with the terms and conditions of any agreements relating thereto without further notice to or order of the Bankruptcy Court.
- (c) *Voting:* Class 1 is an Unimpaired Class, and the Holders of Claims in Class 1 are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Claims in Class 1 are not entitled to vote to accept or reject this Plan. Notwithstanding the foregoing, the Holders of Claims in Class 1 will be provided a Ballot/Opt-Out Form solely for purposes of affirmatively opting out of the Third Party Release.

2. Class 2 - Other Secured Claims

- (a) *Classification:* Class 2 consists of the Other Secured Claims. Class 2 consists of separate subclasses for each Other Secured Claim.
- (b) *Treatment:* Subject to Article VIII hereof, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Class 2 Claim is an Allowed Class 2 Claim as of the Effective Date or (ii) the date on which such Class 2 Claim becomes an Allowed Class 2 Claim, each Holder of an Allowed Class 2 Claim shall receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 2 Claim, at the election of the Debtors or Reorganized Debtors, as applicable (with the consent of the Required Consenting Noteholders): (A) Cash equal to the amount of such Allowed Class 2 Claim; (B) such other less favorable treatment as to which the Debtors or Reorganized Debtors, as applicable, and the Holder of such Allowed Class 2 Claim shall have agreed upon in writing; (C) the Collateral securing such Allowed Class 2 Claim; (D) such other treatment such that it will not be impaired pursuant to section 1124 of the Bankruptcy Code; or (E) such other treatment necessary to satisfy section 1129 of the Bankruptcy Code; *provided, however*, that Class 2 Claims incurred by any Debtor in the ordinary course of business may be paid in the ordinary course of business by such applicable Debtor or Reorganized Debtor in accordance with

the terms and conditions of any agreements relating thereto without further notice to or order of the Bankruptcy Court.

- (c) *Voting:* Class 2 is an Unimpaired Class, and the Holders of Claims in Class 2 are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of Claims in Class 2 are not entitled to vote to accept or reject this Plan. Notwithstanding the foregoing, the Holders of Claims in Class 2 will be provided a Ballot/Opt-Out Form solely for purposes of affirmatively opting out of the Third Party Release.

3. Class 3 - Secured Tax Claims

- (a) *Classification:* Class 3 consists of the Secured Tax Claims.
- (b) *Treatment:* Subject to Article VIII hereof, on, or as soon as reasonably practicable after, the later of (i) the Initial Distribution Date if such Class 3 Claim is an Allowed Class 3 Claim as of the Effective Date or (ii) the date on which such Class 3 Claim becomes an Allowed Class 3 Claim, each Holder of an Allowed Class 3 Claim shall receive in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 3 Claim, at the election of the Debtors or Reorganized Debtors, as applicable (with the consent of the Required Consenting Noteholders): (A) Cash equal to the amount of such Allowed Class 3 Claim; (B) such other less favorable treatment as to which the Debtors or Reorganized Debtors, as applicable, and the Holder of such Allowed Class 3 Claim shall have agreed upon in writing; (C) the Collateral securing such Allowed Class 3 Claim; (D) such other treatment such that it will not be impaired pursuant to section 1124 of the Bankruptcy Code; or (E) pursuant to and in accordance with sections 1129(a)(9)(C) and 1129(a)(9)(D) of the Bankruptcy Code, Cash in an aggregate amount of such Allowed Class 3 Claim payable in regular installment payments over a period ending not more than five (5) years after the Petition Date, plus simple interest at the rate required by applicable non-bankruptcy law on any outstanding balance from the Effective Date, or such lesser rate as is agreed to in writing by a particular taxing authority and the Debtors or Reorganized Debtors, as applicable, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code; provided, however, that Class 3 Claims incurred by any Debtor in the ordinary course of business may be paid in the ordinary course of business by such applicable Debtor or Reorganized Debtor in accordance with such applicable terms and conditions relating thereto without further notice to or order of the Bankruptcy Court. Any installment payments to be made under clause (D) or (E) above shall be made in equal quarterly Cash payments beginning on the first applicable Subsequent Distribution Date, and continuing on each Subsequent Distribution Date thereafter until payment in full of the applicable Allowed Class 3 Claim.
- (c) *Voting:* Class 3 is an Unimpaired Class, and the Holders of Claims in Class 3 shall be conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Claims in Class 3 are not entitled to vote to accept or reject this Plan. Notwithstanding the foregoing, the Holders of Claims in Class 3 will be provided a Ballot/Opt-Out Form solely for purposes of affirmatively opting out of the Third Party Release.

4. Class 4 – Prepetition Notes Claims

- (a) *Classification:* Class 4 consists of Prepetition Notes Claims.
- (b) *Allowance:* The Prepetition Notes Claims are Allowed in full as set forth in the DIP Orders, therein defined collectively as the “Prepetition Senior Notes Obligations”.
- (c) *Treatment:* On the Effective Date, or as soon thereafter as reasonably practicable, each Holder of an Allowed Class 4 Claim shall receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 4 Claim its Pro Rata share of the following or such other less favorable treatment as to which the Debtors or Reorganized Debtors, as applicable, and the Holder of such Allowed Class 4 Claim shall have agreed upon in writing:
 - (i) The Subscription Rights (which shall be attached to each Allowed Prepetition Notes Claim and transferable with such Allowed Prepetition Notes Claim as set forth in the Rights Offering Procedures, but such Subscription Rights may only be exercised to the extent such Holder is an Accredited Investor) in accordance with the Disclosure Statement Order and the Rights Offering Procedures. Each Holder of an Allowed Prepetition Notes Claim that will receive the Subscription Rights shall receive its Pro Rata share of the Subscription Rights, as shared with the aggregate amount of (A) all Eligible General Unsecured Claims as of the Rights Offering Record Date held by each Person or Entity that has certified that it is an Accredited Investor (as demonstrated by an AI Questionnaire that has been properly completed, duly executed, and timely delivered by such Holder to the subscription agent for the Rights Offering on or before the Questionnaire Deadline in accordance with the Rights Offering Procedures) *plus* (B) all Allowed Prepetition Notes Claims as of the Rights Offering Record Date held by each Person or Entity that has certified that it is an Accredited Investor (as demonstrated by an AI Questionnaire that has been properly completed, duly executed, and timely delivered by such Holder to the subscription agent for the Rights Offering on or before the Questionnaire Deadline in accordance with the Rights Offering Procedures).
 - (ii) 100% of the New Equity Interests Pool, shared Pro Rata with the Holders of Allowed General Unsecured Claims (subject to dilution by (A) the New Equity Interests issued upon conversion of the New Secured Convertible Notes and (B) the New Management Incentive Plan Equity). For the avoidance of doubt, the New Equity Interests in the New Equity Interests Pool shall be distributed on a Pro Rata basis to (A) Holders of Allowed Prepetition Notes Claims and (B) Holders of Allowed General Unsecured Claims, in accordance with the terms of this Plan.
- (d) *Voting:* Class 4 is Impaired, and Holders of Claims in Class 4 are entitled to vote to accept or reject this Plan.

5. Class 5 – General Unsecured Claims

- (a) *Classification:* Class 5 consists of General Unsecured Claims.
- (b) *Treatment:* Subject to Article VIII hereof, on the Effective Date, or as soon thereafter as reasonably practicable, each Holder of an Allowed Class 5 Claim shall receive, in full satisfaction, settlement, discharge and release of, and in exchange for, such Allowed Class 5 Claim its Pro Rata share of the following or such other less favorable treatment as to which the Debtors or Reorganized Debtors, as applicable, and the Holder of such Allowed Class 5 Claim shall have agreed upon in writing:
 - (i) The Subscription Rights (which shall be attached to each Allowed General Unsecured Claim and transferable with such Allowed General Unsecured Claim as set forth in the Rights Offering Procedures, but such Subscription Rights may only be exercised to the extent such Holder is an Accredited Investor) in accordance with the Disclosure Statement Order and the Rights Offering Procedures. Each Holder of an Eligible General Unsecured Claim that will receive the Subscription Rights as a certified Accredited Investor (as demonstrated by an AI Questionnaire that has been properly completed, duly executed, and timely delivered by such Holder to the subscription agent for the Rights Offering on or before the Questionnaire Deadline, in accordance with the Rights Offering Procedures) shall receive its Pro Rata share of the Subscription Rights, as shared with the aggregate amount of (A) all Eligible General Unsecured Claims as of the Rights Offering Record Date held by each Person or Entity that has certified that it is an Accredited Investor (as demonstrated by an AI Questionnaire that has been properly completed, duly executed, and timely delivered by such Holder to the subscription agent for the Rights Offering on or before the Questionnaire Deadline in accordance with the Rights Offering Procedures) *plus* (B) all Allowed Prepetition Notes Claims as of the Rights Offering Record Date held by each Person or Entity that has certified that it is an Accredited Investor (as demonstrated by an AI Questionnaire that has been properly completed, duly executed, and timely delivered by such Holder to the subscription agent for the Rights Offering on or before the Questionnaire Deadline in accordance with the Rights Offering Procedures).
 - (ii) 100% of the New Equity Interests Pool, shared Pro Rata with the Holders of Allowed Prepetition Notes Claims (subject to dilution by (A) the New Equity Interests issued upon conversion of the New Secured Convertible Notes and (B) the New Management Incentive Plan Equity). For the avoidance of doubt, the New Equity Interests in the New Equity Interests Pool shall be distributed on a Pro Rata basis to (A) Holders of Allowed Prepetition Notes Claims and (B) Holders of Allowed General Unsecured Claims, in accordance with the terms of this Plan.
- (c) *Voting:* Class 5 is Impaired, and Holders of Claims in Class 5 are entitled to vote to accept or reject this Plan.

6. Class 6 – Intercompany Claims

- (a) *Classification:* Class 6 consists of the Intercompany Claims.
- (b) *Treatment:* Subject to the Restructuring Transactions, the Intercompany Claims shall be reinstated, compromised, or cancelled, at the option of the relevant Holder of such Intercompany Claims with the consent of the Required Consenting Noteholders.
- (c) *Voting:* Class 6 is an Impaired Class. However, because the Holders of such Claims are Affiliates of the Debtors, the Holders of Claims in Class 6 shall be conclusively deemed to have accepted this Plan. Therefore, Holders of Claims in Class 6 are not entitled to vote to accept or reject this Plan

7. Class 7 - Old Affiliate Interests in any Parent Subsidiary

- (a) *Classification:* Class 7 consists of the Old Affiliate Interests in any Parent Subsidiary.
- (b) *Treatment:* Subject to the Restructuring Transactions, the Old Affiliate Interests shall remain effective and outstanding on the Effective Date and shall be owned and held by the same applicable Person or Entity that held and/or owned such Old Affiliate Interests immediately prior to the Effective Date.
- (c) *Voting:* Class 7 is an Unimpaired Class, and the Holders of the Old Affiliate Interests in Class 7 are conclusively deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, the Holders of the Old Affiliate Interests in Class 7 are not entitled to vote to accept or reject this Plan.

8. Class 8 - Old Parent Interests

- (a) *Classification:* Class 8 consists of the Old Parent Interests.
- (b) *Treatment:* On the Effective Date, the Old Parent Interests will be cancelled without further notice to, approval of or action by any Person or Entity, and each Holder of an Old Parent Interest shall not receive any distribution or retain any property on account of such Old Parent Interest.
- (c) *Voting:* Class 8 is an Impaired Class, and the Holders of Old Parent Interests in Class 8 will be conclusively deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Old Parent Interests in Class 8 will not be entitled to vote to accept or reject this Plan. Notwithstanding the foregoing, the Holders of Old Parent Interests in Class 8 will be provided a Ballot/Opt-Out Form solely for purposes of affirmatively opting out of the Third Party Release.

C. *Special Provision Governing Unimpaired Claims*

Except as otherwise provided herein, nothing under this Plan shall affect or limit the Debtors' or the Reorganized Debtors' rights and defenses (whether legal or equitable) in respect of any Unimpaired

Claims, including, without limitation, all rights in respect of legal and equitable defenses to or setoffs or recoupments against any such Unimpaired Claims.

D. Elimination of Vacant Classes

Any Class of Claims that is not occupied as of the commencement of the Confirmation Hearing by an Allowed Claim or a claim temporarily allowed under Bankruptcy Rule 3018, or as to which no vote is cast, shall be deemed eliminated from this Plan for purposes of voting to accept or reject this Plan and for purposes of determining acceptance or rejection of this Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

ARTICLE IV.

ACCEPTANCE OR REJECTION OF THE PLAN

A. Presumed Acceptance of Plan

Classes 1-3 and 7 are Unimpaired under this Plan. Therefore, the Holders of Claims or Equity Interests in such Classes are deemed to have accepted this Plan pursuant to section 1126(f) of the Bankruptcy Code and are not entitled to vote to accept or reject this Plan. Class 6 is Impaired under this Plan; however, because the Holders of such Claims are Affiliates of the Debtors, the Holders of Claims in Class 6 are conclusively deemed to have accepted this Plan.

B. Presumed Rejection of Plan

Class 8 is Impaired and Holders of Old Parent Interests in such Class shall receive no distribution under this Plan on account of such Old Parent Interests. Therefore, the Holders of Old Parent Interests in such Class are deemed to have rejected this Plan pursuant to section 1126(g) of the Bankruptcy Code and are not entitled to vote to accept or reject this Plan. Such Holders will, however, receive a Ballot/Opt-Out Form to allow such Holders to affirmatively opt-out of the Third Party Release.

C. Voting Classes

Classes 4 and 5 are Impaired under this Plan. The Holders of Claims in such Classes as of the Voting Record Date are entitled to vote to accept or reject this Plan.

D. Acceptance by Impaired Class of Claims

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 this 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 this Plan.

E. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of this Plan by either Class 4 or Class 5. The Debtors request confirmation of this Plan under section 1129(b) of the Bankruptcy Code with respect to any Impaired Class that does not accept this Plan pursuant to section 1126 of the Bankruptcy Code. The Debtors reserve the right to modify this Plan or any Exhibit or the Plan Supplement in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary.

F. Votes Solicited in Good Faith

The Debtors have, and upon the Confirmation Date shall be deemed to have, solicited votes on this Plan from the Voting Classes in good faith and in compliance with the Disclosure Statement Order and the applicable provisions of the Bankruptcy Code, including, without limitation, sections 1125 and 1126 of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with the solicitation. Accordingly, the Debtors, the Reorganized Debtors, and each of their respective Related Persons shall be entitled to, and upon the Confirmation Date are hereby granted, the protections of section 1125(e) of the Bankruptcy Code.

ARTICLE V.

MEANS FOR IMPLEMENTATION OF THE PLAN

A. Restructuring Transactions

Without limiting any rights and remedies of the Debtors or Reorganized Debtors under this Plan or applicable law, but in all cases subject to the terms and conditions of the Restructuring Documents and any consents or approvals required thereunder, the entry of the Confirmation Order shall constitute authorization for the Reorganized Debtors to take, or to cause to be taken, all actions necessary or appropriate to consummate and implement the provisions of this Plan prior to, on and after the Effective Date, including such actions as may be necessary or appropriate to effectuate a corporate restructuring of their respective businesses, to otherwise simplify the overall corporate structure of the Reorganized Debtors, or to reincorporate or reorganize certain of the Affiliate Debtors under the laws of jurisdictions other than the laws of which the applicable Affiliate Debtors are presently incorporated. Such restructuring may include one or more mergers, consolidations, restructures, dispositions, liquidations or dissolutions, as may be determined by the Debtors or Reorganized Debtors to be necessary or appropriate, but in all cases subject to the terms and conditions of this Plan and the Restructuring Documents and any consents or approvals required thereunder (collectively, the “**Restructuring Transactions**”).

All such Restructuring Transactions taken, or caused to be taken, shall be deemed to have been authorized and approved by the Bankruptcy Court upon the entry of the Confirmation Order. The actions to effectuate the Restructuring Transactions may include: (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, disposition, liquidation, or dissolution containing terms that are consistent with the terms of this Plan and that satisfy the applicable requirements of applicable state law and such other terms to which the applicable entities may agree; (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, duty, or obligation on terms consistent with the terms of this Plan and having such other terms to which the applicable entities may agree; (iii) the filing of appropriate certificates or articles of merger, consolidation, or dissolution pursuant to applicable state law; and (iv) all other actions that the applicable entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable state law in connection with such transactions, but in all cases subject to the terms and conditions of this Plan and the Restructuring Documents and any consents or approvals required thereunder.

B. Continued Corporate Existence

Subject to the Restructuring Transactions permitted by Article V.A of this Plan, after the Effective Date, the Reorganized Debtors shall continue to exist as separate legal entities in accordance with the applicable law in the respective jurisdiction in which they are incorporated or formed and pursuant to their respective certificates or articles of incorporation and by-laws, or other applicable organizational

documents, in effect immediately prior to the Effective Date, except to the extent such certificates or articles of incorporation and by-laws, or other applicable organizational documents, are amended, restated or otherwise modified under this Plan. Notwithstanding anything to the contrary herein, the Claims against a particular Debtor or Reorganized Debtor shall remain the obligations solely of such Debtor or Reorganized Debtor and shall not become obligations of any other Debtor or Reorganized Debtor solely by virtue of this Plan or the Chapter 11 Cases.

C. Vesting of Assets in the Reorganized Debtors Free and Clear of Liens and Claims

Except as otherwise expressly provided in this Plan, the Confirmation Order, or any Restructuring Document, pursuant to sections 1123(a)(5), 1123(b)(3), 1141(b) and (c) and other applicable provisions of the Bankruptcy Code, on and after the Effective Date, all property and assets of the Estates of the Debtors, including all claims, rights, and Retained Causes of Action of the Debtors, and any other assets or property acquired by the Debtors or the Reorganized Debtors during the Chapter 11 Cases or under or in connection with this Plan (other than the Claims or Causes of Action subject to the Debtor Release, any rejected Executory Contracts and/or Unexpired Leases and the Carve-Out Reserve (subject to the Reorganized Debtors' reversionary interest in the Unused Carve-Out Reserve Amount as set forth in Article V.R)), shall vest in the Reorganized Debtors free and clear of all Claims, Liens, charges, and other encumbrances, subject to the Restructuring Transactions and Liens which survive the occurrence of the Effective Date as described in Article III of this Plan (including, without limitation, Liens that secure the Exit Facility Loans and the New Secured Convertible Notes and all other obligations of the Reorganized Debtors under the Exit Facility Loan Documents and the New Secured Convertible Notes Documents). On and after the Effective Date, the Reorganized Debtors may (i) operate their respective businesses, (ii) use, acquire, and dispose of their respective property and (iii) compromise or settle any Claims, in each case without notice to, supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, other than restrictions expressly imposed by this Plan or the Confirmation Order.

D. Exit Facility Loan Documents; New Secured Convertible Notes Documents

On the Effective Date, the Debtors and the Reorganized Debtors, as applicable, shall be authorized to execute and deliver, and to consummate the transactions contemplated by, the Exit Facility Loan Documents and the New Secured Convertible Notes Documents, in each case in form and substance acceptable to the Required Consenting Noteholders and without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity (other than as expressly required by the Exit Facility Loan Documents and the New Secured Convertible Notes Documents). On the Effective Date, the Exit Facility Loan Documents and the New Secured Convertible Notes Documents shall constitute legal, valid, binding and authorized indebtedness and obligations of the Reorganized Debtors, enforceable in accordance with their respective terms and such indebtedness and obligations shall not be, and shall not be deemed to be, enjoined or subject to discharge, impairment, release or avoidance under this Plan, the Confirmation Order or on account of the Confirmation or Consummation of this Plan.

E. Rights Offering

The Debtors shall conduct and consummate the Rights Offering on the terms and subject to the conditions set forth in the Rights Offering Procedures, the Backstop Purchase Agreement, the Backstop Order, and the Disclosure Statement Order. The proceeds received by the Debtors under the Rights Offering from the Rights Offering Participants and the Backstop Parties pursuant to the Backstop Purchase Agreement will be utilized to, among other things, (i) satisfy the Allowed DIP Term Loan Facility claims, (ii) satisfy out-of-pocket costs and expenses incurred by the Debtors in connection with the Chapter 11

Cases, (iii) if necessary, to cash collateralize letter of credit obligations that become outstanding under the Exit Facility Loan Documents, and (iv) for working capital and other general corporate purposes of the Reorganized Debtors after the Effective Date.

F. New Equity Interests

On the Effective Date, subject to the terms and conditions of the Restructuring Transactions, Reorganized Parent shall issue the New Equity Interests pursuant to this Plan and the Amended/New Organizational Documents. Except as otherwise expressly provided in the Restructuring Documents, the Reorganized Parent shall not be obligated to register the New Equity Interests under the Securities Act or to list the New Equity Interests for public trading on any securities exchange.

Distributions of the New Equity Interests may be made by delivery or book-entry transfer thereof by the applicable Distribution Agent in accordance with this Plan and the Amended/New Organizational Documents. Upon the Effective Date, after giving effect to the transactions contemplated hereby, the authorized capital stock or other equity securities of Reorganized Parent shall be that number of shares of New Equity Interests as may be designated in the Amended/New Organizational Documents.

G. New Stockholders Agreement; New Registration Rights Agreement

Subject to the Restructuring Transactions permitted by Article V.A of this Plan, on the Effective Date, Reorganized Parent shall enter into the New Stockholders Agreement and, if applicable, the New Registration Rights Agreement, each of which shall become effective and binding in accordance with its terms and conditions upon the parties thereto, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity (other than as expressly required by the New Stockholders Agreement and the New Registration Rights Agreement, as applicable).

On and as of the Effective Date, all of the Holders of New Equity Interests shall be deemed to be parties to the New Stockholders Agreement, without the need for execution by such Holder. The New Stockholders Agreement shall be binding on all Persons or Entities receiving, and all Holders of, the New Equity Interests (and their respective successors and assigns), whether such New Equity Interest is received or to be received on or after the Effective Date and regardless of whether such Person or Entity executes or delivers a signature page to the New Stockholders Agreement.

To the extent applicable, on and as of the Effective Date, all Backstop Parties will be deemed to be parties to the New Registration Rights Agreement, without the need for execution by any such Persons or Entities. The New Registration Rights Agreement will be binding on all such Persons or Entities (and their respective successors and assigns) regardless of whether such applicable Person or Entity executes or delivers a signature page to the New Registration Rights Agreement; provided, that to the extent the Required Backstop Parties elect not to enter into the New Registration Rights Agreement, the New Registration Rights Agreement shall not be included in the Plan Supplement, and the provisions herein related to the New Registration Rights Agreement shall be null and void.

H. New Management Incentive Plan

After the Effective Date, the New Board shall adopt the New Management Incentive Plan pursuant to which New Equity Interests (or restricted stock units, options, or other instruments (including “profits interests” in the Reorganized Parent), or some combination of the foregoing) representing up to ten percent (10%) of the New Equity Interests issued as of the Effective Date on a fully diluted basis may be reserved for grants to be made from time to time to the directors, officers, and other management of the Reorganized

Parent, subject to the terms and conditions set forth in the New Management Incentive Plan. The details and allocation of the New Management Incentive Plan and the underlying awards thereunder shall be determined by the New Board. For the avoidance of doubt, the New Management Incentive Plan Equity shall dilute all of the New Equity Interests equally, including the New Equity Interests issued upon conversion of the New Secured Convertible Notes after the Effective Date.

I. Plan Securities and Related Documentation; Exemption from Securities Laws

On and after the Effective Date, the Debtors and the Reorganized Debtors, as applicable, are authorized to and shall provide or issue, as applicable, the New Equity Interests, the New Secured Convertible Notes, and any and all other securities to be distributed or issued under this Plan (collectively, the “**Plan Securities**”) and any and all other notes, stock, instruments, certificates, and other documents or agreements required to be distributed, issued, executed or delivered pursuant to or in connection with this Plan (collectively, the “**Plan Securities and Documents**”), in each case in form and substance acceptable to the Required Consenting Noteholders, and without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity.

The offer, distribution, and issuance, as applicable, of the Plan Securities and Documents under this Plan shall be exempt from registration and prospectus delivery requirements under applicable securities laws (including Section 5 of the Securities Act or any similar state or local law requiring the registration and/or delivery of a prospectus for offer or sale of a security or registration or licensing of an issuer of a security) pursuant to section 1145(a) of the Bankruptcy Code, Section 4(a)(2) of the Securities Act and/or other applicable exemptions. An offering of Plan Securities provided in reliance on the exemption from registration under the Securities Act pursuant to section 1145(a) of the Bankruptcy Code may be sold without registration to the extent permitted under section 1145 of the Bankruptcy Code and is deemed to be a public offering, and such Plan Securities may be resold without registration to the extent permitted under section 1145 of the Bankruptcy Code. Any Plan Securities and Documents provided in reliance on the exemption from registration under the Securities Act provided by Section 4(a)(2) of such act will be provided in a private placement.

All Plan Securities issued to Holders of Allowed Claims on account of their respective Claims will be issued without registration under the Securities Act or any similar federal, state, or local law in reliance on Section 1145(a) of the Bankruptcy Code. All Plan Securities issued (a) to Holders of Allowed Claims as Rights Offering Participants in the Rights Offering upon exercise of their respective Subscription Rights or upon subsequent conversion of their New Secured Convertible Notes into New Equity Interests, or (b) to the Backstop Parties pursuant to the Backstop Purchase Agreement (i) in satisfaction of their obligations to purchase any Unsubscribed Notes or (ii) in connection with the Put Option Notes, in each case, including upon any subsequent conversion of such New Secured Convertible Notes into New Equity Interests, will be issued without registration under the Securities Act or any similar federal, state, or local law in reliance on Section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder.

Resales by Persons or Entities who receive any Plan Securities that are offered pursuant to an exemption under section 1145(a) of the Bankruptcy Code, who are deemed to be “underwriters” (as such term is defined in the Bankruptcy Code) (such Persons or Entities, the “**Restricted Holders**”) would not be exempted by section 1145 of the Bankruptcy Code from registration under the Securities Act. Restricted Holders would, however, be permitted to resell the Plan Securities that are offered pursuant to an exemption under section 1145(a) of the Bankruptcy Code, as applicable, without registration if they are able to comply with the provisions of Rule 144 under the Securities Act, or if such securities are registered with the Commission pursuant to a registration statement or otherwise.

Persons or Entities who receive Plan Securities pursuant to the exemption from registration set forth in section 4(a)(2) of the Securities Act or Regulation D promulgated thereunder will hold “restricted securities” as defined under Rule 144 under the Securities Act. Resales of such restricted securities would not be exempted by section 1145 of the Bankruptcy Code from registration under the Securities Act or other applicable law. Holders of restricted securities would, however, be permitted to resell Plan Securities without registration if they are able to comply with the applicable provisions of Rule 144 or Rule 144A under the Securities Act or any other applicable registration exemption under the Securities Act, or if such securities are registered with the Commission.

In the event that the Reorganized Debtors elect on or after the Effective Date to reflect any ownership of the Plan Securities through the facilities of DTC, the Reorganized Debtors need not provide any further evidence other than this Plan or the Confirmation Order with respect to the treatment of such securities under applicable securities laws. DTC shall accept and be entitled to conclusively rely upon this Plan or the Confirmation Order in lieu of a legal opinion regarding whether such securities are exempt from registration and/or eligible for DTC book-entry delivery, settlement, and depository services.

J. Release of Liens and Claims

To the fullest extent provided under section 1141(c) and other applicable provisions of the Bankruptcy Code, except as otherwise provided herein (including, without limitation, Article V.D of this Plan) or in any contract, instrument, release or other agreement or document entered into or delivered in connection with this Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to Article VII hereof, all Liens, Claims, mortgages, deeds of trust, or other security interests against the assets or property of the Debtors or the Estates shall be fully released, canceled, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity. The filing of the Confirmation Order with any federal, state, or local agency or department shall constitute good and sufficient evidence of, but shall not be required to effect, the termination of such Liens, Claims and other interests to the extent provided in the immediately preceding sentence. Any Person or Entity holding such Liens, Claims or interests shall, pursuant to section 1142 of the Bankruptcy Code, promptly execute and deliver to the Reorganized Debtors such instruments of termination, release, satisfaction and/or assignment (in recordable form) as may be reasonably requested by the Reorganized Debtors.

K. Organizational Documents of the Reorganized Debtors

The respective organizational documents of each of the Debtors shall be amended and restated or replaced (as applicable) in form and substance satisfactory to the Debtors and the Required Consenting Noteholders and as necessary to satisfy the provisions of this Plan and the Bankruptcy Code. Such organizational documents shall: (i) to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision prohibiting the issuance of non-voting equity securities; (ii) authorize the issuance of New Equity Interests in an amount not less than the amount necessary to permit the distributions thereof required or contemplated by this Plan; (iii) to the extent necessary or appropriate, include restrictions on the transfer of New Equity Interests; and (iv) to the extent necessary or appropriate, include such provisions as may be needed to effectuate and consummate this Plan and the transactions contemplated herein. After the Effective Date, the Reorganized Debtors may, subject to the terms and conditions of the Restructuring Documents, amend and restate their respective organizational documents as permitted by applicable law.

L. Directors and Officers of the Reorganized Debtors

The New Board shall be identified in the Plan Supplement. The initial new board of directors or other governing body of each Parent Subsidiary shall consist of one or more of the directors or officers of Reorganized Parent.

Consistent with the requirements of section 1129(a)(5) of the Bankruptcy Code, the Debtors will disclose, at or prior to the Confirmation Hearing, the identity and affiliations of any Person proposed to serve on the initial board of directors or be an officer of each of the Reorganized Debtors, and, to the extent such Person is an insider other than by virtue of being a director or an officer, the nature of any compensation for such Person. Each such director and officer shall serve from and after the Effective Date pursuant to applicable law and the terms of the Amended/New Organizational Documents and the other constituent and organizational documents of the applicable Reorganized Debtors. The existing boards of directors and other governing bodies of the Debtors will be deemed to have resigned on and as of the Effective Date, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity.

M. Corporate Action

Each of the Debtors and the Reorganized Debtors may take any and all actions to 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 and implement the provisions of this Plan, including, without limitation, the issuance and the distribution of the securities to be issued pursuant hereto, in each case in form and substance acceptable to the Required Consenting Noteholders, and without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the security holders, officers or directors of the Debtors or the Reorganized Debtors or by any other Person or Entity (except for those expressly required pursuant hereto or by the Restructuring Documents).

Prior to, on or after the Effective Date (as appropriate), all matters provided for pursuant to this Plan that would otherwise require approval of the stockholders, directors, officers, managers, members or partners of the Debtors (as of prior to the Effective Date) shall be deemed to have been so approved and shall be in effect prior to, on or after the Effective Date (as appropriate) pursuant to applicable law and without any requirement of further action by the stockholders, directors, officers, managers, members or partners of the Debtors or the Reorganized Debtors, or the need for any approvals, authorizations, actions or consents of any Person or Entity.

As of the Effective Date, all matters provided for in this Plan involving the legal or corporate structure of the Debtors or the Reorganized Debtors (including, without limitation, the adoption of the Amended/New Organization Documents and similar constituent and organizational documents, and the selection of directors and officers for, each of the Reorganized Debtors), and any legal or corporate action required by the Debtors or the Reorganized Debtors in connection with this Plan, shall be deemed to have occurred and shall be in full force and effect in all respects, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by the stockholders, directors, officers, managers, members or partners of the Debtors or the Reorganized Debtors or by any other Person or Entity.

On and after the Effective Date, the appropriate officers of the Debtors and the Reorganized Debtors are authorized to issue, execute, deliver, consummate, and take all such actions as may be necessary or appropriate to effectuate and implement, the transactions contemplated by, the contracts, agreements,

documents, guarantees, pledges, consents, securities, certificates, resolutions and instruments contemplated by or described in this Plan in the name of and on behalf of the Debtors and the Reorganized Debtors, in each case in form and substance acceptable to the Required Consenting Noteholders, and without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person or Entity. The secretary and any assistant secretary of the Debtors and the Reorganized Debtors shall be authorized to certify or attest to any of the foregoing actions.

N. Cancellation of Notes, Certificates and Instruments

On the Effective Date, except to the extent otherwise provided in this Plan and the Restructuring Documents, all notes, stock, indentures, instruments, certificates, agreements and other documents evidencing or relating to Claims or Equity Interests (other than Old Affiliate Interests) shall be canceled, and the obligations of the Debtors thereunder or in any way related thereto shall be fully released, terminated, extinguished and discharged, in each case without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or any requirement of further action, vote or other approval or authorization by any Person or Entity; provided that the Prepetition Notes and the Prepetition Notes Indenture shall continue in effect for the limited purpose of (i) allowing Holders of Claims thereunder to receive, and allowing and preserving the rights of the Prepetition Notes Indenture Trustee to make, distributions under this Plan and (ii) permitting the Prepetition Notes Indenture Trustee to exercise its Prepetition Notes Indenture Trustee Charging Lien against such distributions for payment of any unpaid portion of the Prepetition Notes Indenture Trustee Fees and Expenses. Except to the extent otherwise provided in this Plan and the Restructuring Documents, upon completion of all such distributions, the Prepetition Notes Indenture and any and all notes, securities and instruments issued in connection therewith shall terminate completely without further notice or action and be deemed surrendered.

O. Old Affiliate Interests

On the Effective Date, the Old Affiliate Interests shall remain effective and outstanding, and shall be owned and held by the same applicable Person or Entity that held and/or owned such Old Affiliate Interests immediately prior to the Effective Date. Each Parent Subsidiary shall continue to be governed by the terms and conditions of its applicable organizational documents as in effect immediately prior to the Effective Date, except as amended or modified by this Plan.

P. Sources of Cash for Plan Distributions

Except as otherwise provided in this Plan or the Confirmation Order, all Cash necessary for the Debtors or the Reorganized Debtors, as applicable, to make payments required pursuant to this Plan will be obtained from their respective Cash balances, including Cash from operations, the Exit Facility, and the Rights Offering. The Debtors and the Reorganized Debtors, as applicable, may also make such payments using Cash received from their subsidiaries through their respective consolidated cash management systems and the incurrence of intercompany transactions, but in all cases subject to the terms and conditions of the Restructuring Documents.

Q. Continuing Effectiveness of Final Orders

Payment authorization granted to the Debtors under any prior Final Order entered by the Bankruptcy Court shall continue in effect after the Effective Date. Accordingly, the Debtors or the Reorganized Debtors may pay or otherwise satisfy any Claim to the extent permitted by, and subject to, the applicable Final Order without regard to the treatment that would otherwise be applicable to such Claim under this Plan.

R. Funding and Use of Carve-Out Reserve

On the Effective Date, the Debtors shall fund the Carve-Out Reserve in the amount equal to the Carve-Out Reserve Amount. The Carve-Out Reserve Amount shall be determined by the Debtors, with the consent of the Required Consenting Noteholders or as determined by order of the Bankruptcy Court, as necessary in order to be able to pay in full in Cash the obligations and liabilities for which the Carve-Out Reserve was established.

The Cash contained in the Carve-Out Reserve shall be used solely to pay the Allowed Professional Fee Claims, with the Unused Carve-Out Reserve Amount (if any) being returned to the Reorganized Debtors. The Debtors and the Reorganized Debtors, as applicable, shall maintain detailed records of all payments made from the Carve-Out Reserve, such that all payments and transactions shall be adequately and promptly documented in, and readily ascertainable from, their respective books and records. After the Effective Date, neither the Debtors nor the Reorganized Debtors shall deposit any other funds or property into the Carve-Out Reserve absent further order of the Bankruptcy Court, or otherwise commingle funds in the Carve-Out Reserve.

The Carve-Out Reserve shall be maintained in trust for the Professionals and shall not be considered property of the Debtors' Estates; provided that the Reorganized Debtors shall have a reversionary interest in the Unused Carve-Out Reserve Amount. To the extent that funds held in the Carve-Out Reserve do not or are unable to satisfy the full amount of the Allowed Professional Fee Claims, such Professionals shall have an Allowed Administrative Claim for any such deficiency, which shall be satisfied in full in Cash in accordance with Article II.A of this Plan.

S. Put Option Notes

As consideration for the Debtors' right to call on the Backstop Parties' Backstop Commitments and consistent with the Backstop Order, on the Effective Date, the Reorganized Debtors shall issue the Put Option Notes to the Backstop Parties under and as set forth in the Backstop Purchase Agreement.

T. Payment of Fees and Expenses of Certain Creditors

The Debtors shall, on and after the Effective Date and to the extent invoiced, pay (i) the Prepetition Credit Agreement Agent and Lender Fees and Expenses, (ii) the Ad Hoc Noteholders Committee Fees and Expenses and (iii) the Backstop Expenses (in each case whether accrued prepetition or postpetition and to the extent not otherwise paid during the Chapter 11 Cases), without application by any such parties to the Bankruptcy Court, and without notice and a hearing pursuant to section 1129(a)(4) of the Bankruptcy Code or otherwise; provided, however, if the Debtors or Reorganized Debtors and any such Person or Entity cannot agree with respect to the reasonableness of the fees and expenses (incurred prior to the Effective Date) to be paid to such party, the reasonableness of any such fees and expenses shall be determined by the Bankruptcy Court (with any undisputed amounts to be paid by the Debtors on or after the Effective Date (as applicable) and any disputed amounts to be escrowed by the Reorganized Debtors). Notwithstanding anything to the contrary in this Plan, the fees and expenses described in this paragraph shall not be subject to the Administrative Claims Bar Date.

U. Payment of Fees and Expenses of Indenture Trustee

The Debtors shall, on and after the Effective Date, and upon the presentment of invoices in customary form (which may be redacted to preserve any confidential or privileged information), pay the Prepetition Notes Indenture Trustee Fees and Expenses (in each case whether accrued prepetition or postpetition and to the extent not otherwise paid during the Chapter 11 Cases), without application by any

party to the Bankruptcy Court, and without notice and a hearing pursuant to section 1129(a)(4) of the Bankruptcy Code or otherwise; *provided, however*, if the Debtors or Reorganized Debtors and the Prepetition Notes Indenture Trustee cannot agree with respect to the reasonableness of any Prepetition Notes Indenture Trustee Fees and Expenses (incurred prior to the Effective Date), the reasonableness of any such Prepetition Notes Indenture Trustee Fees and Expenses shall be determined by the Bankruptcy Court (with any undisputed amounts to be paid by the Debtors on or after the Effective Date (as applicable) and any disputed amounts to be escrowed by the Reorganized Debtors). Nothing herein shall be deemed to impair, waive, or discharge the Prepetition Notes Indenture Trustee Charging Lien for any amounts not paid pursuant to this Plan and otherwise claimed by the Prepetition Notes Indenture Trustee pursuant to and in accordance with the Prepetition Notes Indenture. From and after the Effective Date, the Reorganized Debtors shall pay any Prepetition Notes Indenture Trustee Fees and Expenses in full in Cash without further court approval. Notwithstanding anything to the contrary in this Plan, the fees and expenses described in this paragraph shall not be subject to the Administrative Claims Bar Date.

ARTICLE VI.

TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Assumption of Executory Contracts and Unexpired Leases

On the Effective Date, with the consent of the Required Consenting Noteholders, all Executory Contracts and Unexpired Leases of the Debtors will be assumed by the Debtors in accordance with, and subject to, the provisions and requirements of sections 365 and 1123 of the Bankruptcy Code, except for those Executory Contracts and Unexpired Leases that:

- (i) have been assumed or rejected by the Debtors by prior order of the Bankruptcy Court;
- (ii) are the subject of a motion to reject filed by the Debtors that is pending on the Effective Date;
- (iii) are identified in the Schedule of Rejected Executory Contracts and Unexpired Leases, which may be amended by the Debtors to add or remove Executory Contracts and Unexpired Leases by filing with the Bankruptcy Court an amended Schedule of Rejected Executory Contracts and Unexpired Leases and serving it on the affected non-Debtor contract parties prior to the Effective Date; or
- (iv) are rejected by the Debtors or terminated pursuant to the terms of this Plan.

Without amending or altering any prior order of the Bankruptcy Court approving the assumption or rejection of any Executory Contract or Unexpired Lease, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

To the extent any provision in any Executory Contract or Unexpired Lease assumed or assumed and assigned (as applicable) pursuant to this Plan or any prior order of the Bankruptcy Court (including, without limitation, any “change in control” provision, “change of control” provision, or provision with words of similar import) prohibits, restricts or conditions, or purports to prohibit, restrict or condition, or is modified, breached or terminated, or deemed modified, breached or terminated by, (i) the commencement of these Chapter 11 Cases or the insolvency or financial condition of any Debtor at any time before the closing of its respective Chapter 11 Case, (ii) any Debtor’s or any Reorganized Debtor’s assumption or assignment and assignment (as applicable) of such Executory Contract or Unexpired Lease or (iii) the Confirmation or Consummation of this Plan, then such provision shall be deemed modified such that the

transactions contemplated by this Plan shall not entitle the non-debtor party thereto to modify or terminate such Executory Contract or Unexpired Lease or to exercise any other default-related rights or remedies with respect thereto, and any required consent under any such contract or lease shall be deemed satisfied by the Confirmation of this Plan.

Each Executory Contract and Unexpired Lease assumed and/or assigned pursuant to this Plan shall revest in and be fully enforceable by the applicable Reorganized Debtor or the applicable assignee in accordance with its terms and conditions, except as modified by the provisions of this Plan, any order of the Bankruptcy Court approving its assumption and/or assignment, or applicable law.

The inclusion or exclusion of a contract or lease on any schedule or exhibit shall not constitute an admission by any Debtor that such contract or lease is an Executory Contract or Unexpired Lease or that any Debtor has any liability thereunder.

B. Cure of Defaults; Assignment of Executory Contracts and Unexpired Leases

Any defaults under each Executory Contract and Unexpired Lease to be assumed, or assumed and assigned, pursuant to this Plan shall be satisfied, pursuant to and to the extent required by section 365(b)(1) of the Bankruptcy Code, by payment of the applicable default amount in Cash on or in connection with the Effective Date or on such other terms as the Bankruptcy Court may order or the parties to such Executory Contracts or Unexpired Leases may otherwise agree in writing (the “**Cure Claim Amount**”).

In the event of an assumption, or an assumption and assignment, of an Executory Contract or Unexpired Lease under this Plan, at least fourteen (14) days prior to the Plan Objection Deadline, the Debtors shall File and serve upon counterparties to such Executory Contracts and Unexpired Leases, a notice of the proposed assumption, or proposed assumption and assignment, which will: (a) list the applicable Cure Claim Amount, if any; (b) if applicable, identify the party to which the Executory Contract or Unexpired Lease will be assigned; (c) describe the procedures for filing objections thereto; and (d) explain the process by which related disputes will be resolved by the Bankruptcy Court.

Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption, or proposed assumption and assignment under this Plan, or any related cure amount, must be Filed, served and actually received by the Debtors prior to the Plan Objection Deadline (notwithstanding anything in the Schedules or a Proof of Claim to the contrary). Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption, or proposed assumption and assignment, or cure amount will be deemed to have consented to such matters and will be deemed to have forever released and waived any objection to such proposed assumption, proposed assumption and assignment, and cure amount. The Confirmation Order shall constitute an order of the Bankruptcy Court approving each proposed assumption, or proposed assumption and assignment, of Executory Contracts and Unexpired Leases pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date.

In the event of a dispute regarding (a) the amount of any cure payment, (b) the ability of any Debtor or assignee to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or assumed and assigned or (c) any other matter pertaining to assumption or assignment, the applicable cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving the dispute and approving such assumption, or assumption and assignment. If such objection is sustained by Final Order of the Bankruptcy Court, the Debtors or the Reorganized Debtors, as applicable, may elect to reject such Executory Contract or Unexpired Lease in lieu of assuming or assigning it. The Debtors or the Reorganized Debtors, as applicable, shall be authorized to effect such rejection by filing a

written notice of rejection with the Bankruptcy Court and serving such notice on the applicable counterparty within ten (10) days of the entry of such Final Order.

Subject to any cure claims Filed with respect thereto, assumption or assumption and assignment of any Executory Contract or Unexpired Lease pursuant to this Plan 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 Executory Contract or Unexpired Lease at any time prior to the effective date of assumption or assumption and assignment, in each case as provided in section 365 of the Bankruptcy Code. Any Proofs of Claim filed with respect to an Executory Contract or Unexpired Lease that has been assumed or assumed and assigned by Final Order shall be deemed disallowed and expunged (subject to any cure claims Filed with respect thereto), without further notice to or action, order, or approval of the Bankruptcy Court.

With respect to any Executory Contract or Unexpired Lease assumed and assigned pursuant to this Plan, upon and as of the Effective Date, the applicable assignee shall be deemed to be substituted as a party thereto for the applicable Debtor party to such assigned Executory Contract or Unexpired Lease and, accordingly, the Debtors and the Reorganized Debtors shall be relieved, pursuant to and to the extent set forth in section 365(k) of the Bankruptcy Code, from any further liability under such assigned Executory Contract or Unexpired Lease.

C. Rejection of Executory Contracts and Unexpired Leases

The Debtors reserve the right, subject to the consent of the Required Consenting Noteholders, at any time prior to the Effective Date, except as otherwise specifically provided herein, to seek to reject any Executory Contract or Unexpired Lease and to file a motion requesting authorization for the rejection of any such contract or lease. All Executory Contracts and Unexpired Leases listed on the Schedule of Rejected Executory Contracts and Unexpired Leases shall be deemed rejected as of the Effective Date. The Confirmation Order shall constitute an order of the Bankruptcy Court approving the rejections described in this Article VI pursuant to sections 365 and 1123 of the Bankruptcy Code as of the Effective Date. Rejection of any Executory Contract or Unexpired Lease pursuant to this Plan or otherwise shall not constitute a termination of any preexisting obligations owed to the Debtors or the Reorganized Debtors, as applicable, under such Executory Contracts or Unexpired Leases.

D. Claims on Account of the Rejection of Executory Contracts or Unexpired Leases

All Proofs of Claim with respect to Claims arising from the rejection of Executory Contracts or Unexpired Leases, pursuant to this Plan or the Confirmation Order, if any, must be filed with the Bankruptcy Court within thirty (30) days after service of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection.

Any Person or Entity that is required to file a Proof of Claim arising from the rejection of an Executory Contract or an Unexpired Lease that fails to timely do so shall be forever barred, estopped and enjoined from asserting such Claim, and such Claim shall not be enforceable, against the Debtors, the Reorganized Debtors or the Estates, and the Debtors, the Reorganized Debtors and their Estates and their respective assets and property shall be forever discharged from any and all indebtedness and liability with respect to such Claim unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. All such Claims shall, as of the Effective Date, be subject to the permanent injunction set forth in Article X.G hereof.

E. D&O Liability Insurance Policies

On the Effective Date, each D&O Liability Insurance Policy shall be deemed and treated as an Executory Contract that is and shall be assumed by the Debtors (and assigned to the applicable Reorganized Debtors, if necessary) pursuant to section 365(a) and section 1123 of the Bankruptcy Code as to which no Proof of Claim, request for administrative expense, or cure claim need be Filed, and all Claims arising from the D&O Liability Insurance Policies shall survive the Effective Date and be Unimpaired. Unless previously effectuated by separate order entered by the Bankruptcy Court, entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' assumption of each of the D&O Liability Insurance Policies.

In furtherance of the foregoing, the Reorganized Debtors shall maintain and continue in full force and effect such D&O Liability Insurance Policies for the benefit of the insured Persons at levels (including with respect to coverage and amount) no less favorable than those existing as of the date of entry of the Confirmation Order for a period of no less than six (6) years following the Effective Date; provided, however, that, after assumption of the D&O Liability Insurance Policies, nothing in this Plan otherwise alters the terms and conditions of the D&O Liability Insurance Policies. Confirmation and Consummation of this Plan shall not impair or otherwise modify any available defenses of the Reorganized Debtors under the D&O Liability Insurance Policies. For the avoidance of doubt, the D&O Liability Insurance Policies shall continue to apply with respect to actions, or failures to act, that occurred on or prior to the Effective Date, subject to the terms and conditions of the D&O Liability Insurance Policies.

The Debtors are further authorized to take such actions, and to execute and deliver such documents, as may be reasonably necessary or appropriate to implement, maintain, cause the binding of, satisfy any terms or conditions of, or otherwise secure for the insureds the benefits of the D&O Tail Policy, without further notice to or order of the Bankruptcy Court or approval or consent of any Person or Entity.

F. Indemnification Provisions

On the Effective Date, and, if applicable, subject to the assumption or assumption and assignment of the Specified Employee Plans in accordance Article VI.G hereof, all Indemnification Provisions shall be deemed and treated as Executory Contracts that are and shall be assumed by the Debtors (and assigned to the applicable Reorganized Debtors, if necessary) pursuant to section 365(a) and section 1123 of the Bankruptcy Code as to which no Proof of Claim, request for administrative expense, or cure claim need be Filed, and all Claims arising from the Indemnification Provisions shall survive the Effective Date and be Unimpaired; provided, that the Reorganized Debtors shall not be deemed to have assumed under this Plan, and shall have no obligation whatsoever with respect to, any obligations under any Indemnification Provision related to any Designated Person (the "**Designated Person Indemnity Carve-Out**"). Unless previously effectuated by separate order entered by the Bankruptcy Court, entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' assumption of each of the Indemnification Provisions, except with respect to the Designated Person Indemnity Carve-Out. Confirmation and Consummation of this Plan shall not impair or otherwise modify any available defenses of the Reorganized Debtors or other applicable parties under the Indemnification Provisions. For the avoidance of doubt, the Indemnification Provisions shall continue to apply with respect to actions, or failures to act, that occurred on or prior to the Effective Date, subject to the terms and conditions of the Indemnification Provisions and the Designated Person Indemnity Carve-Out.

G. Employee Compensation and Benefit Programs

On the Effective Date, all employment agreements and severance policies, including all employment, compensation, and benefit plans, policies, and programs of the Debtors applicable to any of

their respective employees or retirees, and any of the employees or retirees of their respective subsidiaries, including, without limitation, all workers' compensation programs, savings plans, retirement plans, healthcare plans, disability plans, life, and accidental death and dismemberment insurance plans, health and welfare plans, and 401(k) plans (in each case, as applicable) (collectively, the "**Specified Employee Plans**") shall be deemed and treated as Executory Contracts that are and shall be assumed by the Debtors (and assigned to the applicable Reorganized Debtors, if necessary) pursuant to section 365(a) and section 1123 of the Bankruptcy Code as to which no Proof of Claim, request for administrative expense, or cure claim need be Filed. All Claims arising from the Specified Employee Plans shall survive the Effective Date and be Unimpaired; provided that, in each case, with respect to any provision of a Specified Employee Plan that relates to a "change in control", "change of control" or words of similar import, that the Debtors, and, if applicable, the individual participants in the applicable Specified Employee Plan, agree that Confirmation and Consummation of this Plan and the related transactions hereunder do not constitute such an event for purposes of such Specified Employee Plan. Unless previously effectuated by separate order entered by the Bankruptcy Court, entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' assumption of each of the Specified Employee Plans; provided further that any employment agreements or offer letters relating to senior management personnel and officers of the Debtors shall not be assumed under this Plan without the advanced written consent of the Required Backstop Parties. Confirmation and Consummation of this Plan shall not impair or otherwise modify any available defenses of the Reorganized Debtors or other applicable parties under the Specified Employee Plans.

H. Insurance Contracts

On the Effective Date, and without limiting the terms or provisions of Paragraph E of this Article VI, each Insurance Contract shall be deemed and treated as an Executory Contract that is and shall be assumed by the Debtors pursuant to section 365(a) and section 1123 of the Bankruptcy Code as to which no Proof of Claim, request for administrative expense, or cure claim need be Filed. Unless previously effectuated by separate order entered by the Bankruptcy Court, entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the Debtors' assumption of each of the Insurance Contracts. Confirmation and Consummation of this Plan shall not impair or otherwise modify any available defenses of the Reorganized Debtors under the Insurance Contracts.

I. Extension of Time to Assume or Reject

Notwithstanding anything to the contrary set forth in Article VI of this Plan, in the event of a dispute as to whether a contract is executory or a lease is unexpired, the right of the Reorganized Debtors to move to assume or reject such contract or lease shall be extended until the date that is ten (10) days after entry of a Final Order by the Bankruptcy Court determining that the contract is executory or the lease is unexpired. The deemed assumption provided for in Article VI.A of this Plan shall not apply to any such contract or lease, and any such contract or lease shall be assumed or rejected only upon motion of the Reorganized Debtors following the Bankruptcy Court's determination that the contract is executory or the lease is unexpired.

J. Modifications, Amendments, Supplements, Restatements, or Other Agreements

Unless otherwise provided in this Plan, each Executory Contract or Unexpired Lease that is assumed by the Debtors or the Reorganized Debtors shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and all rights 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 has been previously rejected or repudiated or is rejected or repudiated hereunder. Modifications, amendments, supplements, and restatements to prepetition 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.

ARTICLE VII.

PROVISIONS GOVERNING DISTRIBUTIONS

A. Distributions for Claims Allowed as of the Effective Date

Except as otherwise provided in the “Treatment” sections in Article III hereof or as ordered by the Bankruptcy Court, initial distributions to be made on account of Claims that are Allowed Claims as of the Effective Date shall be made on the Initial Distribution Date or as soon thereafter as is practicable. Any payment or distribution required to be made under this Plan on a day other than a Business Day shall be made on the next succeeding Business Day. Distributions on account of Disputed Claims that first become Allowed Claims after the Effective Date shall be made pursuant to Article VIII hereof.

B. No Postpetition Interest on Claims

Unless otherwise specifically provided for in this Plan, the Confirmation Order or Final Order of the Bankruptcy Court, or required by applicable bankruptcy law (including, without limitation, as required pursuant to section 506(b) or section 511 of the Bankruptcy Code), postpetition interest shall not accrue or be paid on any Claims and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim.

C. Distributions by the Reorganized Debtors or Other Applicable Distribution Agent

Other than as specifically set forth below, the Reorganized Debtors or other applicable Distribution Agent shall make all distributions required to be distributed under this Plan. Distributions on account of the Allowed DIP Facility Claims and the Allowed Prepetition Notes Claims shall be made to the DIP Facility Agents and the Prepetition Notes Indenture Trustee, respectively, and such agent and trustee will be, and shall act as, the Distribution Agent with respect to its respective Class of Claims in accordance with the terms and conditions of this Plan. All such distributions shall be deemed completed when made by the Reorganized Debtors to the applicable Distribution Agent. The Reorganized Debtors may employ or contract with other entities to assist in or make the distributions required by this Plan and may pay the reasonable fees and expenses of such entities and the Distribution Agents in the ordinary course of business. No Distribution Agent shall be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

The distributions of New Equity Interests to be made under this Plan to Holders of Allowed Prepetition Notes Claims shall be made to the Prepetition Notes Indenture Trustee, which, subject to the right of the Prepetition Notes Indenture Trustee to assert its Prepetition Notes Indenture Trustee Charging Lien against such distributions, shall transmit such distributions to Holders of Allowed Prepetition Notes Claims in accordance with the Prepetition Notes Indenture. Notwithstanding anything to the contrary in this Plan, the Prepetition Notes Indenture Trustee may transfer or direct the transfer of such distributions through the facilities of DTC and, in such event, will be entitled to recognize and transact with for all purposes under this Plan with Holders of Allowed Prepetition Notes Claims to the extent consistent with the customary practices of DTC. The Debtors or Reorganized Debtors (as applicable) shall use their best efforts to make the New Equity Interests to be distributed to Holders of Allowed Prepetition Notes Claims eligible for distribution through the facilities of DTC. The distributions of Subscription Rights under this

Plan to Holders of Allowed Prepetition Notes Claims and Eligible General Unsecured Claims shall be made by the Voting and Claims Agent as provided in the Rights Offering Procedures.

D. Delivery and Distributions; Undeliverable or Unclaimed Distributions

1. Record Date for Distributions

On the Distribution Record Date, the Claims Register shall be closed. Accordingly, the Debtors, the Reorganized Debtors or other applicable Distribution Agent will have no obligation to recognize the assignment, transfer or other disposition of, or the sale of any participation in, any Allowed Claim (other than Prepetition Debt Claims) that occurs after the close of business on the Distribution Record Date, and will be entitled for all purposes herein to recognize and distribute securities, property, notices and other documents only to those Holders of Allowed Claims (other than Prepetition Debt Claims) who are Holders of such Claims, or participants therein, as of the close of business on the Distribution Record Date. The Reorganized Debtors or other applicable Distribution Agent shall be entitled to recognize and deal for all purposes under this Plan with only those record holders stated on the Claims Register, or their books and records, as of the close of business on the Distribution Record Date; provided, however, that the Distribution Record Date shall not apply to the Prepetition Debt Claims and the DIP Facility Claims.

2. Delivery of Distributions in General

Except as otherwise provided herein, the Debtors, the Reorganized Debtors or other applicable Distribution Agent, as applicable, shall make distributions to Holders of Allowed Claims, or in care of their authorized agents, as appropriate, at the address for each such Holder or agent as indicated on the Debtors' or other applicable Distribution Agent's books and records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined in the discretion of the applicable Distribution Agent (subject to the terms and conditions of the relevant Prepetition Debt Documents, if applicable); provided further, that the address for each Holder of an Allowed Claim shall be deemed to be the address set forth in the latest Proof of Claim Filed by such Holder pursuant to Bankruptcy Rule 3001 as of the Distribution Record Date.

3. Minimum Distributions

Notwithstanding anything herein to the contrary, no Distribution Agent shall be required to make distributions or payments of less than \$50.00 (whether in Cash or otherwise) or to make partial distributions or payments of fractions of dollars or New Equity Interests, in each case with respect to Impaired Claims. With respect to Impaired Claims, whenever any payment or distribution of a fraction of a dollar or share of New Equity Interest under this Plan would otherwise be called for, the actual payment or distribution will reflect a rounding of such fraction to the nearest whole dollar or share of New Equity Interest (up or down), with half dollars and half shares of New Equity Interest or more being rounded up to the next higher whole number and with less than half dollars and half shares of New Equity Interest being rounded down to the next lower whole number (and no Cash shall be distributed in lieu of such fractional New Equity Interest).

No Distribution Agent shall have any obligation to make a distribution on account of an Allowed Claim that is Impaired under this Plan if: (a) the aggregate amount of all distributions authorized to be made on the Subsequent Distribution Date in question is or has an economic value less than \$25,000, unless such distribution is a final distribution; or (b) the amount to be distributed to the specific Holder of an Allowed Claim on such Subsequent Distribution Date does not constitute a final distribution to such Holder and is or has an economic value less than \$50.00, which shall be treated as an undeliverable distribution under Article VII.D.4 below.

4. Undeliverable Distributions

(a) Holding of Certain Undeliverable Distributions

If the distribution to any Holder of an Allowed Claim is returned to the Distribution Agent as undeliverable or is otherwise unclaimed, no further distributions shall be made to such Holder unless and until the Distribution Agent is notified in writing of such Holder's then current address, at which time all currently due but missed distributions shall be made to such Holder on the next Subsequent Distribution Date (or such earlier date as determined by the applicable Distribution Agent). Undeliverable distributions shall remain in the possession of the Reorganized Debtors or in the applicable reserve, subject to Article VII.D.4(b) hereof, until such time as any such distributions become deliverable. Undeliverable distributions shall not be entitled to any additional interest, dividends or other accruals of any kind on account of their distribution being undeliverable.

(b) Failure to Claim Undeliverable Distributions

Any Holder of an Allowed Claim (or any successor or assignee or other Person or Entity claiming by, through, or on behalf of, such Holder) that does not assert a right pursuant to this Plan for an undeliverable or unclaimed distribution within one (1) year after the later of the Effective Date or the date such distribution is due shall be deemed to have forfeited its rights for such undeliverable or unclaimed distribution and shall be forever barred and enjoined from asserting any such rights for an undeliverable or unclaimed distribution against the Debtors or their Estates, the Reorganized Debtors or their respective assets or property, or any Distribution Agent. In such case, (i) for Claims other than Classes 4 and 5, any Cash, Plan Securities, or other property reserved for distribution on account of such Claim shall become the property of the Estates free and clear of any Claims of such Holder with respect thereto and notwithstanding any federal or state escheat laws to the contrary, and (ii) for Claims in Classes 4 and 5, any Plan Securities and Documents, and/or other property, as applicable, held for distribution on account of such Claim shall be allocated Pro Rata by the applicable Distribution Agent for distribution among the other Holders of Claims in such Class. Nothing contained in this Plan shall require the Debtors, the Reorganized Debtors, or any Distribution Agent to attempt to locate any Holder of an Allowed Claim.

(c) Failure to Present Checks

Checks issued by the Distribution Agent on account of Allowed Claims shall be null and void if not negotiated within 180 days after the issuance of such check. In an effort to ensure that all Holders of Allowed Claims receive their allocated distributions, no later than 90 days after the issuance of such checks, the Reorganized Debtors shall File with the Bankruptcy Court a list of the Holders of any un-negotiated checks. This list shall be maintained and updated periodically in the sole discretion of the Reorganized Debtors for as long as the Chapter 11 Cases stay open. Requests for reissuance of any check shall be made directly to the Distribution Agent by the Holder of the relevant Allowed Claim with respect to which such check originally was issued. Any Holder of an Allowed Claim holding an un-negotiated check that does not request reissuance of such un-negotiated check within 365 days after the date of mailing or other delivery of such check shall have its Claim for such un-negotiated check discharged and be forever barred, estopped and enjoined from asserting any such Claim against the Debtors or their Estates, the Reorganized Debtors or their respective assets or property. In such case, any Cash held for payment on account of such Claims shall be distributed to the applicable Distribution Agent for distribution or allocation in accordance with this Plan, free and clear of any Claims of such Holder with respect thereto and notwithstanding any federal or state escheat laws to the contrary.

E. Compliance with Tax Requirements

In connection with this Plan and all distributions hereunder, the Reorganized Debtors or other applicable Distribution Agent shall comply with all applicable withholding and reporting requirements imposed by any federal, state, local, or foreign taxing authority, and all distributions hereunder shall be subject to any such applicable withholding and reporting requirements. The Reorganized Debtors or other applicable Distribution Agent shall be authorized to take any and all actions that may be necessary or appropriate to comply with such applicable withholding and reporting requirements. All Persons holding Claims shall be required to provide any information necessary to effect information reporting and the withholding of such taxes. Notwithstanding any other provision of this Plan to the contrary, each Holder of an Allowed Claim shall have the sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any Governmental Unit, including income, withholding, and other tax obligations, on account of such distribution.

F. Allocation of Plan Distributions Between Principal and Interest

To the extent that any Allowed Claim entitled to a distribution under this Plan is comprised of indebtedness and accrued but unpaid interest thereon, such distribution shall, to the extent permitted by applicable law, be allocated for income tax purposes to the principal amount of the Claim first and then, to the extent that the consideration exceeds the principal amount of the Claim, to the portion of such Claim representing accrued but unpaid interest.

G. Means of Cash Payment

Payments of Cash made pursuant to this Plan shall be in U.S. dollars and shall be made, at the option of the Debtors or the Reorganized Debtors (as applicable), by checks drawn on, or wire transfer from, a domestic bank selected by the Debtors or the Reorganized Debtors. Cash payments to foreign creditors may be made, at the option of the Debtors or the Reorganized Debtors, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

H. Timing and Calculation of Amounts to Be Distributed

Except as otherwise provided in the “Treatment” sections in Article III hereof or as ordered by the Bankruptcy Court, on the Initial Distribution Date (or if a Claim is not an Allowed Claim on the Effective Date, on the Subsequent Distribution Date occurring after such Claim becomes an Allowed Claim, or as soon as reasonably practicable thereafter), each Holder of an Allowed Claim shall receive the full amount of the distributions that this Plan provides for Allowed Claims in the applicable Class. If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in the applicable class treatment or in Article VIII hereof. Except as otherwise provided herein, Holders of Claims shall not be entitled to interest, dividends or accruals on the distributions provided for herein, regardless of whether such distributions are delivered on or at any time after the Effective Date.

I. Setoffs

Without altering or limiting any of the rights and remedies of the Debtors and the Reorganized Debtors under section 502(d) of the Bankruptcy Code, all of which rights and remedies are hereby reserved, the Debtors and the Reorganized Debtors may, but shall not be required to, withhold (but not setoff except as set forth below) from the distributions called for hereunder on account of any Allowed Claim an amount equal to any claims, Causes of Action and Retained Causes of Action of any nature that the Debtors or the Reorganized Debtors may hold against the Holder of any such Allowed Claim; provided that, at least ten

(10) days prior to effectuating such withholding, the Debtors or the Reorganized Debtors, as applicable, shall provide written notice thereof to the applicable Holder of such Claim, and all objections and defenses of such Holder to such withholding are preserved. In the event that any such claims, Causes of Action or Retained Causes of Action are adjudicated by Final Order or otherwise resolved against the applicable Holder, the Debtors and the Reorganized Debtors may, pursuant to sections 553 or 558 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim), the amount of such adjudicated or resolved claims, Causes of Action or Retained Causes of Action. Neither the failure to effect such a setoff nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Reorganized Debtors of any such claims, Causes of Action or Retained Causes of Action, all of which are reserved unless expressly released or compromised pursuant to this Plan or the Confirmation Order.

ARTICLE VIII.

PROCEDURES FOR RESOLVING CONTINGENT, UNLIQUIDATED AND DISPUTED CLAIMS

A. Resolution of Disputed Claims

1. Allowance of Claims

After the Effective Date, and except as otherwise provided in this Plan, the Reorganized Debtors shall have and shall retain any and all available rights and defenses that the Debtors had with respect to any Claim, including, without limitation, the right to assert any objection to Claims based on the limitations imposed by section 502 of the Bankruptcy Code. The Debtors and the Reorganized Debtors may contest the amount and validity of any Disputed Claim or contingent or unliquidated Claim in the ordinary course of business in the manner and venue in which such Claim would have been determined, resolved or adjudicated if the Chapter 11 Cases had not been commenced.

2. Prosecution of Objections to Claims

After the Confirmation Date but before the Effective Date, the Debtors, and after the Effective Date, the Reorganized Debtors shall have the authority to File objections to Claims (other than Claims that are Allowed under this Plan) and settle, compromise, withdraw or litigate to judgment objections to any and all such Claims, regardless of whether such Claims are in an Unimpaired Class or otherwise; provided, however, this provision shall not apply to Professional Fee Claims, which may be objected to by any party-in-interest in these Chapter 11 Cases. From and after the Effective Date, the Reorganized Debtors may settle or compromise any Disputed Claim without any further notice to or action, order or approval of the Bankruptcy Court. The Reorganized Debtors shall have the sole authority to administer and adjust the Claims Register and their respective books and records to reflect any such settlements or compromises without any further notice to or action, order or approval of the Bankruptcy Court.

3. Claims Estimation

After the Confirmation Date but before the Effective Date, the Debtors, and after the Effective Date, the Reorganized Debtors may at any time request that the Bankruptcy Court estimate any Disputed Claim or contingent or unliquidated Claim pursuant to applicable law, including, without limitation, section 502(c) of the Bankruptcy Code, and the Bankruptcy Court shall retain jurisdiction under 28 U.S.C. §§ 157 and 1334 to estimate any such Claim, whether for allowance or to determine the maximum amount of such Claim, including during the litigation concerning any objection to any Claim or during the pendency of any

appeal relating to any such objection. All of the aforementioned Claims 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. The rights and objections of all parties are reserved in connection with any such estimation. Notwithstanding any provision otherwise in this Plan, a Claim that has been expunged from the Claims Register, but that either 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. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under this Plan (including for purposes of distributions), and the relevant Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim.

4. Deadline to File Objections to Claims

Any objections to Claims shall be Filed by no later than the Claims Objection Deadline; provided that nothing contained herein shall limit the Reorganized Debtors' right to object to Claims, if any, Filed or amended after the Claims Objection Deadline. Moreover, notwithstanding the expiration of the Claims Objection Deadline, the Debtors or the Reorganized Debtors shall continue to have the right to amend any claims objections and to file and prosecute supplemental objections and counterclaims to a Disputed Claim until such Disputed Claim is Allowed. Moreover, notwithstanding the expiration of the Claims Objection Deadline, the Reorganized Debtors shall continue to have the right to amend any claims or other objections and to File and prosecute supplemental objections and counterclaims to a Disputed Claim until such Disputed Claim is or becomes Allowed by Final Order of the Bankruptcy Court.

B. No Distributions Pending Allowance

Notwithstanding any other provision of this Plan to the contrary, no payments or distributions of any kind or nature shall be made with respect to all or any portion of a Disputed Claim unless and until all objections to such Disputed Claim have been settled or withdrawn or have been determined by Final Order, and the Disputed Claim has become an Allowed Claim pursuant to a Final Order.

C. Distributions on Account of Disputed Claims Once They Are Allowed and Additional Distributions on Account of Previously Allowed Claims

On each Subsequent Distribution Date (or such earlier date as determined by the Reorganized Debtors in their sole discretion), the Reorganized Debtors or other applicable Distribution Agent will make distributions (a) on account of any Disputed Claim that has become an Allowed Claim during the preceding calendar quarter, and (b) on account of previously Allowed Claims of property that would have been distributed to the Holders of such Claims on the dates distributions previously were made to Holders of Allowed Claims in such Class had the Disputed Claims that have become Allowed Claims or Disallowed Claims by Final Order of the Bankruptcy Court been Allowed or disallowed, as applicable, on such dates. Such distributions will be made pursuant to the applicable provisions of Article VII of this Plan. For the avoidance of doubt, but without limiting the terms or conditions of Article VII.B or Paragraph B of this Article VIII, any dividends or other distributions arising from property distributed to holders of Allowed Claims in a Class and paid to such Holders under this Plan shall also be paid, in the applicable amounts, to any Holder of a Disputed Claim in such Class that becomes an Allowed Claim after the date or dates that such dividends or other distributions were earlier paid to holders of Allowed Claims in such Class.

D. Reserve for Disputed Claims

The Debtors, the Reorganized Debtors, and the Distribution Agent may, in their respective sole discretion, establish such appropriate reserves for Disputed Claims in the applicable Class(es) as it determines necessary and appropriate, in each case with the consent of the Required Consenting Noteholders or as otherwise approved by the Bankruptcy Court. Without limiting the foregoing, reserves (if any) for Disputed Claims shall equal, as applicable, an amount equal to 100% of distributions or property to which Holders of Disputed Claims in each applicable Class would otherwise be entitled to receive under this Plan as of such date if such Disputed Claims were Allowed Claims in their respective Face Amount (or based on the Debtors' books and records if the applicable Holder has not yet Filed a Proof of Claim and the Claims Bar Date has not yet expired); provided, however, that the Debtors and the Reorganized Debtors, as applicable, shall have the right to file a motion seeking to estimate any Disputed Claims.

On the Effective Date, the Reorganized Debtors shall make a distribution of the New Equity Interests to the Holders of Allowed Prepetition Notes Claims consistent with **Error! Reference source not found.** hereof; provided, that the Reorganized Debtors shall reserve the amount of New Equity Interests necessary to make distributions to all Holders of General Unsecured Claims in the Face Amount of such Holders' General Unsecured Claims as if all such General Unsecured Claims were determined to be Allowed Claims (the "**Reserved New Equity Interests**"). The Reserved New Equity Interests shall be distributed to Holders of General Unsecured Claims, as such Claims become Allowed, in accordance with the terms of this Plan.

ARTICLE IX.

CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION OF THE PLAN

A. Conditions Precedent to Confirmation

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

1. This Plan and the Restructuring Documents shall be in form and substance consistent in all material respects with the Restructuring Support Agreement and otherwise acceptable to the Debtors and the Required Consenting Noteholders;
2. The Disclosure Statement Order and the Backstop Order shall have been entered by the Bankruptcy Court and such orders shall have become a Final Order that has not been stayed, modified, or vacated on appeal; and
3. The Confirmation Order shall have been entered by the Bankruptcy Court.

B. Conditions Precedent to Consummation

It shall be a condition to Consummation of this Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.C hereof;

1. The Confirmation Order shall have become a Final Order and such order shall not have been amended, modified, vacated, stayed, or reversed;
2. The Confirmation Date shall have occurred;

3. The Bankruptcy Court shall have entered one or more Final Orders (which may include the Confirmation Order), in form and substance acceptable to the Debtors and the Required Consenting Noteholders, authorizing the assumption, assumption and assignment and rejection of the Executory Contracts and Unexpired Leases by the Debtors as contemplated in this Plan and the Plan Supplement;

4. This Plan and the Restructuring Documents shall not have been amended or modified other than in a manner in form and substance consistent in all material respects with the Restructuring Term Sheet and otherwise acceptable to the Debtors and the Required Consenting Noteholders;

5. The Restructuring Documents shall have been filed, tendered for delivery, and been effectuated or executed by all Entities party thereto (as appropriate), and in each case in full force and effect. All conditions precedent to the effectiveness of such Restructuring Documents, including, without limitation, the Exit Facility Credit Agreement, the New Secured Convertible Notes Indenture, and the Backstop Purchase Agreement, shall have been satisfied or waived pursuant to the terms of such applicable Restructuring Documents (or shall be satisfied concurrently with the occurrence of the Effective Date);

6. All consents, actions, documents, certificates and agreements necessary to implement this Plan and the transactions contemplated by this Plan shall have been, as applicable, obtained and not otherwise subject to unfulfilled conditions, 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, and in each case in full force and effect;

7. All governmental approvals and consents, including Bankruptcy Court approval, that are applicable and legally required for the consummation of this Plan shall have been obtained, not be subject to unfulfilled conditions and be in full force and effect, and all applicable waiting periods under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, shall have expired;

8. The Debtors shall have received, or concurrently with the occurrence of the Effective Date will receive, at least \$43.3 million as contemplated in connection with the Backstop Purchase Agreement and the Rights Offering;

9. The New Board shall have been selected in accordance with the terms of this Plan and the Restructuring Support Agreement;

10. The Exit Facility Credit Agreement and the New Secured Convertible Notes Indenture shall each have closed or will close simultaneously with the effectiveness of this Plan;

11. The Restructuring Support Agreement shall be in full force and effect and shall not have been terminated in accordance with its terms;

12. The Backstop Purchase Agreement shall not have been terminated, and all conditions precedent (including the entry of the Backstop Order by the Bankruptcy Court and the Backstop Order becoming a Final Order, but excluding any conditions related to the occurrence of the Effective Date) to the obligations of the Backstop Parties under the Backstop Purchase Agreement shall have been satisfied or waived in accordance with the terms thereof, and the closing of the Backstop Purchase Agreement shall occur concurrently with the occurrence of the Effective Date;

13. The Debtors shall not be in default under either of the DIP Facilities or the Final DIP Order (or, to the extent that the Debtors are in default on the proposed Effective Date, such default shall have been waived by the applicable DIP Lenders or cured by the Debtors in a manner consistent with the DIP Facilities

and the DIP Orders) and both of the DIP Credit Agreements shall be in full force and effect and shall not have been terminated in accordance with their terms;

14. The Carve-Out Reserve shall have been funded in full in Cash by the Debtors in accordance with the terms and conditions of this Plan;

15. To the extent invoiced, all (i) Ad Hoc Noteholders Committee Fees and Expenses, (ii) Prepetition Credit Agreement Agent and Lender Fees and Expenses, (iii) Prepetition Notes Indenture Trustee Fees and Expenses, and (iv) Backstop Expenses shall have been paid in full in Cash or reserved in a manner acceptable to the applicable Required Consenting Noteholders (or approved by order of the Bankruptcy Court) to the extent of any disputes related thereto;

16. There shall be no ruling, judgment, or order issued by any Governmental Unit making illegal, enjoining, or otherwise preventing or prohibiting the consummation of the Restructuring Transactions, unless such ruling, judgment, or order has been stayed, reversed, or vacated within three (3) Business Days after such issuance;

17. There shall be no material litigation or investigation by any Governmental Unit involving the Debtors as of the Effective Date that has had, or would reasonably be expected to have, a material adverse effect on the business, financial condition or results of operations of the Reorganized Debtors, taken as a whole; and

18. To the extent required under applicable non-bankruptcy law, the Amended/New Organizational Documents shall have been duly filed with the applicable authorities in the relevant jurisdictions.

C. Waiver of Conditions

Subject to section 1127 of the Bankruptcy Code, the conditions to Confirmation and Consummation of this Plan set forth in this Article IX may be waived by the Debtors, with the consent of the Required Consenting Noteholders, without notice, leave or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate this Plan. The failure of the Debtors or Reorganized Debtors to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each right shall be deemed an ongoing right that may be asserted at any time.

D. Effect of Non-Occurrence of Conditions to Confirmation or Consummation

If the Confirmation or the Consummation of this Plan does not occur with respect to one or more of the Debtors, then this Plan shall, with respect to such applicable Debtor or Debtors, be null and void in all respects and nothing contained in this Plan or the Disclosure Statement shall: (1) constitute a waiver or release of any claims by or Claims against or Equity Interests in the Debtors; (2) prejudice in any manner the rights of the Debtors, any Holders or any other Person or Entity; (3) constitute an Allowance of any Claim or Equity Interest; or (4) constitute an admission, acknowledgment, offer or undertaking by the Debtors, any Holders or any other Person or Entity in any respect.

ARTICLE X.

RELEASE, DISCHARGE, INJUNCTION AND RELATED PROVISIONS

A. *General*

Notwithstanding anything contained herein to the contrary, the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions (if any) and treatments hereunder, takes into account the relative priority and rights of the Claims and the Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code or otherwise. As of the Effective Date, any and all contractual, legal and equitable subordination rights, whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code or otherwise, relating to the allowance, classification and treatment of all Allowed Claims and Equity Interests and their respective distributions (if any) and treatments hereunder, are settled, compromised, terminated and released pursuant hereto; *provided, however*, that nothing contained herein shall preclude any Person or Entity from exercising their rights pursuant to and consistent with the terms of this Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with this Plan.

B. *Release of Claims and Causes of Action*

1. ***Release by the Debtors and their Estates.*** Pursuant to section 1123(b) and any other applicable provisions of the Bankruptcy Code, and except as otherwise expressly provided in this Plan, effective as of the Effective Date, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is hereby confirmed, the Debtors and the Reorganized Debtors, in their respective individual capacities and as debtors-in-possession, and on behalf of themselves and their respective Estates, including, without limitation, any successor to the Debtors or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code (collectively, the “**Debtor Releasing Parties**”), shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived and discharged by the Debtor Releasing Parties) and their respective assets and properties (the “**Debtor Release**”) from any and all Claims, Causes of Action, and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors or their Affiliates, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, this Plan, the Restructuring Support Agreement, the Backstop Purchase Agreement, the Rights Offering, the Restructuring Documents, the Prepetition Debt Documents, and the DIP Loan Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in this Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Backstop Purchase Agreement, the Rights Offering, this Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, the Prepetition Debt Documents, the DIP Loan Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale, or rescission of the purchase or sale of any Equity Interest or Plan Securities of the Debtors or the

Reorganized Debtors, and/or (vii) the Confirmation or Consummation of this Plan or the solicitation of votes on this Plan, that such Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) or that any Holder of a Claim or Equity Interest or other Person or Entity would have been legally entitled to assert for, or on behalf or in the name of, any Debtor, its respective Estate or any Reorganized Debtor (whether directly or derivatively) against any of the Released Parties; provided, however, that the foregoing provisions of this Debtor Release shall not operate to waive or release (A) the rights of such Debtor Releasing Party to enforce this Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with this Plan (including, without limitation, the Exit Facility Loan Documents and the New Secured Convertible Notes Documents) or assumed or assumed and assigned, as applicable, pursuant to this Plan or pursuant to a Final Order of the Bankruptcy Court and (B) claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes a criminal act, fraud, willful misconduct, or gross negligence, in each case as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity and the Confirmation Order shall permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Debtor Release. Notwithstanding the foregoing, nothing in this Article X.B. shall or shall be deemed to (i) prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person or Entity that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors and/or (ii) operate as a release or waiver of any Intercompany Claims, in each case unless otherwise expressly provided for in this Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtor Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Debtor Release is: (i) in exchange for the good and valuable consideration provided by the Released Parties; (ii) a good faith settlement and compromise of the Claims released by the Debtor Release; (iii) in the best interest of the Debtors and their Estates; (iv) fair, equitable and reasonable; (v) given and made after due notice and opportunity for hearing; and (vi) a bar to any of the Debtors, the Reorganized Debtors, or the Debtors' Estates asserting any claim or Cause of Action released pursuant to the Debtor Release.

2. Release By Third Parties. Except as otherwise expressly provided in this Plan, effective as of the Effective Date, to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy and sufficiency of which is hereby confirmed, and without limiting or otherwise modifying the scope of the Debtor Release provided by the Debtor Releasing Parties above, each Non-Debtor Releasing Party (together with the Debtor Releasing Parties, the "Releasing Parties") shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever provided a full discharge, waiver, and release to each of the Released Parties (and each such Released Party so released shall be deemed forever released, waived, and discharged by the Non-Debtor Releasing Parties) and their respective assets and properties (the "Third Party Release") from any and all Claims, Causes of Action, and any other debts, obligations, rights, suits, damages, actions, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, whether directly or derivatively held, existing as of the Effective Date or thereafter arising, in law, at equity or otherwise, whether for tort, contract, violations of federal or state securities laws, or otherwise, based in whole or in part upon any act or

omission, transaction, or other occurrence or circumstances existing or taking place prior to or on the Effective Date arising from or related in any way in whole or in part to any of the Debtors or their Affiliates, including, without limitation, (i) the Chapter 11 Cases, the Disclosure Statement, this Plan, the Restructuring Support Agreement, the Backstop Purchase Agreement, the Rights Offering, the Restructuring Documents, the Prepetition Debt Documents, and the DIP Loan Documents, (ii) the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in this Plan, (iii) the business or contractual arrangements between any Debtor and any Released Parties, (iv) the negotiation, formulation or preparation of the Restructuring Support Agreement, the Backstop Purchase Agreement, the Rights Offering, this Plan, the Disclosure Statement, the Plan Supplement, the Restructuring Documents, the Prepetition Debt Documents, the DIP Loan Documents, or related agreements, instruments or other documents, (v) the restructuring of Claims or Equity Interests prior to or during the Chapter 11 Cases, (vi) the purchase, sale or rescission of the purchase or sale of any Equity Interest or Plan Securities of the Debtors or the Reorganized Debtors, and/or (vii) the Confirmation or Consummation of this Plan or the solicitation of votes on this Plan that such Non-Debtor Releasing Party would have been legally entitled to assert (whether individually or collectively) against any of the Released Parties; provided, however, that the foregoing provisions of this Third Party Release shall not operate to waive or release (A) the rights of such Non-Debtor Releasing Party to enforce this Plan and the contracts, instruments, releases, indentures, and other agreements or documents delivered under or in connection with this Plan (including, without limitation, the Exit Facility Loan Documents and the New Secured Convertible Notes Documents) or assumed or assumed and assigned, as applicable, pursuant to this Plan or pursuant to a Final Order of the Bankruptcy Court and (B) claims or liabilities arising out of or relating to any act or omission of a Released Party that constitutes a criminal act, fraud, willful misconduct, or gross negligence, in each case as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction. The foregoing release shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity and the Confirmation Order shall permanently enjoin the commencement or prosecution by any Person or Entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this Third Party Release.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third Party Release, which includes by reference each of the related provisions and definitions contained herein, and further, shall constitute the Bankruptcy Court's finding that the Third Party Release is: (i) consensual; (ii) essential to the confirmation of this Plan; (iii) in exchange for the good and valuable consideration provided by the Released Parties; (iv) a good faith settlement and compromise of the Claims released by the Third Party Release; (v) in the best interest of the Debtors and all Holders of Claims and Equity Interests; (vi) fair, equitable and reasonable; (vii) given and made after due notice and opportunity for hearing; and (viii) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Third Party Release.

C. Waiver of Statutory Limitations on Releases

Each of the Releasing Parties in each of the releases contained above expressly acknowledges that although ordinarily a general release may not extend to Claims which the Releasing Party does not know or suspect to exist in its favor, which if known by it may have materially affected its settlement with the party released, they have carefully considered and taken into account in determining to enter into the above releases the possible existence of such unknown losses or claims. Without limiting the generality of the foregoing, each Releasing Party expressly waives any and all rights conferred upon it by any statute or rule

of law which provides that a release does not extend to claims which the claimant does not know or suspect to exist in its favor at the time of providing the release, which if known by it may have materially affected its settlement with the released party. Except as otherwise provided in this Plan, the releases contained in this Plan are effective regardless of whether those released matters are presently known, unknown, suspected or unsuspected, foreseen or unforeseen.

D. Discharge of Claims and Equity Interests

To the fullest extent provided under section 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code, except as otherwise expressly provided by this Plan (including, without limitation, Article V.D of this Plan) or the Confirmation Order, effective as of the Effective Date, all consideration distributed under this Plan shall be in exchange for, and in complete satisfaction, settlement, discharge, and release of, all Claims, Equity Interests and Causes of Action of any kind or nature whatsoever against the Debtors or any of their respective assets or properties, and regardless of whether any property shall have been distributed or retained pursuant to this Plan on account of such Claims, Equity Interests or Causes of Action.

Except as otherwise expressly provided by this Plan (including, without limitation, Article V.D of this Plan) or the Confirmation Order, upon the Effective Date, the Debtors and their Estates shall be deemed discharged and released under and to the fullest extent provided under sections 524 and 1141(d)(1)(A) and other applicable provisions of the Bankruptcy Code from any and all Claims of any kind or nature whatsoever, including, but not limited to, demands and liabilities that arose before the Confirmation Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code. Such discharge shall void any judgment obtained against the Debtors or the Reorganized Debtors at any time, to the extent that such judgment relates to a discharged Claim.

Except as otherwise expressly provided by this Plan (including, without limitation, Article V.D of this Plan) or the Confirmation Order, upon the Effective Date: (i) the rights afforded herein and the treatment of all Claims and Equity Interests shall be in exchange for and in complete satisfaction, settlement, discharge, and release of all Claims and Equity Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtors or any of their respective assets, property, or Estates; (ii) all Claims and Equity Interests shall be satisfied, discharged, and released in full, and each of the Debtor's liability with respect thereto shall be extinguished completely without further notice or action; and (iii) all Persons and Entities shall be precluded from asserting against the Debtors, the Estates, the Reorganized Debtors, each of their respective successors and assigns, and each of their respective assets and properties, any such Claims or Equity Interests, whether based upon any documents, instruments or any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date or otherwise.

E. Exculpation

Effective as of the Effective Date, to the fullest extent permitted by law, the Exculpated Parties shall neither have nor incur any liability to any Person or Entity for any claims or Causes of Action arising prior to or on the Effective Date for any act taken or omitted to be taken in connection with, or related to, formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Confirmation or Consummation of this Plan, the Disclosure Statement, the Restructuring Documents, the Rights Offering, the Prepetition Debt Documents, the DIP Loan Documents, or any contract, instrument, release or other agreement or document created or entered into in connection with this Plan, including the Restructuring Support Agreement and the Backstop Purchase Agreement, or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, the approval of the

Disclosure Statement or Confirmation or Consummation of this Plan; *provided, however*, that the foregoing provisions of this exculpation shall not operate to waive or release: (i) any Causes of Action arising from willful misconduct, actual fraud, or gross negligence of such applicable Exculpated Party as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (ii) the rights of any Person or Entity to enforce this Plan and the contracts, instruments, releases, indentures, and other agreements and documents delivered under or in connection with this Plan or assumed pursuant to this Plan or Final Order of the Bankruptcy Court; *provided, further*, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning its respective duties pursuant to, or in connection with, the above referenced documents, actions or inactions. The foregoing exculpation shall be effective as of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any Person or Entity. Notwithstanding the foregoing, nothing in this Article X.E shall or shall be deemed to prohibit the Debtors or the Reorganized Debtors from asserting and enforcing any claims, obligations, suits, judgments, demands, debts, rights, Causes of Action or liabilities they may have against any Person or Entity that is based upon an alleged breach of a confidentiality or non-compete obligation owed to the Debtors or the Reorganized Debtors, in each case unless otherwise expressly provided for in this Plan.

F. Preservation of Causes of Action

1. Maintenance of Retained Causes of Action

Except as otherwise provided in this Article X (including, without limitation, and for the avoidance of doubt, the Releases contained in Article X.B and Exculpation contained in Article X.E hereof) or elsewhere in this Plan or the Confirmation Order, after the Effective Date, the Reorganized Debtors shall retain all rights to commence, prosecute, pursue, litigate or settle, as appropriate, any and all Retained Causes of Action (including those not identified in the Plan Supplement), whether existing as of the Petition Date or thereafter arising, in any court or other tribunal including, without limitation, in an adversary proceeding Filed in the Chapter 11 Cases, and all such Retained Causes of Action shall vest in the Reorganized Debtors in accordance with this Plan. The Reorganized Debtors, as the successors-in-interest to the Debtors and the Estates, may, and shall have the exclusive right to, enforce, sue on, settle, compromise, transfer or assign (or decline to do any of the foregoing) any or all of such Retained Causes of Action without notice to or approval from the Bankruptcy Court.

2. Preservation of All Causes of Action Not Expressly Settled or Released

The Debtors expressly reserve all Causes of Action and Retained Causes of Action for later adjudication by the Debtors or the Reorganized Debtors (including, without limitation, Causes of Action and Retained Causes of Action not specifically identified or of which the Debtors may presently be unaware or which may arise or exist by reason of additional facts or circumstances unknown to the Debtors at this time or facts or circumstances that may change or be different from those the Debtors now believe to exist) and, therefore, no preclusion doctrine, including, without limitation, the doctrines of *res judicata*, collateral estoppel, issue preclusion, claim preclusion, waiver, estoppel (judicial, equitable or otherwise) or laches shall apply to such Causes of Action or Retained Causes of Action upon or after the Confirmation or Consummation of this Plan based on the Disclosure Statement, this Plan or the Confirmation Order, except in each case where such Causes of Action or Retained Causes of Action have been expressly waived, relinquished, released, compromised or settled in this Plan (including, without limitation, and for the avoidance of doubt, the Releases contained in Article X.B and Exculpation contained in Article X.E hereof) or any other Final Order (including, without limitation, the Confirmation Order). In addition, the Debtors and the Reorganized Debtors expressly reserve the right to pursue or adopt any claims alleged in any lawsuit

in which any of the Debtors are a plaintiff, defendant or an interested party, against any Person or Entity, including, without limitation, the plaintiffs or co-defendants in such lawsuits.

No Person or Entity may rely on the absence of a specific reference in this Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action or Retained Cause of Action against them as any indication that the Debtors or the Reorganized Debtors will not pursue any and all available Causes of Action or Retained Causes of Action against them. The Debtors and the Reorganized Debtors expressly reserve all rights to prosecute any and all Causes of Action and Retained Causes of Action against any Person or Entity, except as otherwise expressly provided in this Plan or the Confirmation Order.

G. Injunction

EXCEPT AS OTHERWISE EXPRESSLY PROVIDED IN THIS PLAN OR THE CONFIRMATION ORDER, FROM AND AFTER THE EFFECTIVE DATE, ALL PERSONS AND ENTITIES ARE, TO THE FULLEST EXTENT PROVIDED UNDER SECTION 524 AND OTHER APPLICABLE PROVISIONS OF THE BANKRUPTCY CODE, PERMANENTLY ENJOINED FROM (I) COMMENCING OR CONTINUING, IN ANY MANNER OR IN ANY PLACE, ANY SUIT, ACTION OR OTHER PROCEEDING; (II) ENFORCING, ATTACHING, COLLECTING, OR RECOVERING IN ANY MANNER ANY JUDGMENT, AWARD, DECREE, OR ORDER; (III) CREATING, PERFECTING, OR ENFORCING ANY LIEN OR ENCUMBRANCE; (IV) ASSERTING A SETOFF OR RIGHT OF SUBROGATION OF ANY KIND; OR (V) COMMENCING OR CONTINUING IN ANY MANNER ANY ACTION OR OTHER PROCEEDING OF ANY KIND, IN EACH CASE ON ACCOUNT OF OR WITH RESPECT TO ANY CLAIM, DEMAND, LIABILITY, OBLIGATION, DEBT, RIGHT, CAUSE OF ACTION, EQUITY INTEREST, OR REMEDY RELEASED OR TO BE RELEASED, EXCULPATED OR TO BE EXCULPATED, SETTLED OR TO BE SETTLED, OR DISCHARGED OR TO BE DISCHARGED, PURSUANT TO THIS PLAN OR THE CONFIRMATION ORDER AGAINST ANY PERSON OR ENTITY SO RELEASED, DISCHARGED, OR EXCULPATED (OR THE PROPERTY OR ESTATE OF ANY PERSON OR ENTITY SO RELEASED, DISCHARGED, OR EXCULPATED). ALL INJUNCTIONS OR STAYS PROVIDED FOR IN THE CHAPTER 11 CASES UNDER SECTION 105 OR SECTION 362 OF THE BANKRUPTCY CODE, OR OTHERWISE, AND IN EXISTENCE ON THE CONFIRMATION DATE, SHALL REMAIN IN FULL FORCE AND EFFECT UNTIL THE EFFECTIVE DATE.

H. Binding Nature Of Plan

ON THE EFFECTIVE DATE, AND EFFECTIVE AS OF THE EFFECTIVE DATE, THIS PLAN SHALL BIND, AND SHALL BE DEEMED BINDING UPON, THE DEBTORS, THE REORGANIZED DEBTORS, ANY AND ALL HOLDERS OF CLAIMS AGAINST AND EQUITY INTERESTS IN THE DEBTORS, ALL PERSONS AND ENTITIES THAT ARE PARTIES TO OR ARE SUBJECT TO THE SETTLEMENTS, COMPROMISES, RELEASES, EXCULPATIONS, DISCHARGES, AND INJUNCTIONS DESCRIBED IN THIS PLAN, EACH PERSON AND ENTITY ACQUIRING PROPERTY UNDER THIS PLAN, ANY AND ALL NON-DEBTOR PARTIES TO EXECUTORY CONTRACTS AND UNEXPIRED LEASES WITH THE DEBTORS AND THE RESPECTIVE SUCCESSORS AND ASSIGNS OF EACH OF THE FOREGOING, TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, AND NOTWITHSTANDING WHETHER OR NOT SUCH PERSON OR ENTITY (I) WILL RECEIVE OR RETAIN ANY PROPERTY, OR INTEREST IN PROPERTY, UNDER THIS PLAN, (II) HAS FILED A PROOF OF CLAIM OR INTEREST IN THE CHAPTER 11 CASES OR (III) FAILED TO VOTE TO

ACCEPT OR REJECT THIS PLAN, AFFIRMATIVELY VOTED TO REJECT THIS PLAN OR IS CONCLUSIVELY PRESUMED TO REJECT THIS PLAN.

I. Protection Against Discriminatory Treatment

To the extent provided by section 525 of the Bankruptcy Code and the Supremacy Clause of the United States Constitution, all Persons and Entities, including Governmental Units, shall not discriminate against the Reorganized Debtors or deny, revoke, suspend or refuse to renew a license, permit, charter, franchise or other similar grant to, condition such a grant to, discriminate with respect to such a grant, against the Reorganized Debtors, or another Person or Entity with whom the Reorganized Debtors have been associated, solely because any Debtor has been a debtor under chapter 11 of the Bankruptcy Code, has been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before the Debtors are granted or denied a discharge) or has not paid a debt that is dischargeable in the Chapter 11 Cases.

J. Integral Part of Plan

Each of the provisions set forth in this Plan with respect to the settlement, release, discharge, exculpation, injunction, indemnification and insurance of, for or with respect to Claims and/or Causes of Action are an integral part of this Plan and essential to its implementation. Accordingly, each Person or Entity that is a beneficiary of such provision shall have the right to independently seek to enforce such provision and such provision may not be amended, modified, or waived after the Effective Date without the prior written consent of such beneficiary.

ARTICLE XI.

RETENTION OF JURISDICTION

Pursuant to sections 105(c) and 1142 of the Bankruptcy Code and notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall, on and after the Effective Date, retain exclusive jurisdiction over the Chapter 11 Cases and all Entities with respect to all matters related to the Chapter 11 Cases, the Debtors and this Plan as legally permissible, including, without limitation, jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate or establish the priority or secured or unsecured status of any Claim or Equity Interest, including, without limitation, the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the allowance or priority of any such Claim or Equity Interest;
2. grant or deny any applications for allowance of compensation or reimbursement of expenses authorized pursuant to the Bankruptcy Code or this Plan, for periods ending on or before the Effective Date; provided, however, that, from and after the Effective Date, the Reorganized Debtors shall pay Professionals in the ordinary course of business for any work performed after the Effective Date and such payment shall not be subject to the approval of the Bankruptcy Court;
3. resolve any matters related to the assumption, assignment or rejection of any Executory Contract or Unexpired Lease and to adjudicate and, if necessary, liquidate, any Claims arising therefrom, including, without limitation, those matters related to any amendment to this Plan after the Effective Date to add Executory Contracts or Unexpired Leases to the list of Executory Contracts and Unexpired Leases to be assumed or rejected (as applicable);

4. resolve any issues related to any matters adjudicated in the Chapter 11 Cases;
5. ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of this Plan;
6. decide or resolve any motions, adversary proceedings, contested or litigated matters and any other Causes of Action that are pending as of the Effective Date or that may be commenced in the future, and grant or deny any applications involving the Debtors that may be pending on the Effective Date or instituted by the Reorganized Debtors after the Effective Date, provided, however that the Reorganized Debtors shall reserve the right to commence actions in all appropriate forums and jurisdictions;
7. enter such orders as may be necessary or appropriate to implement or consummate the provisions of this Plan and all other contracts, instruments, releases, indentures and other agreements or documents adopted in connection with this Plan, the Plan Supplement or the Disclosure Statement;
8. resolve any cases, controversies, suits or disputes that may arise in connection with the Consummation, interpretation or enforcement of this Plan or any Person's or Entity's obligations incurred in connection with this Plan;
9. hear and determine all Causes of Action that are pending as of the Effective Date or that may be commenced in the future;
10. issue injunctions and enforce them, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any Person or Entity with Consummation or enforcement of this Plan;
11. enforce the terms and conditions of this Plan, the Confirmation Order, and the Restructuring Documents;
12. resolve any cases, controversies, suits or disputes with respect to the Release, the Exculpation, the Indemnification and other provisions contained in Article X hereof and enter such orders or take such others actions as may be necessary or appropriate to implement or enforce all such provisions;
13. hear and determine all Retained Causes of Action;
14. enter and implement such orders or take such other actions as may be necessary or appropriate if the Confirmation Order is modified, stayed, reversed, revoked or vacated;
15. resolve any other matters that may arise in connection with or relate to this Plan, the Disclosure Statement, the Confirmation Order or any release, exculpation, discharge, or injunction adopted in connection with this Plan; and
16. enter an order concluding or closing the Chapter 11 Cases.

Notwithstanding the foregoing, (i) any dispute arising under or in connection with the Exit Facility Loan Documents, the New Secured Convertible Notes Documents, or the New Stockholders Agreement shall be dealt with in accordance with the provisions of the applicable document and the jurisdictional provisions contained therein and (ii) if the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising in, arising under, or related to the Chapter 11 Cases, including the matters set forth in this Article of this Plan, the provisions of this

Article XI shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having jurisdiction with respect to such matter.

ARTICLE XII.

MISCELLANEOUS PROVISIONS

A. *Substantial Consummation*

“Substantial Consummation” of this Plan, as defined in 11 U.S.C. § 1101(2), shall be deemed to occur on the Effective Date.

B. *Payment of Statutory Fees; Post-Effective Date Fees and Expenses*

All fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code prior to the Effective Date shall be paid by the Debtors. On and after the Effective Date, the Reorganized Debtors shall pay any and all such fees when due and payable, and shall File with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the United States Trustee. Each Debtor shall remain obligated to pay quarterly fees to the Office of the United States Trustee until the earliest of that particular Debtor’s case being closed, dismissed, or converted to a case under Chapter 7 of the Bankruptcy Code.

The Reorganized Debtors shall pay the liabilities and charges that they incur on or after the Effective Date for Professionals’ fees, disbursements, expenses, or related support services (including reasonable fees, costs and expenses incurred by Professionals relating to the preparation of interim and final fee applications and obtaining Bankruptcy Court approval thereof) in the ordinary course of business and without application or notice to, or order of, the Bankruptcy Court, including, without limitation, the reasonable fees, expenses, and disbursements of the Distribution Agents and the Prepetition Notes Indenture Trustee and the fees, costs and expenses incurred by Professionals in connection with the implementation, enforcement and Consummation of this Plan and the Restructuring Documents.

C. *Conflicts*

In the event that a provision of the Restructuring Documents or the Disclosure Statement (including any and all exhibits and attachments thereto) conflicts with a provision of this Plan or the Confirmation Order, the provision of this Plan and the Confirmation Order (as applicable) shall govern and control to the extent of such conflict. In the event that a provision of this Plan conflicts with a provision of the Confirmation Order, the provision of the Confirmation Order shall govern and control to the extent of such conflict.

D. *Modification of Plan*

Effective as of the date hereof and subject to the limitations and rights contained in this Plan: (a) the Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify this Plan prior to the entry of the Confirmation Order in a way that is in form and substance consistent in all material respects with the Restructuring Term Sheet and otherwise acceptable to the Required Consenting Noteholders, in accordance with section 1127(a) of the Bankruptcy Code; and (b) after the entry of the Confirmation Order, the Debtors or the Reorganized Debtors, as applicable, may, upon order of the Bankruptcy Court, amend or modify this Plan in a way that is in form and substance consistent in all material respects with the Restructuring Term Sheet and otherwise acceptable to the Required Consenting Noteholders, in accordance with section 1127(b) of the Bankruptcy Code or to remedy any defect or omission or reconcile any inconsistency in this Plan in such manner as may be necessary to carry

out the purpose and intent of this Plan. A Holder of a Claim that has accepted this Plan shall be deemed to have accepted this Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not materially and adversely change the treatment of the Claim of such Holder.

E. Revocation or Withdrawal of Plan

The Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date and/or to File subsequent chapter 11 plans, with respect to one or more of the Debtors. If the Debtors revoke or withdraw this Plan, or if Confirmation or Consummation of this Plan does not occur with respect to one or more of the Debtors, then with respect to the applicable Debtor or Debtors for which this Plan was revoked or withdrawn or for which Confirmation or Consummation of this Plan did not occur: (1) this Plan shall be null and void in all respects; (2) any settlement or compromise embodied in this Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by this Plan and any document or agreement executed pursuant hereto shall be deemed null and void except as may be set forth in a separate order entered by the Bankruptcy Court; and (3) nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the applicable Debtors or any other Person or Entity; (b) prejudice in any manner the rights of the applicable Debtors or any other Person or Entity; or (c) constitute an admission, acknowledgement, offer or undertaking of any sort by the applicable Debtors or any other Person or Entity.

F. Successors and Assigns

This Plan shall be binding upon and inure to the benefit of the Debtors, the Reorganized Debtors, all present and former Holders of Claims and Equity Interests, other parties-in-interest, and their respective heirs, executors, administrators, successors, and assigns. The rights, benefits, and obligations of any Person or Entity named or referred to in this Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or assign of such Person or Entity.

G. Reservation of Rights

Except as expressly set forth herein, this Plan shall have no force or effect unless and until the Bankruptcy Court enters the Confirmation Order and this Plan is Consummated. Neither the filing of this Plan, any statement or provision contained herein, nor the taking of any action by the Debtors or any other Person or Entity with respect to this Plan shall be or shall be deemed to be an admission or waiver of any rights of: (1) the Debtors with respect to the Holders of Claims or Equity Interests or other Person or Entity; or (2) any Holder of a Claim or an Equity Interest or other Person or Entity prior to the Effective Date.

H. Further Assurances

The Debtors or the Reorganized Debtors, as applicable, all Holders of Claims receiving distributions hereunder and all other Persons or Entities shall, from time to time, prepare, execute and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of this Plan or the Confirmation Order.

I. Severability

If, prior to the Confirmation Date, any term or provision of this Plan is determined by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court will 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 will then be applicable as altered or interpreted. Notwithstanding any such holding,

alteration or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a judicial determination and will provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

J. Service of Documents

Any notice, direction or other communication given regarding the matters contemplated by this Plan (each, a “**Notice**”) must be in writing, sent by personal delivery, electronic mail, courier or facsimile and addressed as follows:

If to the Debtors:

Hi-Crush Inc.
1330 Post Oak Blvd., Suite 600
Houston, Texas 77056
Attn: Mark C. Skolos
Tel: (713) 980-6200
Email: mskolos@hicrush.com

with a copy to:

Latham & Watkins LLP
885 Third Avenue
New York, NY 10022
Attn: Keith A. Simon
Tel: (212) 906-1372
Fax: (212) 751-4864
Email: keith.simon@lw.com

If to the Ad Hoc Noteholders Committee:

Paul, Weiss, Rifkind, Wharton & Garrison LLP
1285 Avenue of the Americas
New York, NY 10019
Attn: Brian S. Hermann
Elizabeth McColm
John T. Weber
Tel: (212) 373-3000
Fax: (212) 757-3990
Email: bhermann@paulweiss.com
emccolm@paulweiss.com
jweber@paulweiss.com

If to the Prepetition Credit Agreement Agent:

JPMorgan Chase Bank, N.A.
2200 Ross Avenue, 9th Floor
Dallas, TX 75201
Attn: Andrew G. Ray

Tel: (214) 965-2592
 Email: andrew.g.ray@jpmorgan.com

A Notice is deemed to be given and received (a) if sent by personal delivery or courier, on the date of delivery if it is a Business Day and the delivery was made prior to 4:00 p.m. (local time in place of receipt) and otherwise on the next Business Day, or (b) if sent by facsimile, on the Business Day following the date of confirmation of transmission by the originating facsimile, or (c) if sent by electronic mail, when the sender receives an email from the recipient acknowledging receipt, provided that an automatic “read receipt” does not constitute acknowledgment of an email for purposes of this Article XII.J. Any party may change its address for service from time to time by providing a Notice in accordance with the foregoing. Any element of a party’s address that is not specifically changed in a Notice will be assumed not to be changed. Sending a copy of a Notice to a party’s legal counsel as contemplated above is for information purposes only and does not constitute delivery of the Notice to that party. The failure to send a copy of a Notice to legal counsel does not invalidate delivery of that Notice to a party.

K. Exemption from Transfer Taxes Pursuant to Section 1146(a) of the Bankruptcy Code

Pursuant to and to the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer of property, pursuant to or in connection with this Plan or the Restructuring Documents shall not be subject to any Stamp or Similar Tax or governmental assessment in the United States or by any other Governmental Unit, and the Confirmation Order shall direct the appropriate federal, state or local (domestic or foreign) governmental officials or agents to forgo the collection of any such Stamp or Similar Tax or governmental assessment and to accept for filing and recordation instruments or other documents evidencing such action or event without the payment of any such Stamp or Similar Tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) all actions, agreements and documents necessary to evidence and implement the provisions of, transactions contemplated by and the distributions to be made under this Plan or the Restructuring Documents, (ii) the issuance and distribution of the New Equity Interests or Plan Securities and Documents, and (iii) the maintenance or creation of security interests or any Lien as contemplated by this Plan or the Restructuring Documents.

L. Governing Law

Except to the extent that the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent that a Restructuring Document or an exhibit, schedule, or supplement to this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of Delaware, without giving effect to the principles of conflicts of law of such jurisdiction.

M. Tax Reporting and Compliance

The Reorganized Debtors are hereby authorized, on behalf of the Debtors, to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtors for all taxable periods ending after the Petition Date through and including the Effective Date.

N. Exhibits, Schedules, and Supplements

All exhibits, schedules, and supplements to this Plan, including the Exhibits and the Plan Supplement, are incorporated herein and are a part of this Plan as if set forth in full herein.

O. No Strict Construction

This Plan is the product of extensive discussions and negotiations between and among, *inter alia*, the Debtors, the Prepetition Credit Agreement Agent, the Prepetition Notes Indenture Trustee, the Consenting Noteholders, and their respective professionals. Each of the foregoing was represented by counsel of its choice who either participated in the formulation and documentation of, or was afforded the opportunity to review and provide comments on, this Plan, the Disclosure Statement, the Exhibits and the Plan Supplement, and the agreements and documents ancillary or related thereto. Accordingly, unless explicitly indicated otherwise, the general rule of contract construction known as “contra proferentem” or other rule of strict construction shall not apply to the construction or interpretation of any provision of this Plan, the Disclosure Statement, the Exhibits or the Plan Supplement, or the documents ancillary and related thereto.

P. Entire Agreement

Except as otherwise provided herein or therein, this Plan and the Restructuring Documents supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into this Plan and the Restructuring Documents.

Q. Closing of Chapter 11 Cases

The Reorganized Debtors shall, promptly after the full administration of the Chapter 11 Cases, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order of the Bankruptcy Court to close the Chapter 11 Cases.

R. Statutory Committees

On the Effective Date, the current and former members of the Committee, and their respective officers, employees, counsel, advisors and agents, will be released and discharged of and from all further authority, duties, responsibilities and obligations related to and arising from and in connection with the Chapter 11 Cases and the Committee will dissolve; provided, however, that following the Effective Date, the Committee will continue in existence and have standing and a right to be heard for the following limited purposes: (i) pursuing claims and final fee applications filed pursuant to sections 330 and 331 of the Bankruptcy Code in accordance with Article II.A; and (ii) any appeals of the Confirmation Order or other appeal to which the Committee is a party. Following the completion of the Committee’s remaining duties set forth above, the Committee will be dissolved, and the retention or employment of the Committee’s respective attorneys, accountants and other agents will terminate without further notice to, or action by, any Person or Entity.

S. 2002 Notice Parties

After the Effective Date, the Debtors and the Reorganized Debtors, as applicable, are authorized to limit the list of Persons and Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Persons and Entities who have Filed a renewed request after the Confirmation Hearing to receive documents pursuant to Bankruptcy Rule 2002.

Dated: August 15, 2020

Respectfully submitted,

HI-CRUSH INC. AND ITS AFFILIATE DEBTORS

/s/ J. Philip McCormick, Jr.

By: J. Philip McCormick, Jr.

Title: Chief Financial Officer

Exhibit 2

Notice of Effective Date

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

In re:	X	
	:	Chapter 11
	:	
HI-CRUSH INC., <i>et al.</i> , ¹	:	Case No. 20-33495 (DRJ)
	:	
Debtors.	:	(Jointly Administered)
	:	
	X	

**NOTICE OF (I) EFFECTIVE DATE OF
THE JOINT PLAN OF REORGANIZATION FOR
HI-CRUSH INC. AND ITS AFFILIATE DEBTORS UNDER CHAPTER 11
OF THE BANKRUPTCY CODE AND (II) ESTABLISHING DEADLINE
FOR THE FILING OF ADMINISTRATIVE CLAIMS AGAINST THE DEBTORS**

TO ALL CREDITORS, EQUITY INTEREST HOLDERS, AND OTHER PARTIES-IN-INTEREST:

PLEASE TAKE NOTICE that an order (the “**Confirmation Order**”) confirming the *Joint Plan Of Reorganization For Hi-Crush Inc. And Its Affiliate Debtors Under Chapter 11 Of The Bankruptcy Code*, dated August 15, 2020 (as amended, modified or supplemented, the “**Plan**”) was entered by this Court on September [___], 2020, at Docket Number [___]. Unless otherwise defined in this notice, capitalized terms used herein shall have the meanings ascribed to them in the Plan and the Confirmation Order.

PLEASE TAKE FURTHER NOTICE that the Plan was substantially consummated, and the Effective Date (as defined in the Plan) occurred, on September [___], 2020.

PLEASE TAKE FURTHER NOTICE that any party in interest who wishes to continue to receive service of court filings must file a request for such notice with the Bankruptcy Court under Bankruptcy Rule 2002. Parties who previously filed such notices must file new notices if they wish to continue to receive service of court filings.

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Hi-Crush Inc. (0530), OnCore Processing LLC (9403), Hi-Crush Augusta LLC (0668), Hi-Crush Whitehall LLC (5562), PDQ Properties LLC (9169), Hi-Crush Wyeville Operating LLC (5797), D & I Silica, LLC (9957), Hi-Crush Blair LLC (7094), Hi-Crush LMS LLC, Hi-Crush Investments Inc. (6547), Hi-Crush Permian Sand LLC, Hi-Crush Proppants LLC (0770), Hi-Crush PODS LLC, Hi-Crush Canada Inc. (9195), Hi-Crush Holdings LLC, Hi-Crush Services LLC (6206), BulkTracer Holdings LLC (4085), Pronghorn Logistics Holdings, LLC (5223), FB Industries USA Inc. (8208), PropDispatch LLC, Pronghorn Logistics, LLC (4547), and FB Logistics, LLC (8641). The Debtors’ address is 1330 Post Oak Blvd, Suite 600, Houston, Texas 77056.

Deadline For Filing Administrative Claims and Contract Rejection Claims

PLEASE TAKE FURTHER NOTICE that [], 2020, at 5:00 p.m. (Prevailing Central Time) (the “**Administrative Claims Bar Date**”) was established by this Court as the deadline by which holders of Administrative Claims must file proofs of administrative claim against the Debtors. For your convenience, enclosed with this notice is a proof of administrative claim form (the “**Proof of Administrative Claim Form**”). The Proof of Administrative Claim Form is also available free of charge on the Debtors’ restructuring website: <http://www.kccllc.net/hicrush>. You may also contact the Debtors’ Voting and Claims Agent, KCC, at 866-554-5810 (toll-free in US and Canada) or 781-575-2032 (for international callers).

PLEASE TAKE FURTHER NOTICE that holders of the following Administrative Claims are **not** required to file a Proof of Administrative Claim on or before the Administrative Claims Bar Date solely with respect to such Administrative Claim: (i) an Administrative Claim against the Debtors for which a signed proof of administrative claim has already been properly filed with the Clerk of this Court for the Southern District of Texas or KCC in a form substantially similar to the Proof of Administrative Claim Form; (ii) an Administrative Claim that has been previously allowed, and/or paid in full by the Debtors, in accordance with the Bankruptcy Code or an order of this Court, (iii) an Administrative Claim that constitutes a Professional Fee Claim, (iv) an Administrative Claim on account of (a) the Prepetition Credit Agreement Agent and Lender Fees and Expenses, (b) the Ad Hoc Noteholders Committee Fees and Expenses, and (c) the Backstop Expenses, and (v) any claim of any “governmental unit,” as that term is defined under the Bankruptcy Code, under section 503(b)(1)(D) of the Bankruptcy Code (collectively, the “**Excluded Administrative Claims**”).

PLEASE TAKE FURTHER NOTICE that [], 2020, at 5:00 p.m. (Prevailing Central Time) (the “**Contract Rejection Claims Bar Date**” and together with the Administrative Claims Bar Date, the “**Applicable Bar Date**”) was established by this Court as the deadline by which holders of claims arising from rejection of executory contracts or unexpired leases must file proofs of claim against the Debtors (the “**Contract Rejection Claims**”). The proof of claim form is available free of charge on the Debtors’ restructuring website: <http://www.kccllc.net/hicrush>. You may also contact the Debtors’ Voting and Claims Agent, KCC, at 866-554-5810 (toll-free in US and Canada) or 781-575-2032 (for international callers). A separate rejection notice will be sent to all known non-Debtor contract counterparties to such rejected contracts and leases with a proof of claim form (the “**Proof of Contract Rejection Claim Form**” and together with the Proof of Administrative Claim Form, the “**Applicable Forms**”).

PLEASE TAKE FURTHER NOTICE that Contract Rejection Claims will be treated as Class 5 General Unsecured Claims.

PLEASE TAKE FURTHER NOTICE that all holders of Administrative Claims (other than Excluded Administrative Claims) and Contract Rejection Claims must submit (by overnight mail, courier service, hand delivery, regular mail or in person) an original, written Proof of Administrative Claim Form or Proof of Contract Rejection Claim Form, as applicable, so as to be **actually received** by KCC, by no later than 5:00 p.m. (Prevailing Central Time) on or before [____], 2020, at the following address:

Hi-Crush Claim Processing
c/o KCC
222 N. Pacific Coast Highway, Suite 300
El Segundo, CA 90245

Alternatively, such holders may submit these documents electronically by completing them through KCC's website: <http://www.kccllc.net/hicrush>.

PLEASE TAKE FURTHER NOTICE that the Applicable Forms will be deemed timely filed only if **actually received** by KCC on or before the Applicable Bar Date. The Applicable Forms may **not** be delivered by facsimile, telecopy, or e-mail transmission. Any facsimile, telecopy, or electronic mail submissions will **not** be accepted and will **not** be deemed filed until the Applicable Form is submitted to KCC by overnight mail, courier service, hand delivery, regular mail, in person or electronically through KCC's website.

PLEASE TAKE FURTHER NOTICE that parties wishing to receive acknowledgment that their Applicable Form were received by KCC must submit (i) a copy of the Applicable Form and (ii) a self-addressed, stamped envelope (in addition to the original Applicable Form sent to KCC).

PLEASE TAKE FURTHER NOTICE that to be valid, your Applicable Form **MUST** (i) be signed by the applicable holder of the Administrative Claim or Contract Rejection Claim, as applicable; (ii) be written in the English language; (iii) be denominated in lawful currency of the United States; and (iv) be submitted with copies of any supporting documentation or an explanation of why any such documentation is not available.

PLEASE TAKE FURTHER NOTICE that any holder of an Administrative Claim or Contract Rejection Claim, as applicable, who is required, but fails, to file the Applicable Form with KCC on or before the Applicable Bar Date shall be forever barred, estopped and enjoined from asserting such claim against the Debtors or the Reorganized Debtors, and the Debtors' and the Reorganized Debtors' property shall be forever discharged from any and all indebtedness or liability with respect to such claim.

**ALL PLEADINGS FILED WITH, AND ORDERS GRANTED BY, THE
BANKRUPTCY COURT ARE AVAILABLE FOR INSPECTION ON THE
BANKRUPTCY COURT'S INTERNET SITE AT WWW.TXS.USCOURTS.GOV
AND AT NO COST FROM THE REORGANIZED DEBTORS'
RESTRUCTURING WEBSITE: HTTP://WWW.KCCLLC.NET/HICRUSH.**

Dated: September [___], 2020
Houston, Texas

HUNTON ANDREWS KURTH LLP

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Counsel for the Debtors and Debtors-in-Possession

Exhibit 3

Notice of Confirmed Plan

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

-----	X	
In re:	:	Chapter 11
	:	
HI-CRUSH INC., <i>et al.</i> , ¹	:	Case No. 20-33495 (DRJ)
	:	
Debtors.	:	(Jointly Administered)
	:	
-----	X	

**NOTICE OF ENTRY OF ORDER CONFIRMING THE JOINT
PLAN OF REORGANIZATION FOR HI-CRUSH INC. AND ITS
AFFILIATE DEBTORS UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

TO ALL CREDITORS, EQUITY INTEREST HOLDERS, AND OTHER PARTIES-IN-INTEREST:

Confirmation of Plan of Reorganization

PLEASE TAKE NOTICE that on July 12, 2020 (the “**Petition Date**”), the above captioned debtors and debtors-in-possession (the “**Debtors**”) filed voluntary petitions for relief under chapter 11 of the Bankruptcy Code (the “**Chapter 11 Cases**”) with the United States Bankruptcy Court for the Southern District of Texas (the “**Bankruptcy Court**”).

PLEASE TAKE FURTHER NOTICE that an order (the “**Confirmation Order**”) confirming the *Joint Plan of Reorganization for Hi-Crush Inc. and its Affiliate Debtors Under Chapter 11 of the Bankruptcy Code*, dated August 15, 2020 (as amended, modified or supplemented, the “**Plan**”) was entered by the Bankruptcy Court on September [___], 2020, at Docket Number [___]. Unless otherwise defined in this notice, capitalized terms used herein shall have the meanings ascribed to them in the Plan and the Confirmation Order.

PLEASE TAKE FURTHER NOTICE that a copy of the Plan and the Confirmation Order may be obtained by contacting the Debtors’ Voting and Claims Agent, in writing, at Kurtzman Carson Consultants LLC (“**KCC**”), 222 N. Pacific Coast Highway, Suite 300, El Segundo, CA 90245. The Plan and Confirmation Order are also available free of charge on the

¹ The Debtors in these cases, along with the last four digits of each Debtor’s federal tax identification number, are: Hi-Crush Inc. (0530), OnCore Processing LLC (9403), Hi-Crush Augusta LLC (0668), Hi-Crush Whitehall LLC (5562), PDQ Properties LLC (9169), Hi-Crush Wyeville Operating LLC (5797), D & I Silica, LLC (9957), Hi-Crush Blair LLC (7094), Hi-Crush LMS LLC, Hi-Crush Investments Inc. (6547), Hi-Crush Permian Sand LLC, Hi-Crush Proppants LLC (0770), Hi-Crush PODS LLC, Hi-Crush Canada Inc. (9195), Hi-Crush Holdings LLC , Hi-Crush Services LLC (6206), BulkTracer Holdings LLC (4085), Pronghorn Logistics Holdings, LLC (5223), FB Industries USA Inc. (8208), PropDispatch LLC, Pronghorn Logistics, LLC (4547), and FB Logistics, LLC (8641). The Debtors’ address is 1330 Post Oak Blvd, Suite 600, Houston, Texas 77056.

Debtors' restructuring website located at <http://www.kccllc.net/hicrush>. The Plan and the Confirmation Order can also be viewed on the Bankruptcy Court's website at www.txs.uscourts.gov. You may also contact the Debtors' Voting and Claims Agent, KCC, at 866-554-5810 (toll-free in US and Canada) or 781-575-2032 (for international callers).

PLEASE TAKE FURTHER NOTICE that the Plan and the Confirmation Order, and their respective terms and provisions, are binding on the Debtors, the Reorganized Debtors, any entity acquiring or receiving property or a distribution under the Plan, and any present or former holder of a Claim against or Equity Interest in the Debtors and their respective successors, assigns, and parties-in-interest, including all Governmental Units, whether or not the applicable Claim or Equity Interest of such holder is impaired under the Plan and whether or not such holder or entity voted to accept or reject the Plan (or abstained from voting on the Plan).

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AND AT NO COST FROM THE REORGANIZED DEBTORS'
RESTRUCTURING WEBSITE: [HTTP://WWW.KCCLLC.NET/HICRUSH](http://WWW.KCCLLC.NET/HICRUSH).**

Dated: September [___], 2020
Houston, Texas

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