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in Possession*

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

In re:

PHILIPPINE AIRLINES, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-11569 (SCC)

**NOTICE OF FILING OF TECHNICAL MODIFICATIONS TO THE SOLICITATION  
VERSION OF THE CHAPTER 11 PLAN OF  
REORGANIZATION OF PHILIPPINE AIRLINES, INC.**

**PLEASE TAKE NOTICE** that on November 12, 2021, Philippine Airlines, Inc., as debtor and debtor in possession in the above-captioned chapter 11 case (collectively, the “**Debtor**”), filed the solicitation version of its proposed *Chapter 11 Plan of Reorganization of Philippine Airlines, Inc.* [ECF No. 260] (the “**Plan Solicitation Version**”), pursuant to the Court’s *Order (A) Approving the Disclosure Statement; (B) Approving Solicitation and Voting Procedures; (C) Approving Forms of Ballots; (D) Scheduling a Confirmation Hearing; and (E) Establishing Notice and Objection Procedures* [ECF No. 259].

<sup>1</sup> The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc. Philippine Securities and Exchange Commission Registration No. PW 37. The Debtor’s corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.



**PLEASE TAKE FURTHER NOTICE** that on December 3, 2021, the Debtor filed the *Technical Modifications to the Solicitation Version of the Chapter 11 Plan of Reorganization of Philippine Airlines, Inc.* (as may be amended, altered, modified, or supplemented from time to time, the “**Plan**”), which is attached hereto as **Exhibit A**. The Plan includes certain non-substantive modifications to the Plan Solicitation Version to provide further clarity regarding certain provisions and updates to reflect recent events in the Debtor’s chapter 11 case. A blackline comparison of the Plan marked against the Plan Solicitation Version is attached hereto as **Exhibit B**.

**PLEASE TAKE FURTHER NOTICE** that the Debtor reserves the right to make further changes to the Plan, subject to the terms and conditions thereof.

**PLEASE TAKE FURTHER NOTICE** that copies of the Plan and Plan Solicitation Version may be obtained free of charge by visiting [www.kccllc.net/PAL](http://www.kccllc.net/PAL) and on the Court’s website at <http://www.nysb.uscourts.gov/>, subject to the procedures and fees set forth therein.

Dated: December 3, 2021  
New York, New York

DEBEVOISE & PLIMPTON LLP

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**Exhibit A**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

PHILIPPINE AIRLINES, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-11569 (SCC)

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**CHAPTER 11 PLAN OF REORGANIZATION OF PHILIPPINE AIRLINES, INC.**

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Dated: December 3, 2021

New York, New York

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<sup>1</sup> The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc. Philippine Securities and Exchange Commission Registration No. PW 37. The Debtor's corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.

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Philippine Airlines, Inc. (the “Debtor”) proposes the following chapter 11 plan of reorganization pursuant to section 1121(a) of title 11 of the United States Code.

**ARTICLE I DEFINITIONS, INTERPRETATION AND CONSENTS.**

**A. Definitions.** The following terms shall have the respective meanings specified below:

1.1 **Administrative Expense Claim** means any Claim for costs or expenses of administration of the Chapter 11 Case incurred after the Petition Date and through the Effective Date under sections 503(b), 507(a)(2), and 507(b) of the Bankruptcy Code that have not already been paid by the Debtor, including (a) any actual and necessary costs and expenses of preserving the Estate, (b) any actual and necessary costs and expenses of operating the Debtor’s business, (c) any indebtedness or obligations incurred or assumed by the Debtor, as debtor in possession, during the Chapter 11 Case, including for the acquisition or lease of property or an interest in property or the performance of services, (d) the DIP Claims, (e) any compensation and reimbursement of expenses to the extent allowed under sections 330 or 503 of the Bankruptcy Code, and (f) Professional Fee Claims.

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

1.3 **Allowed** means, with reference to any Claim or Interest, a Claim or Interest (a) arising on or before the Effective Date as to which (i) no objection to allowance or priority, and no request for estimation or other challenge, including pursuant to section 502(d) of the Bankruptcy Code or otherwise, has been interposed and not withdrawn within the applicable period fixed by the Plan or applicable law, or (ii) any objection or dispute has been determined in favor of the holder of the Claim or Interest by a Final Order, (b) that is compromised, settled, or otherwise resolved pursuant to the authority of the Debtor or the Reorganized Debtor, (c) as to which the liability of the Debtor or the Reorganized Debtor, as applicable, and the amount thereof are determined by a Final Order of a court of competent jurisdiction, or (d) expressly allowed hereunder or pursuant to a Final Order; *provided* that notwithstanding the foregoing, the Reorganized Debtor shall retain all available claims and defenses with respect to Allowed Claims that are Reinstated or otherwise Unimpaired pursuant to the Plan.

1.4 **Amended Organizational Documents** means the forms of certificates of incorporation, certificates of formation, or other forms of organizational documents and bylaws for the Reorganized Debtor.

1.5 **Amendment Agreements** has the meaning ascribed to, as applicable, the term “Amendment Agreements”, “Lease Amendment Agreements”, or “Agreement Amendments” in the Restructuring Support Agreements.

1.6 **Assumption Dispute** means an objection or dispute relating to assumption of an executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, including to any Cure Amount or adequate assurance of future performance under an executory contract or unexpired lease to be assumed, which objection or dispute has been timely filed or interposed in accordance with the Plan and applicable law and has not been withdrawn or determined by a Final Order.

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

1.8 **Bankruptcy Code** means title 11 of the United States Code, 11 U.S.C. § 101, et seq., as now in effect or hereafter amended from time to time, as applicable to the Chapter 11 Case.

1.9 **Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of New York having subject matter jurisdiction over the Chapter 11 Case and, to the extent of any reference withdrawal made under section 157(d) of title 28 of the United States Code, the District Court having subject matter jurisdiction over the Chapter 11 Case under section 157 of title 28 of the United States Code.

1.10 **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code and any Local Bankruptcy Rules of the Bankruptcy Court, in each case, as amended from time to time and applicable to the Chapter 11 Case.

1.11 **Benefit Plans** means (a) each “employee benefit plan,” as defined in section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, and (b) any other pension, retirement, bonus, incentive, health, life, disability, group insurance, vacation, holiday and fringe benefit plan, program, contract, or arrangement (whether written or unwritten) maintained, contributed to, or required to be contributed to, by the Debtor for the benefit of any of its current or former employees or independent contractors, other than those that entitle employees to, or that otherwise give rise to, Interests, or consideration based on the value of Interests, in the Debtor, which, except as otherwise provided in the Plan Supplement, shall be assumed by the Debtor on the Effective Date.

1.12 **Bridge Lender** has the meaning ascribed to it in the DIP Order.

1.13 **Bridge Loan Documents** has the meaning ascribed to it in the DIP Order.

1.14 **Business Day** means any day other than a Saturday, a Sunday, “legal holiday” as such term is defined in Bankruptcy Rule 9006(a) or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

1.15 **Cash** means legal tender of the United States of America.

1.16 **Causes of Action** means, without limitation, any and all actions, proceedings, causes of action, controversies, liabilities, obligations, rights, rights of setoff, recoupment rights, suits, damages, judgments, accounts, defenses, offsets, powers, privileges, licenses, franchises, claims, Avoidance Actions, counterclaims, cross-claims, affirmative defenses, and demands of any kind or character whatsoever, whether known or unknown, asserted or unasserted, reduced to judgment or otherwise, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, or assertable directly or derivatively, existing or hereafter arising, in contract or in tort, in law, in equity, or otherwise, whether arising under the Bankruptcy Code or any applicable nonbankruptcy law, 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 Case, including through the Effective Date. Without limiting the generality of the foregoing, when referring to Causes of Action of the Debtor or its Estate, Causes of Action shall include (a) all rights of setoff, counterclaim, or recoupment and claims on contracts or for breaches of duties imposed by law or equity, (b) claims (including Avoidance Actions) pursuant to section 362, and chapter 5 of the Bankruptcy Code including sections 510, 542, 543, 544 through 550, or 553, and (c) claims and defenses such as fraud, mistake, duress, usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

1.17 **Chapter 11 Case** means the case under chapter 11 of the Bankruptcy Code commenced by the Debtor on the Petition Date in the Bankruptcy Court and styled *In re Philippine Airlines, Inc.*, Ch. 11 Case No. 21-11569 (SCC).

1.18 **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code, as against the Debtor.

1.19 **Class** means any group of Claims or Interests classified herein pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

1.20 **Collateral** means any asset of the Estate that is subject to a Lien securing the payment or performance of a Claim, which Lien is valid, perfected and enforceable, and has not been avoided under the Bankruptcy Code or applicable nonbankruptcy law.

1.21 **Confirmation Date** means the date on which the Bankruptcy Court enters the Confirmation Order within the meaning of the Bankruptcy Rules 5003 and 9021.

1.22 **Confirmation Hearing** means the hearing to be held by the Bankruptcy Court to consider approval of the Disclosure Statement and confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

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

1.24 **Creditor** has the meaning set forth in section 101(10) of the Bankruptcy Code.

1.25 **Cure Amount** means the amount of Cash or other property the Debtor must distribute (as modified by the applicable counterparty, the Debtor may agree or the Bankruptcy Court may order), as necessary, to (a) cure a monetary default as required by section 365(b)(1) of the Bankruptcy Code by the Debtor in accordance with the terms of an executory contract or unexpired lease of the Debtor, and (b) permit the Debtor to assume or assume and assign such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

1.26 **Customer Claim** means any Claim against the Debtor asserted by a customer arising out of or related to disputes or litigation involving the Debtor's ordinary course airline operations, including disputed refunds, baggage damage and ticket refunds.

1.27 **Debtor** has the meaning set forth in the introductory paragraph of the Plan.

1.28 **Debtor in Possession** means the Debtor in its capacity as debtor in possession in the Chapter 11 Case pursuant to sections 1101, 1107(a), and 1108 of the Bankruptcy Code.

1.29 **Definitive Documents** means the documents (including any related orders, pleadings, agreements, supplements, instruments, schedules, or exhibits) that are described in or contemplated by the Restructuring Support Agreements or the Plan and that are otherwise reasonably necessary or advisable to implement the Restructuring and the Plan, including: (i) the Plan; (ii) the Plan Supplement; (iii) the Disclosure Statement; (iv) the Disclosure Statement Order, (v) any motion seeking the approval of the adequacy of the Disclosure Statement, the solicitation of the Plan, and/or confirming the Plan; (vi) the Confirmation Order; (vii) the materials related to the solicitation of the Plan; (viii) the DIP Order; (ix) the Exit Facility Documents; (x) Amended Organizational Documents; (xi) the New Stockholders' Agreement; and (xii) the RSA Assumption Order.

1.30 **DIP Order** means the *Final Order (a) Authorizing the Debtor to Obtain Postpetition Financing; (b) Granting Liens and Superpriority Administrative Expense Claims; (c) Granting Adequate Protection to the Bridge Lender; (d) Modifying the Automatic Stay; and (e) Granting Related Relief* entered by the Bankruptcy Court on September 30, 2021 [Docket No. 123].

1.31 **DIP Credit Agreement** means that certain Debtor-in-Possession Credit Agreement, dated September 9, 2021 by and among Philippine Airlines, Inc., the DIP Lenders and the DIP Agent, and all exhibits, amendments, and supplements thereto.

1.32 **DIP Agent** means Buona Sorte Holdings, Inc., solely in its capacity as agent under the DIP Credit Agreement, and its successors and permitted assigns.

1.33 **DIP Claims** means all Claims arising under or related to the DIP Credit Facility Documents or the DIP Order.

1.34 **DIP Credit Facility Documents** means the DIP Credit Agreement and all other Loan Documents (as defined in the DIP Credit Agreement), in each case as amended, restated, amended and restated, modified, or supplemented from time to time.

1.35 **DIP Lenders** means the DIP Tranche A Lenders and the DIP Tranche B Lenders.

1.36 **DIP Reimbursement Claims** means a Claim against the Debtor pursuant to section 9.4(a) of the DIP Credit Agreement and/or paragraph 17 of the DIP Order.

1.37 **DIP Tranche A Claim** means a Claim arising from any Tranche A Term Loan (as defined in the DIP Credit Agreement), including, for the avoidance of doubt, all accrued and unpaid interest, fees, costs, premiums and expenses thereon (other than DIP Reimbursement Claims).

1.38 **DIP Tranche B Claim** means a Claim arising from any Tranche B Term Loan (as defined in the DIP Credit Agreement), including, for the avoidance of doubt, all accrued and unpaid interest, fees, costs, premiums and expenses thereon (other than DIP Reimbursement Claims).

1.39 **DIP Tranche A Lenders** has the meaning ascribed to “Tranche A Lenders” under the DIP Credit Agreement.

1.40 **DIP Tranche B Lenders** has the meaning ascribed to “Tranche B Lenders” under the DIP Credit Agreement.

1.41 **Disallowed** means, with respect to any Claim or Interest, that such Claim or Interest (a) has been determined by a Final Order or specified in a provision of the Plan not to be Allowed, or (b) has been agreed to by the holder of such Claim or Interest and the Debtor to be equal to \$0 or to be expunged.

1.42 **Disbursing Agent** means any Entity (including the Debtor or Reorganized Debtor, as applicable, that acts in such a capacity) in its capacity as a disbursing agent under Article VI of the Plan, including, without limitation, the DIP Agent, to the extent the DIP Agent makes or facilitates distributions as Servicer under the Plan.

1.43 **Disclosure Statement** means the disclosure statement for the Plan, as approved by the Disclosure Statement Order.

1.44 **Disclosure Statement Order** means the *Order (A) Approving the Disclosure Statement; (B) Approving Solicitation Procedures; (C) Approving Forms of Ballots; (D) Scheduling Confirmation Hearing; and (E) Establishing Notice and Objection Procedures* entered by the Bankruptcy Court on November 12, 2021 [Docket No. 259].

1.45 **Disputed** means, with respect to a Claim or Interest, that (a) such Claim or Interest is neither Allowed nor Disallowed under the Plan or a Final Order, nor deemed Allowed under sections 502, 503, or 1111 of the Bankruptcy Code or (b) the Debtor or any party in interest has interposed a timely objection or request for estimation, and such objection or request for estimation has not been withdrawn or determined by a Final Order. If the Debtor disputes only a portion of a Claim, such Claim shall be deemed Allowed in any amount the Debtor does not dispute, and Disputed as to the balance of such Claim.

1.46 **Distribution** means any initial or subsequent payment or transfer under the Plan.

1.47 **Distribution Record Date** means, except as otherwise provided in the Plan or designated by the Bankruptcy Court, the Effective Date.

1.48 **Effective Date** means the date following entry of the Confirmation Order on which all conditions to the effectiveness of the Plan set forth in Article IX of the Plan have been satisfied or waived in accordance with the terms of the Plan and the Plan becomes effective.

1.49 **Employee Arrangements** has the meaning set forth in section 5.13 of the Plan.

1.50 **Employee Claim** means any Claim against the Debtor by a current or former employee of the Debtor that arose in the ordinary course of business on account of such employee's employment with the Debtor or services provided to the Debtor.

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

1.52 **Estate** means the estate of the Debtor created under section 541 of the Bankruptcy Code.

1.53 **Exchange Act** means the Securities Exchange Act of 1934, as amended.

1.54 **Exculpated Parties** means each of the following solely in their capacities as such: (a) the Debtor; (b) the Reorganized Debtor; (c) the DIP Lenders; (d) the DIP Agent; (e) the Bridge Lender and (f) with respect to each of (a) through (e), to the extent employed in such capacities on or after the Petition Date, each of their respective directors, officers, partners, managers, trustees, assigns, employees, agents, advisory board members, attorneys, financial advisors, investment bankers, accountants, consultants, and other professionals or representatives.

1.55 **Existing Equity** means any equity interests in the Debtor pursuant to the Debtor's certificate of incorporation or otherwise that is issued and outstanding as of the Petition Date.

1.56 **Exit Facilities** means the Secured Exit Facility (if any) and the Unsecured Exit Facility.

1.57 **Exit Facility Documents** means the Secured Exit Facility Documents (if any) and the Unsecured Exit Facility Documents, as applicable.

1.58 **Final Order** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated or

stayed and as to which (a) the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, 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, reargument, or rehearing shall have expired; *provided* that no order or judgment shall fail to be a “Final Order” solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule (or any analogous rules applicable in another court of competent jurisdiction) or sections 502(j) or 1144 of the Bankruptcy Code has been or may be filed with respect to such order or judgment.

1.59 **General Unsecured Claim** means any Claim against the Debtor as of the Petition Date that is neither secured by a Lien on Collateral nor entitled to priority under the Bankruptcy Code or any order of the Bankruptcy Court (other than an Intercompany Claim, an Employee Claim, a Customer Claim and a General Unsecured Trade Claim). For the avoidance of doubt, General Unsecured Claims include Unsecured Notes Claims and General Unsecured Claims, if any, held by Supporting Creditors.

1.60 **General Unsecured Trade Claim** means any Claim that arose in the ordinary course of business on account of goods and services provided to the Debtor held by a trade creditor, vendor, supplier, service provider, independent contractor or professional that will be providing such services or goods to the Reorganized Debtor post-Effective Date. For the avoidance of doubt, General Unsecured Trade Claims include General Unsecured Trade Claims, if any, held by Supporting Creditors to the extent set forth in such Supporting Creditor’s applicable Restructuring Support Agreement.

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

1.62 **Impaired** means, with respect to a Claim, Interest, or Class of Claims or Interests, “impaired” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

1.63 **Intercompany Claim** means any Claim between the Debtor and its affiliates.

1.64 **Interest** means any equity interest in the Debtor, including, all issued, unissued, authorized or outstanding shares of stock, preferred stock, membership interests, other instruments evidencing an ownership interest, or equity security in the Debtor, whether or not transferable, and any option, warrant, right to purchase or acquire any such interests at any time, or any other interest that is exercisable, convertible or exchangeable into equity of the Debtor, contractual or otherwise, including equity or equity-based incentives, grants, or other instruments issued, granted or promised to be granted to current or former employees, directors, officers, or contractors of the Debtor to acquire any such interests in the Debtor that existed immediately before the Effective Date.

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

1.66 **New Board** means the initial board of directors of the Reorganized Debtor to be selected in accordance with Section 5.10 of the Plan.

1.67 **New Common Stock** means the shares of common stock, par value \$.001 per share, of Reorganized Debtor authorized pursuant to its certificate of incorporation, as included in the Plan Supplement.

1.68 **New Stockholders' Agreement** means that certain shareholders' agreement, in substantially the form to be filed as part of the Plan Supplement, effective as of the Effective Date, to which all parties receiving New Common Stock (and all persons to whom such parties may sell or transfer their New Common Stock in the future and all persons who purchase or acquire the New Common Stock in future transactions) shall be required to become or shall be deemed parties.

1.69 **Other Secured Claim** means a Claim, other than a DIP Claim, that is (a) secured by a Lien on Collateral, which lien is valid, perfected, and enforceable under applicable law or by reason of a Final Order, to the extent of the value of such Collateral as (i) set forth in the Plan, (ii) agreed to by the holder of such Claim and the Debtor or the Reorganized Debtor, as applicable, or (iii) determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code, or (b) secured by the amount of any right of setoff of the holder thereof in accordance with section 553 of the Bankruptcy Code.

1.70 **PAL Holdings** means PAL Holdings, Inc.

1.71 **Parent Interests** means any Interest in PAL Holdings.

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

1.73 **Petition Date** means the date on which the Debtor commenced its Chapter 11 Case.

1.74 **Philippine Recognition Proceeding** means the proceeding commenced before the Philippine Court by John F. Reid, as foreign representative of the Debtor, on September 24, 2021, under the Philippines Financial Rehabilitation and Insolvency Act, seeking, among other things, (i) recognition of the Chapter 11 Case as a "foreign proceeding"; (ii) recognition of John F. Reid as the foreign representative of the Debtor; (iii) recognition of certain orders granted by the Bankruptcy Court in the Chapter 11 Case; and (iv) a stay of all proceedings against the Debtor.

1.75 **Plan** means this chapter 11 plan or reorganization, including all appendices, exhibits, schedules, and supplements hereto (including any appendices, schedules, and supplements to the Plan contained in the Plan Supplement), as the same may be amended, supplemented, or modified from time to time in accordance with the provisions of the Bankruptcy Code, the terms hereof, and the terms of the Restructuring Support Agreements.

1.76 **Plan Supplement** means the forms of certain documents, schedules, and exhibits effectuating the transactions contemplated in the Plan, which are to be filed with the Clerk of the Bankruptcy Court not later than seven calendar days prior to the deadline to object to the Plan, including, (a) the Amended Organizational Documents (to the extent such Amended Organizational Documents reflect material changes from the Debtor's existing organizational documents and bylaws), (b) the New Stockholders' Agreement, (c) a list of retained Causes of Action, (d) Schedule of Assumed Contracts and Leases, (e) Schedule of Rejected Contracts and Leases, and (f) to the extent known, information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code; *provided* that through the Effective Date, the Debtor shall have the right to amend the Plan Supplement and any schedules, exhibits, or amendments thereto, in accordance with the terms of the Plan and the Restructuring Support Agreements; *provided, further*, that the Plan Supplement and each document thereunder (and any amendment or supplement thereto) shall be acceptable to the Debtor and the DIP Tranche B Lenders.

1.77 **Priority Non-Tax Claim** means any Claim other than an Administrative Expense Claim or a Priority Tax Claim, entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code.

1.78 **Priority Tax Claim** means any secured Claim or unsecured Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.79 **Professional Fee Claim** means a Claim for professional services rendered or costs incurred on or after the Petition Date through the Effective Date by professional persons retained under sections 327, 328, 330 or 1103 of the Bankruptcy Code in this Chapter 11 Case by an order of the Bankruptcy Court, in each case to the extent such fees and expenses have not been paid or are not disallowed pursuant to an order of the Bankruptcy Court.

1.80 **Pro Rata** means the proportion that an Allowed Claim or Interest in a particular Class bears to the aggregate amount of Allowed Claims or Interests in that Class, or the proportion that Allowed Claims or Interests in a particular Class bear to the aggregate amount of Allowed Claims and Disputed Claims or Allowed Interests and Disputed Interests in a particular Class and other Classes entitled to share in the same recovery as such Class under the Plan.

1.81 **Reinstate, Reinstated, or Reinstatement** means (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim or Interest entitles the holder of such Claim or Interest in accordance with section 1124 of the Bankruptcy Code, or (b) if applicable under section 1124 of the Bankruptcy Code: (i) curing all prepetition and postpetition defaults other than defaults relating to the insolvency or financial condition of the Debtor or its status as a debtor under the Bankruptcy Code; (ii) reinstating the maturity date of the Claim; (iii) compensating the holder of such Claim for damages incurred as a result of its reasonable reliance on a contractual provision or such applicable law allowing the Claim's acceleration; and (iv) not otherwise altering the legal, equitable or contractual rights to which the Claim entitles the holder thereof.

1.82 **Related Parties** means with respect to any Released Party, such entities' predecessors, successors and assigns (whether by operation of law or otherwise) subsidiaries, current and former affiliates, managed accounts or funds, and all of their respective current and former officers, directors, principals, shareholders (and any fund managers, fiduciaries or other agents of shareholders with any involvement related to the Debtor), members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such entities' respective heirs, executors, estates, servants and nominees.

1.83 **Released Parties** means each of, and solely in its capacity as such, (a) the Debtor or the Reorganized Debtor, (b) the DIP Lenders, (c) the DIP Agent, (d) the Bridge Lender and (e) the Related Parties for each of the foregoing (in each case only in their capacity as such).

1.84 **Releasing Parties** means each of, and solely in its capacity as such, (a) the Debtor or the Reorganized Debtor, (b) the DIP Lenders, (c) the DIP Agent, (d) the Bridge Lender, (e) the Supporting Creditors, and (f) all Holders of Claims or Interests (i) who vote to accept the Plan, (ii) who are Unimpaired under the Plan and do not opt out of granting the releases herein, (iii) whose vote to accept or reject the Plan is solicited but do not vote either to accept or to reject the Plan and do not opt out of granting the releases herein, or (iv) who vote to reject the Plan but do not opt out of granting the releases herein.

1.85 **Reorganized Debtor** means the Debtor, as reorganized on the Effective Date in accordance with the Plan, including any newly-formed Entity that is a transferee or successor thereto by merger, consolidation, transfer or otherwise pursuant to the Restructuring Transactions.

- 1.86 **Restructuring** has the meaning ascribed to it in the Restructuring Support Agreements.
- 1.87 **Restructuring Expenses** means the reasonable and documented fees and expenses incurred by the Supporting Creditors that the Debtor has agreed to reimburse in accordance with the Restructuring Support Agreements.
- 1.88 **Restructuring Support Agreements** means the various Restructuring Support Agreements by and among the Debtor and the parties thereto, as may be amended, supplemented, or modified from time to time in accordance with the terms thereof. A list of the Restructuring Support Agreements, which were approved by the Bankruptcy Court pursuant to the RSA Assumption Order is attached to the Plan as **Exhibit A**.
- 1.89 **Restructuring Term Sheet** means that certain term sheet attached to the *Notice of Filing of Amended Plan Term Sheet* [Docket No. 84], and filed with the Bankruptcy Court on September 21, 2021.
- 1.90 **Restructuring Transactions** has the meaning set forth in Article V of the Plan.
- 1.91 **RSA Assumption Order** means the *Order Authorizing the Debtor to Assume, and Perform Under, Restructuring Support Agreement* entered by the Bankruptcy Court on October 1, 2021 [Docket No. 130].
- 1.92 **RSA Definitive Document Requirements** means those Definitive Documents that shall be subject to the respective consent rights of the Debtor and the applicable Supporting Creditors as set forth in the Restructuring Support Agreements.
- 1.93 **Schedule of Assumed Contracts and Leases** means the schedule of executory contracts and unexpired leases to be assumed, and, if applicable, assigned, by the Debtor, which shall be in form and substance acceptable to the Tranche B DIP Lenders, to be filed as part of the Plan Supplement.
- 1.94 **Schedule of Rejected Contracts and Leases** means the schedule of executory contracts and unexpired leases to be rejected by the Debtor, which shall be in form and substance acceptable to the Tranche B DIP Lenders, to be filed as part of the Plan Supplement.
- 1.95 **Secured Exit Facility** means, if the Debtor determines to enter into such facility on or prior to the Effective Date, that certain senior secured asset-based credit facility to be provided to the Reorganized Debtor on or after the Effective Date on the terms and conditions set forth in the Secured Exit Facility Credit Agreement with commitments in the original principal amount of \$150 million.
- 1.96 **Secured Exit Facility Credit Agreement** means, if the Debtor determines to enter into the Secured Exit Facility on or prior to the Effective Date, that certain senior secured credit agreement for such facility (as may be amended, restated, amended and restated, supplemented, or modified from time to time, solely in accordance with the terms thereof), containing terms substantially consistent with the Restructuring Term Sheet and otherwise acceptable to the Debtor, the Secured Exit Facility Lenders and the DIP Tranche B Lenders.
- 1.97 **Secured Exit Facility Documents** means, if the Debtor determines to enter into the Secured Exit Facility on or prior to the Effective Date, collectively, the Secured Exit Facility Credit Agreement and each other agreement, security agreement, pledge agreement, collateral assignment, notice, mortgage, control agreement, guarantee, certificate, document or instrument executed and/or delivered in connection with any of the foregoing, whether or not specifically mentioned herein or

therein, as the same may be modified, amended, restated, amended and restated, supplemented or replaced from time to time and which shall be in form and substance substantially consistent with the Restructuring Term Sheet and otherwise acceptable to the Debtor, the Secured Exit Facility Lenders and the DIP Tranche B Lenders.

1.98 **Secured Exit Facility Lenders** means each lender party to the Secured Exit Facility Credit Agreement and any other Person that shall become a lender under the Secured Exit Facility from time to time in accordance with the Secured Exit Facility Credit Agreement.

1.99 **Securitization Documents** means the documents relating to the Debtor's (i) U.S. credit card receivables securitization facility, including that certain Fourth Amended and Restated Receivables Purchase Agreement by and between the Debtor and PAL Receivables Company Ltd., dated as of November 26, 2019, as amended and restated pursuant to an amendment and restatement agreement dated July 30, 2021 (as amended, the "PAL RC Receivables Purchase Agreement") and all documents entered into in connection with the PAL RC Receivables Purchase Agreement, including any related financing documents and amendments thereto and (ii) Yen receivables securitization facility including that certain Receivable Purchase Agreement by and between the Debtor and Golden Investment TMK, dated June 19 2015, including all related documents and amendments, each as amended prior to the Petition Date. Notwithstanding anything herein to the contrary, pursuant to Section 5.15 of the Plan, all the Securitization Documents which the Debtor is a party to shall be deemed assumed and all related Claims, if any, Reinstated as of the Effective Date of the Plan.

1.100 **Security** has the meaning set forth in in section 101(49) of the Bankruptcy Code.

1.101 **Servicer** means an indenture trustee, owner trustee, pass through trustee, subordination agent, agent, servicer or any other authorized representative of Creditors recognized by the Debtor.

1.102 **Supporting Creditor** has the meaning ascribed to it in the Restructuring Support Agreements.

1.103 **Tranche A Conversion Election** has the meaning ascribed to it in the DIP Credit Agreement.

1.104 **Tranche B Conversion Election** has the meaning ascribed to it in the DIP Credit Agreement.

1.105 **Unimpaired** means, with respect to a Claim, Interest, or Class of Claims or Interests, not "impaired" within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

1.106 **Unsecured Exit Facility** means the DIP Tranche A Loans after giving effect to the exercise of the Tranche A Conversion Election.

1.107 **Unsecured Exit Facility Credit Agreement** means the DIP Credit Agreement (as may be amended, restated, amended and restated, supplemented, or modified from time to time, solely in accordance with the terms thereof) after giving effect to the exercise of the Tranche A Conversion Election and the Tranche B Conversion Election and otherwise consistent with the Restructuring Term Sheet in all material respects.

1.108 **Unsecured Exit Facility Documents** means, collectively, the Unsecured Exit Facility Credit Agreement and each other agreement, certificate, document or instrument executed and/or delivered in connection with any of the foregoing, whether or not specifically mentioned herein or

therein, as the same may be modified, amended, restated, amended and restated, supplemented or replaced from time to time.

1.109 **Unsecured Exit Facility Lenders** means each lender party to the Unsecured Exit Facility Credit Agreement and any other Person that shall become a lender under the Unsecured Exit Facility from time to time in accordance with the Unsecured Exit Facility Credit Agreement.

1.110 **Unsecured New Equity Allocation** means the New Common Stock to be issued on the Effective Date to holders of Allowed General Unsecured Claims, which shall be in an amount equal to 20.5% of the New Common Stock.

1.111 **Unsecured Noteholders**, means Philippine National Bank, Union Bank, China Banking Corporation, Asia United Bank, and Buona Sorte Holdings, Inc. and their successors and permitted assigns, as holders of Unsecured Notes.

1.112 **Unsecured Notes** means the prepetition unsecured promissory notes issued by the Debtor to the Unsecured Noteholders.

1.113 **Unsecured Notes Claim** means, collectively, all Claims arising under the Unsecured Notes.

1.114 **U.S. Trustee** means the United States Trustee for the Southern District of New York.

1.115 **Voting Agent** means Kurtzman Carson Consultants LLC the Debtor's voting agent.

1.116 **Voting Deadline** means the date by which all Persons or Entities entitled to vote on the Plan must vote to accept or reject the Plan.

#### **B. Interpretation; Application of Definitions and Rules of Construction.**

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, the Plan, as the same may be amended, waived, or modified from time to time. The words "herein," "hereof," "hereto," "hereunder," and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained therein. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. 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 document shall be substantially in that form or substantially on those terms and conditions; (c) unless otherwise specified, all references herein to "Sections" are references to Sections hereof or hereto; (d) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (e) 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.

#### **C. Reference to Monetary Figures.**

All references in the Plan to monetary figures shall refer to Cash, unless otherwise expressly provided. For the avoidance of doubt, any distribution to holders of Claims that will be paid under the Plan in the ordinary course of business post-emergence (including Claims in Class 4, Class 5

and Class 6) shall be paid in the currency listed in the applicable invoice or contract without being exchanged into the currency of the United States of America.

**D. Controlling Document.**

In the event of an inconsistency between the Plan and the Disclosure Statement, the terms of the Plan shall control. In the event of an inconsistency between the Plan and any Definitive Documents or other documents, schedules or exhibits contained in the Plan Supplement, subject to any RSA Definitive Document Requirements, such Definitive Document or other document, schedule or exhibit shall control. In the event of an inconsistency between the Plan or any Definitive Documents or other documents, schedules or exhibits contained in the Plan Supplement, on the one hand, and the Confirmation Order, on the other hand, the Confirmation Order shall control.

**ARTICLE II ADMINISTRATIVE EXPENSE CLAIMS, DIP CLAIMS, PROFESSIONAL FEE CLAIMS, AND PRIORITY TAX CLAIMS.**

**2.1 Administrative Expense Claims.**

Except to the extent that a holder of an Allowed Administrative Expense Claim (other than a Professional Fee Claim or DIP Claim) agrees to less favorable treatment, each holder of an Allowed Administrative Expense Claim (other than a Professional Fee Claim or DIP Claim) shall receive, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, Cash in an amount equal to such Allowed Administrative Expense Claim on, or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date, and (b) the first Business Day after the date that is 30 calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; *provided* that any Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtor shall be paid by the Debtor or the Reorganized Debtor, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any course of dealing or agreements governing, instruments evidencing, or other documents relating to such transactions.

Except as otherwise provided herein, requests for payment of Administrative Expense Claims (other than DIP Claims, Professional Fee Claims, and Administrative Claims based on liabilities incurred by the Debtor from and after the Petition Date in the ordinary course of its business) must be filed and served on the Reorganized Debtor on or before the date that is 45 days after the Effective Date. Holders of Administrative Expense Claims that are required to, but do not, file and serve a request for payment of such Administrative Expense Claims by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Expense Claims against the Debtor or its property and such Administrative Expense Claims shall be deemed discharged as of the Effective Date. Objections to any Administrative Expense Claims must be filed and served on counsel for the Reorganized Debtor and the requesting party no later than 21 calendar days after the filing of the final request for payment of the Administrative Expense Claim (unless otherwise agreed by the party seeking such Administrative Expense Claim).

**2.2 Professional Fee Claims.**

All Entities seeking an award by the Bankruptcy Court of Professional Fee Claims shall file and serve on counsel for the Reorganized Debtor, the U.S. Trustee, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, or other order of the Bankruptcy Court, on or before the date that is 45 days after the Effective Date, their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred from the Petition Date

through the Effective Date. Objections to any Professional Fee Claims must be filed and served on counsel for the Reorganized Debtor and the requesting party no later than 21 calendar days after the filing of the final applications for compensation or reimbursement (unless otherwise agreed by the party requesting compensation of a Professional Fee Claim).

Allowed Professional Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (a) upon the later of (i) the Effective Date, and (ii) the date upon which an order relating to any such Allowed Professional Fee Claim is entered, in each case, as soon as reasonably practicable, or (b) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Professional Fee Claim and the Debtor or the Reorganized Debtor, as applicable. On or about the Effective Date, holders of Professional Fee Claims shall provide a reasonable estimate of their unpaid Professional Fee Claims incurred in rendering services to the Debtor or its Estate as of the Effective Date; *provided* that such estimate shall not be deemed to limit the amount of the fees and expenses that are the subject of the Professional's request for payment of Professional Fee Claims. The Debtor or the Reorganized Debtor shall either escrow or separately reserve for and segregate such estimated amounts for the benefit of the holders of the Professional Fee Claims until the fee applications related thereto are resolved by order of the Bankruptcy Court or agreement of the parties.

The Reorganized Debtor is authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Effective Date in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court. Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code or any order of the Bankruptcy Court governing the retention of, or compensation for services rendered by, Professionals shall terminate, and the Debtor and the Reorganized Debtor may employ or pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

### 2.3 **Priority Tax Claims.**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for each Allowed Priority Tax Claim, each holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code and, for the avoidance of doubt, holders of Allowed Priority Tax Claims will receive interest on such Allowed Priority Tax Claims after the Effective Date in accordance with sections 511 and 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in accordance with the terms of any agreement between the Debtor and the holder of such Claim, or as may be due and payable under applicable non-bankruptcy law, or in the ordinary course of business.

### 2.4 **DIP Claims.**

All DIP Claims shall be Allowed in the full amount due and owing under the DIP Credit Facility Documents and the DIP Order, and the DIP Claims shall not be subject to any avoidance, reduction, setoff, recoupment, recharacterization, subordination (equitable, contractual or otherwise), counterclaim, defense, disallowance, impairment, objection or any challenges under applicable law or regulation.

#### (a) **Treatment of DIP Tranche A Claims:**

In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed DIP Tranche A Claim, on the Effective Date in connection with the Debtor’s election to exercise the Tranche A Conversion Election pursuant to Section 5.3 hereunder, each Allowed DIP Tranche A Claim shall be converted, on a cashless basis to unsecured loans in an amount equal to such DIP Tranche A Claim, which unsecured loans shall be deemed outstanding as of the Effective Date under the Unsecured Exit Facility.

(b) Treatment of DIP Tranche B Claims:

In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed DIP Tranche B Claim, on the Effective Date in connection with the Debtor’s election to exercise the Tranche B Conversion Election pursuant to Section 5.3 hereunder each DIP Tranche B Lender who is a holder of an Allowed DIP Tranche B Claim shall receive its pro rata share of 79.5% of the New Common Stock issued under this Plan.

(c) Treatment of DIP Reimbursement Claims:

Except to the extent that a holder of a DIP Reimbursement Claim agrees to less favorable treatment of such Claim, in full and final satisfaction, settlement, release, and discharge of each DIP Reimbursement Claim and in exchange therefor, each Holder of a DIP Reimbursement Claim shall receive payment in full in Cash on the Effective Date or as soon as reasonably practicable thereafter.

2.5 **United States Trustee’s Fees.**

On or before the Effective Date, the Debtor shall pay all accrued and outstanding fees incurred pursuant to section 1930 of chapter 123 of title 28 of the United States Code to the Office of the United States Trustee, together with any interest, if any, pursuant to section 3717 of title 31.

**ARTICLE III CLASSIFICATION OF CLAIMS AND INTERESTS.**

3.1 **Classification in General.**

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and Distribution under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code; *provided* that a Claim or Interest is placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Allowed Claim or Allowed Interest has not been satisfied, released, or otherwise settled.

3.2 **Summary of Classification.**

The following table designates the Classes of Claims against and Interests in the Debtor and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (c) presumed to accept or deemed to reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims (including DIP Claims) and Priority Tax Claims have not been classified.

| <b>Class</b> | <b>Designation</b>       | <b>Treatment</b> | <b>Entitled to Vote</b> |
|--------------|--------------------------|------------------|-------------------------|
| 1            | Priority Non-Tax Claims  | Unimpaired       | No (Presumed to accept) |
| 2            | Other Secured Claims     | Unimpaired       | No (Presumed to accept) |
| 3            | General Unsecured Claims | Impaired         | Yes                     |

| <b>Class</b> | <b>Designation</b>             | <b>Treatment</b> | <b>Entitled to Vote</b> |
|--------------|--------------------------------|------------------|-------------------------|
| 4            | General Unsecured Trade Claims | Unimpaired       | No (Presumed to accept) |
| 5            | Employee Claims                | Unimpaired       | No (Presumed to accept) |
| 6            | Customer Claims                | Unimpaired       | No (Presumed to accept) |
| 7            | Intercompany Claims            | Unimpaired       | No (Presumed to accept) |
| 8            | Existing Equity Interests      | Impaired         | No (Deemed to reject)   |

3.3 **Special Provision Governing Unimpaired Claims.**

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtor or the Reorganized Debtor, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

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

The Debtor shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtor reserves the right to modify the Plan in accordance with Section 12.5 of the Plan (subject to the Restructuring Support Agreements) to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by (a) modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules and (b) withdrawing the Plan as to the Debtor at any time before the Confirmation Date.

**ARTICLE IV TREATMENT OF CLAIMS AND INTERESTS.**

4.1 **Priority Non-Tax Claims (Class 1).**

(a) **Classification:** Class 1 consists of Priority Non-Tax Claims.

(b) **Treatment:** Except to the extent that a holder of an Allowed Priority Non-Tax Claim against the Debtor agrees to a less favorable treatment of such Claim, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Priority Non-Tax Claim, at the option of the Debtor or the Reorganized Debtor, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the Allowed amount of such Claim, payable on the later of the Effective Date and the date that is 10 Business Days after the date on which such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, or as soon thereafter as is reasonably practicable, (ii) such holder's Allowed Priority Non-Tax Claim shall be Reinstated, or (iii) such holder shall receive such other treatment consistent with section 1129(a)(9) of the Bankruptcy Code so as to render such holder's Allowed Priority Non-Tax Claim Unimpaired.

(c) **Voting:** Class 1 is Unimpaired, and the holders of Priority Non-Tax Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Priority Non-Tax Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.2 **Other Secured Claims (Class 2).**

(a) **Classification:** Class 2 consists of Other Secured Claims. To the extent that Other Secured Claims are secured by different Collateral or different interests in the same Collateral, such Claims shall be treated as separate subclasses of Class 2 for purposes of voting to accept or reject the Plan and receiving Distributions under the Plan.

(b) **Treatment:** Except to the extent that a holder of an Allowed Other Secured Claim against the Debtor agrees to a less favorable treatment of such Claim, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Other Secured Claim, at the

option of the Debtor or the Reorganized Debtor, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the Allowed Amount of such Claim, payable on the later of the Effective Date and the date that is 10 Business Days after the date such Other Secured Claim becomes an Allowed Claim, or as soon thereafter as is reasonably practicable, (ii) Reinstatement of such holder's Allowed Other Secured Claim, or (iii) such other treatment sufficient to render such holder's Allowed Other Secured Claim Unimpaired. In the event that an Other Secured Claim against the Debtor is treated under clause (i) of Section 4.2(b) of the Plan, the Liens securing such Other Secured Claim shall be deemed released immediately upon payment.

(c) Voting: Class 2 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

#### 4.3 General Unsecured Claims (Class 3).

(a) Classification: Class 3 consists of General Unsecured Claims.

(b) Treatment: Except to the extent that a holder of an Allowed General Unsecured Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, on and after the Effective Date, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, such holder will receive its Pro Rata share of the Unsecured New Equity Allocation. In connection with the Debtor's exercise of the Tranche A Conversion Option and the Tranche B Conversion Option pursuant to Section 5.3 hereof, the DIP Lenders have agreed to waive and, thereby, receive no recovery on account of their General Unsecured Claims against the Debtor.

(c) Voting: Class 3 is Impaired, and the holders of General Unsecured Claims are entitled to vote to accept or reject the Plan.

#### 4.4 General Unsecured Trade Claims (Class 4).

(a) Classification: Class 4 consists of General Unsecured Trade Claims.

(b) Treatment: Except to the extent that a holder of a General Unsecured Trade Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, on and after the Effective Date, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, (i) the Reorganized Debtor shall continue to pay or treat each General Unsecured Trade Claim in the ordinary course of business as if the Chapter 11 Case had never been commenced, or (ii) such holder will receive such other treatment so as to render such holder's Allowed General Unsecured Trade Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, in each case subject to all defenses or disputes the Debtor and the Reorganized Debtor may have with respect to such Claims, including as provided in Section 6.17 of the Plan; *provided* that, notwithstanding the foregoing, the Allowed amount of General Unsecured Trade Claims shall be subject to and shall not exceed the limitations or maximum amounts permitted by the Bankruptcy Code, including sections 502 or 503 of the Bankruptcy Code, to the extent applicable.

(c) Voting: Class 4 is Unimpaired, and the holders of Allowed General Unsecured Trade Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Allowed General Unsecured Trade Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.5 **Employee Claims (Class 5)**

(a) **Classification:** Class 5 consists of Employee Claims.

(b) **Treatment:** Except to the extent that a holder of an Employee Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, all Employee Claims shall be paid, adjusted, disputed, or settled, in the ordinary course of business after the Effective Date.

(c) **Voting:** Class 5 is Unimpaired, and the holders of Employee Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Employee Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.6 **Customer Claims (Class 6)**

(a) **Classification:** Class 6 consists of Customer Claims.

(b) **Treatment:** Except to the extent that a holder of a Customer Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, all Customer Claims shall be paid, adjusted, disputed, or settled, in the ordinary course of business after the Effective Date in accordance with any settlements or orders issued by the applicable courts or regulatory authorities.

(c) **Voting:** Class 6 is Unimpaired, and the holders of Customer Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Customer Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.7 **Intercompany Claims (Class 7).**

(a) **Classification:** Class 7 consists of Intercompany Claims.

(b) **Treatment:** On the Effective Date, or as soon as practicable thereafter, all Intercompany Claims shall be paid, adjusted, continued, settled, Reinstated, discharged, contributed to capital, or eliminated, in each case to the extent determined by the Debtor or the Reorganized Debtor, as applicable, subject to the Restructuring Transactions.

(c) **Voting:** Class 7 is Unimpaired, and the holders of Intercompany Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Intercompany Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.8 **Existing Equity Interests (Class 8).**

(a) **Classification:** Class 8 consists of Existing Equity Interests.

(b) **Treatment:** Holders of Existing Equity Interests shall not receive any property under the Plan on account of such Existing Equity Interests. On the Effective Date, or as soon as practicable thereafter in accordance with applicable non-bankruptcy law, Holders of Existing Equity Interests shall have their Existing Equity Interests diluted to 0.001% of the number and value of such Interests as of the Petition Date.

(c) **Voting:** Class 8 is Impaired, and the holders of Existing Equity Interests are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code on account of receiving a nominal distribution. Therefore, holders of Existing Equity Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders of Existing Equity Interests will not be solicited.

## **ARTICLE V MEANS FOR IMPLEMENTATION.**

### **5.1 Compromise of Controversies.**

Pursuant to section 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan constitute a good-faith compromise and settlement of all Claims and controversies resolved under the Plan, and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under Bankruptcy Rule 9019, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are within the range of reasonableness, in the best interests of the Debtor, its estate, its creditors, and other parties-in-interest, and fair and equitable. Each provision of the Plan constitutes a part of this settlement that is non-severable from the remaining terms of the Plan.

### **5.2 Sources of Cash for Plan Distribution.**

Except as otherwise provided in the Plan or Confirmation Order, all Cash required for the payments to be made hereunder shall be obtained from the Debtor's and the Reorganized Debtor's operations and cash balances.

### **5.3 Exercise of the Equity Conversion Elections.**

The Debtor hereby elects, in its sole discretion, to exercise the Tranche A Conversion Election and the Tranche B Conversion Election. The Debtor's election shall take effect on the Effective Date of the Plan, and shall constitute notice to the DIP Lenders as required by sections 1.8 and 1.9 of the DIP Credit Agreement and no other or further notice shall be required.

### **5.4 Restructuring Expenses.**

To the extent not otherwise paid and notwithstanding any contrary limitations or conditions to such payment in an order of the Bankruptcy Court other than the Confirmation Order, the Debtor or the Reorganized Debtor, as applicable, shall promptly pay outstanding and invoiced Restructuring Expenses on the Effective Date; *provided* that such Restructuring Expenses shall be paid in accordance with the terms of the Restructuring Support Agreements without the requirement for the filing of retention applications, fee applications, or any other applications in the Chapter 11 Case, and without any requirement for further notice or Bankruptcy Court review or approval.

### **5.5 Continued Corporate Existence; Corporate Action.**

(a) Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement (including the Restructuring Transactions), on the Effective Date, the Debtor shall continue to exist after the Effective Date as a separate corporation with all the powers of a corporation pursuant to the applicable law in the jurisdiction in which the Debtor is incorporated or formed and pursuant to the certificate of incorporation and by-laws (or other analogous formation documents) in effect before the Effective Date, except to the extent such certificate of

incorporation or bylaws (or other analogous formation documents) is amended by the Plan or otherwise, and to the extent any such document is amended, such document is deemed to be amended pursuant to the Plan and will be effective without any further action or approval (other than any requisite filings required under applicable state, federal, or foreign law).

(b) On the Effective Date, the Reorganized Debtor and all the holders of the New Common Stock shall be deemed to be parties to the New Stockholders' Agreement, substantially in the form contained in the Plan Supplement, without the need for execution by any such holder. The New Stockholders' Agreement shall be binding on all parties receiving, and all holders of, New Common Stock.

(c) On the Effective Date, entry of the Confirmation Order shall establish conclusive corporate and other authority to demonstrate all actions contemplated by the Plan to be deemed authorized and approved by the Bankruptcy Court in all respects, including, as applicable: (i) the adoption and/or filing of the Amended Organizational Documents and the New Stockholders' Agreement (the material terms of which shall be satisfactory in form and substance to the DIP Tranche B Lenders); (ii) the selection of the directors, managers, and officers for the Reorganized Debtor, including the appointment of the New Board; (iii) the authorization, issuance, and distribution of New Common Stock and the shares of New Common Stock; (iv) the rejection, assumption, or assumption and assignment, as applicable, of executory contracts and unexpired leases; (v) the entry into the Unsecured Exit Facility; (vi) implementation of the Restructuring Transactions; and (vii) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date). Upon the Effective Date, all matters provided for in the Plan involving the corporate structure of Reorganized Debtor, and any corporate action required by the Debtor or the other Reorganized Debtor in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the security holders, directors, or officers of the Debtor or Reorganized Debtor. On or (as applicable) before the Effective Date, the appropriate officers of the Debtor, or the Reorganized Debtor shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effectuate the Restructuring Transactions) in the name of and on behalf of the Reorganized Debtor, including the Exit Facility Documents (as applicable) and any and all other agreements, documents, and instruments relating to the foregoing, to the extent not previously authorized by the Bankruptcy Court. The authorizations and approvals contemplated by this Section 5.5(b) shall be effective notwithstanding any requirements under non-bankruptcy law.

#### 5.6 **Exit Facilities.**

(a) If the Debtor determines on or before the Effective Date to enter into the Secured Exit Facility and a commitment letter therefor containing terms substantially consistent with the Restructuring Term Sheet and otherwise acceptable to the Debtor, the Secured Exit Facility Lenders and the DIP Tranche B Lenders has been executed, the Debtor shall file such commitment letter with the Bankruptcy Court on or before the Effective Date. If such commitment letter is filed, the Reorganized Debtor will be authorized, but not directed, to enter into the Secured Exit Facility without the need for any further corporate action and without further action by the holders of Claims or Interests. The proceeds of the Secured Exit Facility if executed shall be used to fund general working capital and for general corporate purposes of the Reorganized Debtor, in each case subject to the terms of the Secured Exit Facility.

(b) The Confirmation Order shall constitute approval of the Exit Facilities (including the transactions contemplated thereby and all payments contemplated thereunder, and all actions to be taken, undertakings to be made, and obligations to be incurred and fees paid by the Reorganized Debtor in connection therewith), as applicable, and authorization for the Reorganized Debtor to enter into and

perform under the Exit Facility Documents, as applicable, and such other documents and make such payment and any other payment in connection therewith as may be required or appropriate. Without limiting the foregoing, the Reorganized Debtor shall pay, as and when due, all fees, expenses, losses, damages, indemnities and other amounts, including any applicable refinancing premiums and applicable exit fees, provided under the DIP Credit Facility Documents related to the DIP Credit Facility and/or the Exit Facilities Documents relating to such Exit Facilities (as applicable).

(c) If the Debtor determines on or before the Effective Date to enter into the Secured Exit Facility, which shall be substantially on the terms and conditions set forth in the Restructuring Term Sheet, all Liens and security interests granted pursuant to the Secured Exit Facility Documents shall be (i) valid, binding, perfected, and enforceable Liens and security interests in the personal and real property described in and subject to such document, with the priorities established in respect thereof under applicable non-bankruptcy law, (ii) granted in good faith and deemed not to constitute a fraudulent conveyance or fraudulent transfer, and (iii) not otherwise subject to avoidance, recharacterization, or subordination under any applicable law. Each of the Debtor, the Reorganized Debtor, 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 any applicable law, and shall 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.

(d) The Reorganized Debtor shall be authorized to execute, deliver, and enter into and perform under the Exit Facility Documents, as applicable, without the need for any further corporate action and without further action by the holders of Claims or Interests.

#### 5.7 **Authorization and Issuance of New Common Stock.**

(a) As of the Effective Date, all existing interests in the Debtor shall be diluted by reducing the par value of the Existing Equity Interests to approximately 1/1000th of the amounts as of the Petition Date. Subject to the Restructuring Transactions, on the Effective Date, the Debtor or the Reorganized Debtor, as applicable, are authorized to issue or cause to be issued and shall issue the New Common Stock in accordance with the terms of the Plan and the Amended Organizational Documents, without the need for any further corporate or shareholder action. Upon the issuance of the New Common Stock, the par value and amount of the Existing Equity Interests shall be then increased to align with the par value of the New Common Stock, resulting in such Existing Equity Interests having only nominal economic value.

(b) All of the New Common Stock issuable under the Plan, when so issued, shall be duly authorized, validly issued, fully paid, and non-assessable, and the holders of New Common Stock shall be deemed to have accepted the terms of the New Stockholders' Agreement (solely in their capacity as shareholders of Reorganized Debtor) and to be parties thereto without further action or signature. The New Stockholders' Agreement shall be effective as of the Effective Date and, as of such date, shall be deemed to be valid, binding, and enforceable in accordance with its terms, and each holder of New Common Stock shall be bound thereby.

(c) Upon the Effective Date, (i) the New Common Stock shall not be registered under the Securities Act of 1933, and shall not be listed for public trading on any securities exchange, and (ii) the Reorganized Debtor shall not be a reporting company under the Exchange Act. Except as provided in the Plan or the Confirmation Order, the New Common Stock to be distributed under the Plan shall be issued in the names of such holders or their nominees in accordance with the Debtor's stock and transfer book-entry procedures.

5.8 **Exemption from Registration.**

(a) The offer, issuance, and distribution of the New Common Stock hereunder shall be exempt, pursuant to section 1145 of the Bankruptcy Code, if applicable, or other available exemptions without further act or action by any Entity, from registration under (i) the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder, and (ii) any state or local law requiring registration for the offer, issuance, or distribution of Securities.

(b) The New Common Stock shall be issued without registration under the Securities Act or any similar federal, state or local law in reliance on available exemptions or section 1145(a) of the Bankruptcy Code and, if applicable, shall be freely tradable by the recipients thereof, subject to: (i) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act of 1933; (ii) compliance with any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities or instruments; and (iii) any applicable regulatory approval.

(c) Notwithstanding anything to the contrary in the Plan, no entity shall be entitled to require a legal opinion regarding the validity of any transaction contemplated by the Plan, including, for the avoidance of doubt, whether the New Common Stock are exempt from registration and/or eligible to be issued using the Debtor's stock and transfer book-entry procedures.

5.9 **Cancellation of Existing Securities and Agreements.**

(a) Except for the purpose of evidencing a right to a Distribution under the Plan and except as otherwise set forth in the Plan, including with respect to executory contracts or unexpired leases that shall be assumed by the Debtor, on the Effective Date, all agreements, instruments, and other documents evidencing any Claims or any Interest (other than Intercompany Claims that are not modified by the Plan) and any rights of any holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect solely as against the Debtor and the obligations of the Debtor thereunder shall be deemed fully satisfied, released, and discharged.

(b) Notwithstanding the foregoing, any provision in any document, instrument, lease, or other agreement that causes or effectuates, or purports to cause or effectuate, a default, termination, waiver, or other forfeiture of, or by, the Debtor of its interests, as a result of the cancellations, terminations, satisfaction, releases, or discharges provided for in this Section 5.9 shall be deemed null and void and shall be of no force and effect. Nothing contained herein shall be deemed to cancel, terminate, release, or discharge the obligation of the Debtor or any of its counterparties under any executory contract or unexpired lease to the extent such executory contract or unexpired lease has been assumed by the Debtor pursuant to a Final Order of the Bankruptcy Court or hereunder.

5.10 **Officers and Board of Directors.**

(a) On the Effective Date, the New Board shall consist of at least five directors in total to be designated by the DIP Tranche B Lenders in a manner to be determined consistent with the Restructuring Term Sheet. To the extent then known and determined, the identities of the members of the board of directors or managers of the Reorganized Debtor, as applicable, and, to the extent applicable, the officers of the Reorganized Debtor, shall be disclosed at or prior to the Confirmation Hearing in accordance with section 1129(a)(5) of the Bankruptcy Code.

(b) Commencing on the Effective Date, each of the directors, managers, and officers of the Reorganized Debtor shall be elected and serve pursuant to the terms of the applicable Amended

Organizational Documents of the Reorganized Debtor and may be replaced or removed in accordance with such Amended Organizational Documents.

(c) Except to the extent that a director, manager, or officer of the Debtor continues to serve in such capacity on the Effective Date, the Persons and Entities acting as authorized persons, directors, managers, or officers of the Debtor prior to the Effective Date, as the case may be, shall have no further authority, duties, responsibilities, or obligations relating to or arising from operating the Debtor or the Chapter 11 Case, and shall be deemed to have resigned from all of their respective positions with the Debtor on the Effective Date without any further action required on the part of the Debtor or such Persons or Entities.

#### 5.11 **Restructuring Transactions.**

(a) On or as soon as practicable after the Effective Date, the Reorganized Debtor shall take such actions as may be or become necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan (collectively, the “**Restructuring Transactions**”), including (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, financing, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may determine, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable parties agree, (iii) the filing of appropriate certificates or articles of incorporation, formation, reincorporation, merger, consolidation, conversion, or dissolution, the Amended Organizational Documents, (iv) the issuance of the New Common Stock, all of which shall be authorized and approved in all respects in each case without further action being required under applicable law, regulation, order, or rule, (v) all other actions that the Reorganized Debtor determines to be necessary or appropriate, including (A) making filings or recordings that may be required by applicable law, subject, in each case, to the Amended Organizational Documents, and (B) such other transactions that may be required or necessary to effectuate any of the Restructuring Transactions in the most tax-efficient manner, including mergers, consolidations, restructurings, conversions, dispositions, transfers, formations, organizations, dissolutions, or liquidations; (vi) the execution, delivery, and filing, as applicable, of the Exit Facility Documents, the Amended Organizational Documents, the New Stockholders’ Agreement; and (vii) all other actions that the Reorganized Debtor determines to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

(b) Each officer, member of the board, or manager of the Debtor is (and each officer, member of the board, or manager of the Reorganized Debtor shall be) authorized and directed to issue, execute, deliver, file, or record such contracts, securities, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and any Restructuring Transaction (including the New Common Stock) in the name of and on behalf of the Reorganized Debtor, all of which shall be authorized and approved in all respects, in each case, without the need for any approvals, authorization, consents, or any further action required under applicable law, regulation, order, or rule (including any action by the shareholders or directors or managers of the Debtor or the Reorganized Debtor) except for those expressly required pursuant to the Plan.

(c) On the Effective Date, or as soon thereafter as is reasonably practicable, the Reorganized Debtor’s certificate of incorporation, bylaws, and other formation and constituent documents shall be amended as may be required to be consistent with the provisions of the Plan, the New

Stockholders' Agreement, and the Exit Facility Documents, as applicable, and the Bankruptcy Code. The Amended Organizational Documents shall, among other things: (i) authorize the issuance of the New Common Stock and the shares of New Common Stock; and (ii) pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision prohibiting the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtor may amend and restate its certificate of incorporation and other formation and constituent documents as permitted by the laws of its respective jurisdiction of formation and the terms of the Amended Organizational Documents and the New Stockholders' Agreement.

(d) All matters provided for herein involving the corporate structure of the Debtor or the Reorganized Debtor, to the extent applicable, or any corporate or related action required by the Debtor or the Reorganized Debtor in connection herewith shall be deemed to have occurred and shall be in effect, without any requirement of further action by the shareholders, members, or directors or managers of the Debtor or the Reorganized Debtor, and with like effect as though such action had been taken unanimously by the shareholders, members, directors, managers, or officers, as applicable, of the Debtor or the Reorganized Debtor.

#### 5.12 **Cancellation of Liens.**

Except as otherwise specifically provided herein, the Exit Facility Documents (including in connection with any express written amendment of any mortgage, deed of trust, Lien, pledge, or other security interest under the Exit Facility Documents), or in any contract, instrument, release, or other agreement or document created pursuant to the Plan upon the indefeasible payment in full in Cash of an Other Secured Claim, any Lien securing an Other Secured Claim that is indefeasibly paid in full, in Cash, shall be deemed released and discharged, and the holder of such Other Secured Claim shall be authorized and directed to release any Collateral or other property of the Debtor (including any Cash collateral) held by such holder and to take such actions as may be requested by the Reorganized Debtor to evidence the release or discharge of such Lien, including the execution, delivery and filing or recording of such releases or discharges as may be requested by the Reorganized Debtor, and the Reorganized Debtor and its designees shall be authorized to file UCC-3 termination statements and other release or discharge documentation (to the extent applicable) with respect thereto. The filing of the Confirmation Order with any federal, state, provincial, or local agency or department shall constitute good and sufficient evidence of, but shall not be required to effect, the termination of such Liens.

#### 5.13 **Employee Matters.**

Except as otherwise provided in the Plan Supplement, on the Effective Date, all employee compensation plans, Benefit Plans, employment agreements, severance agreements, offer letters, or award letters to which the Debtor is a party with respect to employees employed as of the Effective Date (collectively, the "**Employee Arrangements**") shall be neither assumed nor rejected. Rather, the Employee Arrangements and the Debtor's benefits and obligations thereunder shall be deemed to "ride through" the Chapter 11 Case unaffected by the Chapter 11 Case and shall remain as benefits and obligations of the Reorganized Debtor after the Effective Date. Notwithstanding anything contrary in the Employee Arrangements, the consummation of the Plan shall not be treated as a change in control or change of control or other similar transaction under the Employee Arrangements.

All other employment, confidentiality, training, non-competition agreements, vacation, holiday pay, retirement, supplemental retirement, indemnity, executive retirement, pension, deferred compensation, medical, dental, vision, life and disability insurance, flexible spending account, and other health and welfare benefit plans, programs, agreements and arrangements, and all other wage, compensation, employee expense reimbursement, and other benefit obligations to employees employed as

of the Effective Date are deemed to be, and shall be treated as, Executory Contracts under the Plan and, on the Effective Date, shall be deemed assumed pursuant to sections 365 and 1123 of the Bankruptcy Code. From and after the Effective Date, the Reorganized Debtor shall be authorized to comply with all applicable laws regarding compensation obligations to employees employed as of the Effective Date.

5.14 **Post-Emergence Exchange Offer.**

The Reorganized Debtor shall launch a mandatory exchange process of converting the New Common Stock into Parent Interests, within 12 months of the Effective Date. The applicable conversion percentage ratio of equity shall be based on an independent third-party valuation by a valuation expert accredited by the Philippines Stock Exchange (PSE) and the Securities and Exchange Commission (SEC). Any such post-emergence conversion shall be subject to applicable approvals, including by the PSE, the SEC of the Philippines, the Bureau of Internal Revenue with respect to the certificate authorizing registration (CAR) of the New Common Stock to the Parent, the submission of a special auditor's report on the two companies acceptable to the SEC and PSE, and applicable board and shareholder approvals. For the avoidance of doubt, nothing in the Plan is meant to impact or modify the Parent Interests, which shall remain outstanding and unchanged until the post-emergence exchange offer contemplated by Section 5.14 of the Plan.

5.15 **Securitization Facilities.**

On the Effective Date, the Debtor and/or Reorganized Debtor, as applicable, shall be deemed to have assumed the Securitization Documents to which it is a party to enable the transactions contemplated by the Securitization Documents to continue on terms currently contemplated in the Securitization Documents, in accordance with the Restructuring Support Agreements. All Claims in connection with the Securitization Documents (including any related Intercompany Claims), if any, shall be Reinstated.

5.16 **Implementation of Amendment Agreements.**

On the Effective Date, and in accordance with the Restructuring Support Agreements, the Amendment Agreements, including any schedules, annexes, and exhibits thereto, shall be assumed and binding on the Reorganized Debtor and the applicable Supporting Creditors.

5.17 **Release of Avoidance Actions.**

On the Effective Date, the Debtor, on behalf of itself and its Estate, shall release any and all Avoidance Actions and the Debtor and the Reorganized Debtor, and any of their successors or assigns, and any Entity acting on behalf of the Debtor or the Reorganized Debtor, shall be deemed to have waived the right to pursue any and all Avoidance Actions, except for Avoidance Actions brought as counterclaims or defenses to claims asserted against the Debtor.

5.18 **Closing of Chapter 11 Case.**

After the Estate has been fully administered, the Reorganized Debtor shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and Bankruptcy Rules.

5.19 **Notice of Effective Date.**

On the Effective Date, the Debtor shall file a notice of the occurrence of the Effective Date with the Bankruptcy Court.

**ARTICLE VI DISTRIBUTIONS.**

6.1 **Distributions Generally.**

One or more Disbursing Agents shall make all Distributions under the Plan to the appropriate holders of Allowed Claims in accordance with the terms of the Plan.

6.2 **Distribution Record Date.**

As of the close of business on the Effective Date, the various lists of holders of Claims or Interests in each Class, as maintained by the Debtor or its respective agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Interests. The Debtor or the Reorganized Debtor shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Effective Date. In addition, with respect to payment of any Cure Amounts or disputes over any Cure Amounts, neither the Debtor nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease as of the Effective Date, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount.

6.3 **Date of Distributions.**

Except as otherwise provided in the Plan, any Distributions and deliveries to be made under the Plan shall be made on the Effective Date or as otherwise determined in accordance with the Plan (including the treatment provisions of General Unsecured Trade Claims in Section 4.4 of the Plan); *provided that* the Reorganized Debtor may implement periodic Distribution dates to the extent it determines them to be appropriate.

6.4 **Disbursing Agent.**

All Distributions under the Plan shall be made by the Disbursing Agent, on behalf of the Debtor (unless otherwise provided herein), on or after the Effective Date or as otherwise provided herein. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties, and all reasonable and documented fees and expenses incurred by such Disbursing Agent directly related to Distributions hereunder shall be reimbursed by the Reorganized Debtor. The Reorganized Debtor shall use all commercially reasonable efforts to provide the Disbursing Agent (if other than the Reorganized Debtor) with the amounts of Claims and the identities and addresses of holders of Claims, in each case, as set forth in the Debtor's or the Reorganized Debtor's books and records. The Reorganized Debtor shall cooperate in good faith with the applicable Disbursing Agent (if other than the Reorganized Debtor) to comply with the reporting and withholding requirements outlined in Section 6.18 of the Plan. The DIP Agent will be considered the Servicer for DIP Claims other than DIP Reimbursement Claims.

6.5 **Rights and Powers of Disbursing Agent.**

(a) From and after the Effective Date, the Disbursing Agent, solely in its capacity as Disbursing Agent, shall not incur any liability whatsoever on account of any distributions under the Plan,

except in the event of gross negligence or willful misconduct, as determined by a Final Order of a court of competent jurisdiction. No holder of a Claim or Interest or other party in interest shall have or pursue any claim or Cause of Action against the Disbursing Agent, solely in its capacity as Disbursing Agent, for making payments in accordance with the Plan or for implementing provisions of the Plan, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or ultra vires acts of such Disbursing Agent.

(b) The Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties hereunder, (ii) make all Distributions contemplated hereby, and (iii) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

6.6 **Expenses of Disbursing Agent.**

Except as otherwise ordered by the Bankruptcy Court, any reasonable and documented fees and expenses incurred by the Disbursing Agent acting in such capacity (including reasonable documented attorneys' fees and expenses) on or after the Effective Date shall be paid in Cash by the Reorganized Debtor in the ordinary course of business.

6.7 **Postpetition Interest.**

Except as otherwise specifically provided for in the Plan, the Confirmation Order, or another order of the Bankruptcy Court (including the DIP Order), interest shall not accrue or be paid on any Claims on or after the Petition Date; *provided that*, if interest is payable pursuant to this Section 6.7, interest shall accrue at the federal judgment rate pursuant to 28 U.S.C. § 1961 on a non-compounded basis from the date the obligation underlying the Claim becomes due and is not timely paid through the date of payment.

6.8 **Delivery of Distributions.**

All Distributions to any holder of an Allowed Claim as and when required by the Plan shall be made by the Disbursing Agent. In the event that any Distribution to any holder is returned as undeliverable, no further Distributions shall be made to such holder unless and until the Disbursing Agent is notified in writing of such holder's then-current address, at which time all currently due, missed Distributions shall be made to such holder as soon as reasonably practicable thereafter without interest, *provided, however*, such distributions or payments shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of 180 days from the date of the attempted Distribution. Nothing herein shall require the Disbursing Agent to attempt to locate holders of undeliverable Distributions and, if located, assist such holders in complying with Section 6.18 of the Plan.

6.9 **Distributions after Effective Date.**

Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

6.10 **Unclaimed Property.**

Undeliverable Distributions or unclaimed Distributions shall remain in the possession of the Reorganized Debtor until such time as a Distribution becomes deliverable or the holder accepts

Distribution, or such Distribution reverts back to the Reorganized Debtor, and shall not be supplemented with any interest, dividends, or other accruals of any kind. Such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of 180 days from the date of the attempted Distribution. After such date, all unclaimed property or interest in property shall revert to the Reorganized Debtor, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred. The Reorganized Debtor and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Debtor's books and records and filings with the Bankruptcy Court.

6.11 **Time Bar to Cash Payments.**

Checks issued by the Disbursing Agent in respect of Allowed Claims shall be null and void if not negotiated within 180 days after the date of issuance thereof. Thereafter, the amount represented by such voided check shall irrevocably revert to the Reorganized Debtor, and any Claim in respect of such voided check shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Requests for re-issuance of any check shall be made to the Disbursing Agent by the holder of the Allowed Claim to whom such check was originally issued.

6.12 **Manner of Payment under the Plan.**

Except as otherwise specifically provided in the Plan, at the option of the Debtor or the Reorganized Debtor, as applicable, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtor.

6.13 **Satisfaction of Claims.**

Except as otherwise specifically provided in the Plan, any Distributions and deliveries to be made on account of Allowed Claims under the Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

6.14 **Fractional Stock.**

If any Distributions of New Common Stock pursuant to the Plan would result in the issuance of a fractional share of New Common Stock, then the number of shares of New Common Stock to be issued in respect of such Distribution shall be calculated to one decimal place and rounded up or down to the closest whole share (with a half share or greater rounded up and less than a half share rounded down). The total number of shares of New Common Stock to be distributed in connection with the Plan shall be adjusted as necessary to account for the rounding provided for in this Section 6.14. No consideration shall be provided in lieu of fractional shares that are rounded down. Neither the Reorganized Debtor nor the Disbursing Agent shall have any obligation to make a Distribution that is less than one (1) share of New Common Stock.

6.15 **Minimum Cash Distributions.**

The Disbursing Agent shall not be required to make any Distribution of Cash less than Seventy-Five Dollars (\$75) to any holder of an Allowed Claim; *provided that* if any Distribution is not made pursuant to this Section 6.15, such Distribution shall be added to any subsequent Distribution to be made on behalf of the holder's Allowed Claim.

6.16 **Maximum Distributions and Rights of Reimbursement.**

(a) In no event shall a holder of an Allowed Claim receive Distributions under the Plan in excess of the Allowed amount of such Claim, except to the extent postpetition interest is permitted by Section 6.7 of the Plan.

(b) Nothing contained herein shall in any way affect, impair or modify the rights of a holder of a Claim against an Entity that is not the Debtor.

6.17 **Setoffs.**

Except as otherwise expressly provided for herein, the Reorganized Debtor, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the holder of a Claim, may set off against any Allowed Claim and the Distributions to be made pursuant to the Plan on account of such Allowed Claim (before any Distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtor or Reorganized Debtor, as applicable, may hold against the holder of such Allowed Claim, to the extent such Claims, rights, or Causes of Action against such holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by the Reorganized Debtor of any such Claims, rights, and Causes of Action that the Reorganized Debtor may possess against such holder. In no event shall any holder of Claims be entitled to set off any such Claim against any Claim, right, or Cause of Action of the Debtor or Reorganized Debtor (as applicable), unless such holder has filed a motion with the Bankruptcy Court requesting the authority to perform such setoff on or before the Confirmation Date, and notwithstanding any indication in any proof of claim or otherwise that such holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 of the Bankruptcy Code or otherwise.

6.18 **Withholding and Reporting Requirements.**

(a) **Withholding Rights.** In connection with the Plan, any party issuing any instrument or making any Distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any Governmental Unit, and all Distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash Distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advanced payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding the foregoing, each holder of an Allowed Claim or any other Entity that receives a Distribution pursuant to the Plan shall have responsibility for any taxes imposed by any Governmental Unit, including income, withholding, and other taxes, on account of such Distribution. Any party issuing any instrument or making any Distribution pursuant to the Plan has the right, but not the obligation, to not make a Distribution until such holder has made arrangements reasonably satisfactory to such issuing or disbursing party for payment of any such tax obligations. Any party issuing any instrument or making any Distribution pursuant to the Plan, shall, to the extent reasonably practicable, notify any recipient of a Distribution pursuant to the Plan and all related agreements if it is going to withhold taxes pursuant to this Section 6.18 and reasonably cooperate with the recipient to minimize or avoid such withholding.

(b) Forms. Any party entitled to receive any property as an issuance or Distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Person designated by the Reorganized Debtor (which Person shall subsequently deliver to the Disbursing Agent any tax forms or documents received) any tax forms or documents (including an IRS Form W-9 or IRS Form W-8, as applicable) reasonably requested to reduce or eliminate any withholding required by any Governmental Unit.

6.19 **Hart-Scott-Rodino Antitrust Improvements Act.**

Any New Common Stock to be distributed under the Plan to an Entity required to file a premerger notification and report form under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, to the extent applicable, shall not be distributed until the notification and waiting periods applicable under such Act to such Entity have expired or been terminated.

6.20 **Claims Paid or Payable by Third Parties.**

(a) **Claims Paid by Third Parties**

A Claim shall be correspondingly reduced, and the applicable portion of such Claim shall be disallowed without an objection to such Claim having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the holder of such Claim receives a payment on account of such Claim from a party that is not the Debtor or Reorganized Debtor; *provided that* the Debtor shall provide 21 days' notice to the holder prior to any disallowance of such Claim during which period the holder may object to such disallowance, and if the parties cannot reach an agreed resolution, the matter shall be decided by the Bankruptcy Court. Subject to the last sentence of this paragraph, to the extent a holder of a Claim receives a Distribution on account of such Claim and receives payment from a party that is not the Debtor or the Reorganized Debtor on account of such Claim, such holder shall, within 14 days of receipt thereof, repay or return the Distribution to the Reorganized Debtor to the extent the holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such Distribution under the Plan. The failure of such holder to timely repay or return such Distribution shall result in the holder owing the Reorganized Debtor annualized interest at the federal judgment rate on such amount owed for each Business Day after the 14 day grace period specified above until the amount is repaid.

(b) **Claims Payable by Insurance Carriers**

No Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtor's insurance policies until the holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agree to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claim objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court; *provided that* the Debtor shall provide 21 days' notice to the holder of such Claim prior to any disallowance of such Claim during which period the holder may object to such disallowance, and if the parties cannot reach an agreed resolution, the matter shall be decided by the Bankruptcy Court.

(c) **Applicability of Insurance Policies**

Except as otherwise provided in the Plan, Distributions to holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Notwithstanding anything

to the contrary herein, nothing contained in the Plan shall constitute or be deemed a release, settlement, satisfaction, compromise, or waiver of any Cause of Action that the Debtor or any other Entity may hold against any other Entity, including insurers, under any policies of insurance or applicable indemnity, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

6.21 **Allocation Between Principal and Accrued Interest.**

The aggregate consideration paid to holders with respect to their Allowed Claims shall be treated pursuant to the Plan as allocated first to the principal amount of such Allowed Claims (to the extent thereof) and, thereafter, to interest, if any, on such Allowed Claim accrued but unpaid through the Effective Date.

**ARTICLE VII PROCEDURES FOR DISPUTED CLAIMS.**

7.1 **Disputed Claims Process.**

Notwithstanding section 502(a) of the Bankruptcy Code, and in light of the Unimpaired status of all Claims other than Claims in Class 3 under the Plan, holders of Claims do not need to file proofs of Claim with the Bankruptcy Court, and the Debtor or the Reorganized Debtor, as applicable, and the holders of Claims shall determine, adjudicate, and resolve any disputes over the validity and amounts of such Claims in the ordinary course of business; *provided*, that (unless expressly waived pursuant to the Plan) the Allowed amount of such Claims shall be subject to and shall not exceed the limitations under or maximum amounts permitted by the Bankruptcy Code, including sections 502 or 503 of the Bankruptcy Code, to the extent applicable. If a holder of a Claim elects to file a proof of claim with the Bankruptcy Court, such holder shall be deemed to have consented to the jurisdiction of the Bankruptcy Court for all purposes with respect to the Claim, and the Bankruptcy Court shall retain nonexclusive jurisdiction over all such Claims, which shall be resolved on a case-by-case basis through settlements, Claim objections (or, if necessary, through adversary proceedings), adjudication in a forum other than the Bankruptcy Court, or by withdrawal of the Claims by the holders of such Claims. From and after the Effective Date, the Reorganized Debtor may satisfy, dispute, settle, or otherwise compromise any Claim without approval of the Bankruptcy Court.

7.2 **Objections to Claims.**

Any objections to proofs of Claim shall be served and filed (a) on or before 180 days following the later of (i) the Effective Date and (ii) the date that a proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of a holder of such Claim, or (b) by such later date as ordered by the Bankruptcy Court upon motion filed by the Debtor or the Reorganized Debtor. The expiration of such period shall not limit or affect the Reorganized Debtor's rights to dispute Claims asserted other than through a proof of Claim.

7.3 **Estimation of Claims.**

The Debtor or the Reorganized Debtor, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the

Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtor or the Reorganized Debtor may pursue supplementary proceedings to object to the allowance of such Claim.

7.4 **No Distributions Pending Allowance.**

If an objection, motion to estimate, or other challenge to a Claim is filed, no payment or Distribution provided under the Plan shall be made on account of such Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

7.5 **Distributions after Allowance.**

To the extent that a Disputed Claim ultimately becomes, in whole or in part, an Allowed Claim, Distributions (if any) shall be made to the holder of such Allowed Claim in accordance with the provisions of the Plan, including the treatment provisions provided in Article IV of the Plan. Such Distributions shall be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim (or portion thereof) becomes a Final Order.

7.6 **Claim Resolution Procedures Cumulative.**

All of the objection, estimation, and resolution procedures in the Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently settled, compromised, withdrawn, or resolved in accordance with the Plan without further notice or Bankruptcy Court approval.

7.7 **Resolution of Disputed Claims**

On and after the Effective Date, the Reorganized Debtor shall have the authority to litigate, compromise, settle, otherwise resolve or withdraw any objections to all Claims against the Debtor and to compromise and settle any such Disputed Claims without notice to or approval by the Bankruptcy Court or any other party.

7.8 **Disallowance of Claims.**

All Claims and Interests of any Entity from which property is sought by the Debtor under sections 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtor or the Reorganized Debtor allege is a transferee of a transfer that is avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if: (a) the Entity, on the one hand, and the Debtor or the Reorganized Debtor, as applicable, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turn over any property or monies under any of the aforementioned sections of the Bankruptcy Code; and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order.

**ARTICLE VIII EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

8.1 **General Treatment.**

(a) As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases to which the Debtor is a party, and which have not expired or terminated by their own terms on or prior to the Effective Date shall be deemed rejected by the Debtor except for any

executory contract or unexpired lease that (i) previously has been assumed, assumed and assigned, or rejected pursuant to a Final Order of the Bankruptcy Court, (ii) is specifically designated on the Schedule of Assumed Contracts and Leases filed and served prior to commencement of the Confirmation Hearing or is designated for assumption pursuant to Section 5.15 of the Plan, (iii) is the subject of a separate motion or notice filed by the Debtor on or before the Confirmation Date seeking to assume, assume and assign, or reject pursuant to this Plan, the Confirmation Order or section 365 of the Bankruptcy Code, or (iv) is the subject of a pending Assumption Dispute. The Debtor reserves the right to modify the treatment of any particular executory contract or unexpired lease pursuant to this Plan.

(b) Subject to satisfaction of the conditions set forth in Section 8.1(a), resolution of any Assumption Dispute in accordance with Section 8.2 of the Plan, payment of any applicable Cure Amount, and the occurrence of the Effective Date, entry of the Confirmation Order shall constitute approval of the assumptions or rejections provided for in the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed or assumed and assigned pursuant to the Plan shall vest in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption, or applicable law, *provided that* the assumption of executory contracts and unexpired leases hereunder may include the assignment of certain of such contracts to Affiliates.

(c) Except as otherwise provided herein, in the Plan Supplement or otherwise agreed to by the Debtor and the applicable counterparty, each assumed executory contract or unexpired lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, without regard to whether such document is specifically listed in any notice of assumed contracts. Modifications, amendments, supplements, and restatements to prepetition executory contracts and unexpired leases that have been executed by the Debtor during the Chapter 11 Case 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.

## 8.2 **Determination of Assumption Disputes and Deemed Consent.**

(a) The Debtor shall file, as part of the Plan Supplement, and serve a notice on parties to executory contracts and unexpired leases to be assumed or assumed and assigned reflecting the Debtor's intention to assume or assume and assign the executory contract or unexpired lease in connection with the Plan and indicating that the Cure Amount shall be asserted against the Debtor or the Reorganized Debtor, as applicable, in the ordinary course of business.

(b) Upon assumption, Cure Amounts shall be paid by the Debtor or the Reorganized Debtor, as applicable, in the ordinary course, subject to all defenses and disputes the Debtor or the Reorganized Debtor may have with respect to the underlying executory contracts or unexpired leases, which the Debtor or the Reorganized Debtor may assert in the ordinary course. If there is an Assumption Dispute pertaining to assumption of an executory contract or unexpired lease, such dispute shall be heard by the Bankruptcy Court prior to such assumption being effective, *provided, however*, that the Debtor may settle any dispute regarding Cure Amounts or the nature thereof without any further notice to any party or any action, order, or approval of the Bankruptcy Court. For the avoidance of doubt, if the Debtor is unable to resolve an Assumption Dispute relating solely to the amount of a Cure Claim prior to the Confirmation Hearing, such Assumption Dispute may be scheduled to be heard by the Bankruptcy Court after the Confirmation Hearing. To the extent the Assumption Dispute relates solely to the Cure Amount, the Debtor may assume and/or assume and assign the applicable executory contract or unexpired lease prior to the resolution of the Assumption Dispute, *provided that* the Debtor reserves Cash in an amount

sufficient to pay the full amount reasonably asserted as the required cure payment by the non-Debtor counterparty to such contract or lease (or such lesser amount as may be fixed or estimated by the Bankruptcy Court or otherwise agreed to by such non-Debtor counterparty and the Debtor or the Reorganized Debtor). To the extent the Assumption Dispute is resolved or determined unfavorably to the Debtor or the Reorganized Debtor, as applicable, the Debtor or Reorganized Debtor, as applicable, may reject the applicable executory contract or unexpired lease after such determination.

(c) Any non-Debtor counterparty to an executory contract or unexpired lease that fails to object timely to the notice of the proposed assumption, assumption and assignment or sublease of such executory contract or unexpired lease shall be deemed to have assented to assumption, assumption and assignment or sublease of the applicable executory contract or unexpired lease notwithstanding any provision thereof that purports to (i) prohibit, restrict, restrain, or condition the transfer, assignment or sublease of such executory contract or unexpired lease (including provisions related to rights of first refusal, rights of first offer, tag rights, drag rights, or change of control fees or other like limitations), (ii) terminate or modify, or permit the termination or modification of, an executory contract or unexpired lease as a result of any direct or indirect transfer or assignment of the rights of the Debtor under such contract or lease or a change, if any, in the ownership or control as contemplated by the Plan, (iii) increase, accelerate, or otherwise alter any obligations or liabilities of the Debtor or the Reorganized Debtor under such executory contract or unexpired lease, or (iv) create or impose a Lien upon any property or asset of the Debtor or the Reorganized Debtor, as applicable. Each such provision shall be deemed to not apply to the assumption, assumption and assignment or sublease of such executory contract or unexpired lease pursuant to the Plan, and non-Debtor counterparties thereto that fail to object to the proposed assumption, assumption and assignment or sublease in accordance with the terms set forth in this Section 8.2(c) shall forever be barred and enjoined from objecting to the proposed assumption, assumption and assignment, or sublease, or to the validity of such assumption, assumption and assignment (including the provision of adequate assurance of future performance), or sublease, or taking actions prohibited by the foregoing on account of transactions contemplated by the Plan.

### 8.3 **Rejection.**

In the event that the rejection of an executory contract or unexpired lease hereunder results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a timely filed proof of Claim, shall be forever barred and shall not be enforceable against the Debtor or the Reorganized Debtor, or its Estate, properties or interests in property, unless a proof of Claim is filed with the Bankruptcy Court and served upon the Debtor or the Reorganized Debtor, as applicable, no later than 30 days after the Effective Date. The Confirmation Order shall constitute the Bankruptcy Court's approval of the rejection of all the Debtor's unexpired leases and executory contracts not otherwise explicitly assumed.

### 8.4 **Payment of Cure Amounts.**

Subject to resolution of any Assumption Dispute, all Cure Amounts relating to an executory contract or unexpired lease that is to be assumed by the Debtor or the Reorganized Debtor shall be satisfied by the Debtor or the Reorganized Debtor, as applicable, following assumption or assumption and assignment of the underlying executory contract or unexpired lease. Such Cure Amounts shall, in the discretion of the Debtor or the Reorganized Debtor, as applicable, be paid on the later of (i) the Effective Date and (ii) without acceleration in the ordinary course of business and according to the terms of the executory contract or unexpired lease. Assumption or assumption and assignment of any executory contract or unexpired lease pursuant to the Plan, or otherwise, shall, subject to satisfaction of the Cure Amount, result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest

composition or other bankruptcy-related defaults, arising under any assumed or assumed and assigned executory contract or unexpired lease at any time before the effective date of the assumption or assumption and assignment.

**8.5 Survival of the Debtor's Indemnification Obligations and Guarantees.**

Any obligations of the Debtor pursuant to its corporate charters, bylaws, or other organizational documents to indemnify current and former officers, directors, agents, and/or employees with respect to all present and future actions, suits, and proceedings against the Debtor or such directors, officers, agents, and/or employees, based upon any act or omission for or on behalf of the Debtor, shall not be discharged or impaired by confirmation of the Plan; *provided, however*, that the Reorganized Debtor shall not indemnify directors of the Debtor for any Claims or Causes of Action arising out of or relating to any act or omission that constitutes intentional fraud, gross negligence, or willful misconduct. Except as otherwise provided in the Plan Supplement, such obligations shall be deemed and treated as executory contracts to be assumed by the Debtor under the Plan and shall continue as obligations of the Reorganized Debtor. Any claim based on such obligations shall not be a Disputed Claim or subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

**8.6 Insurance Policies.**

Except as otherwise provided in the Plan Supplement, all insurance policies (including all directors' and officers' insurance policies and tail coverage liability insurance) pursuant to which the Debtor has any obligations in effect as of the date of the Confirmation Order shall be deemed and treated as executory contracts pursuant to the Plan and shall be assumed by the Debtor and the Reorganized Debtor and shall continue in full force and effect thereafter in accordance with their respective terms. All other insurance policies shall vest in the Reorganized Debtor.

**8.7 Intellectual Property Licenses and Agreements.**

Except as otherwise provided in the Plan Supplement, all intellectual property contracts, licenses, royalties, or other similar agreements to which the Debtor have any rights or obligations in effect as of the date of the Confirmation Order shall be deemed and treated as executory contracts pursuant to the Plan and shall be assumed by the Debtor and shall continue in full force and effect unless any such intellectual property contract, license, royalty, or other similar agreement otherwise is specifically rejected pursuant to a separate order of the Bankruptcy Court or is the subject of a separate rejection motion filed by the Debtor in accordance with Section 8.1 of the Plan. Unless otherwise noted hereunder, all other intellectual property contracts, licenses, royalties, or other similar agreements shall vest in the Reorganized Debtor and the Reorganized Debtor may take all actions as may be necessary or appropriate to ensure such vesting as contemplated herein.

**8.8 Reservation of Rights.**

(a) Neither the exclusion nor inclusion of any contract or lease by the Debtor on any exhibit, schedule, or other annex to the Plan or in the Plan Supplement, nor anything contained in the Plan, will constitute an admission by the Debtor that any such contract or lease is or is not in fact an executory contract or unexpired lease or that the Debtor or the Reorganized Debtor or their respective affiliates have any liability thereunder.

(b) Except as otherwise provided in the Plan, nothing in the Plan shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the

Debtor and the Reorganized Debtor under any executory or non-executory contract or any unexpired or expired lease.

(c) Nothing in the Plan shall increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or the Reorganized Debtor under any executory or non-executory contract or any unexpired or expired lease.

(d) If there is an Assumption Dispute or a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection under the Plan, the Debtor or the Reorganized Debtor, as applicable, shall have 60 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease by filing a notice indicating such altered treatment.

## **ARTICLE IX CONDITIONS PRECEDENT TO CONFIRMATION OF PLAN AND EFFECTIVE DATE**

### **9.1 Conditions Precedent to Confirmation of Plan.**

The following are conditions precedent to confirmation of the Plan:

- (a) the Bankruptcy Court shall have entered the Confirmation Order;
- (b) the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall be in form and substance consistent in all material respects with the Restructuring Support Agreements and shall have satisfied the RSA Definitive Document Requirements to the extent applicable under the Restructuring Support Agreements; and
- (c) none of the Restructuring Support Agreements shall have been terminated and no termination notice shall have been given that with the passage of time would cause or permit a termination of any Restructuring Support Agreement.

### **9.2 Conditions Precedent to Effective Date.**

The following are conditions precedent to the Effective Date of the Plan:

- (a) the Bankruptcy Court shall have entered the Confirmation Order and no stay thereof shall be in effect;
- (b) none of the Restructuring Support Agreements shall have been terminated and no termination notice shall have been given that with the passage of time would cause or permit a termination of any Restructuring Support Agreement;
- (c) the Debtor shall not be in default under the DIP Credit Facility or the DIP Order (or, to the extent that the Debtor is in default on the proposed Effective Date, such default shall have been waived by the applicable DIP Lenders or cured by the Debtor in a manner consistent with the DIP Credit Facility or the applicable DIP Order);
- (d) the Unsecured Exit Facility Documents and, if the Debtor determines on or before the Effective Date to enter into the Secured Exit Facility, the Secured Exit Facility Documents shall have been executed and delivered by all of the Entities that are parties thereto, and all conditions precedent (other than any conditions related to the occurrence of the Effective Date) to the consummation

of the applicable Exit Facility Documents shall have been waived or satisfied in accordance with the terms thereof, and the closing of the applicable Exit Facility Documents shall be deemed to occur concurrently with the occurrence of the Effective Date;

(e) the Definitive Documents shall (x) have satisfied the RSA Definitive Document Requirements (to the extent applicable) and be acceptable to the Tranche B DIP Lenders, (y) have been executed and delivered, and any conditions precedent contained to effectiveness therein have been satisfied or waived in accordance therewith or in accordance with the Restructuring Support Agreements (other than any conditions precedent related to the occurrence of the Effective Date), and (z) be in full force and effect and binding upon the relevant parties;

(f) all conditions precedent (other than any conditions related to the occurrence of the Effective Date) to the consummation of the New Stockholders' Agreement shall have been waived or satisfied in accordance with the terms thereof, and the closing of the New Stockholders' Agreement shall be deemed to occur concurrently with the occurrence of the Effective Date;

(g) all conditions precedent to the issuance of the New Common Stock, other than any conditions related to the occurrence of the Effective Date, shall have occurred;

(h) the payment in Cash in full of all DIP Reimbursement Claims;

(i) to the extent required under applicable non-bankruptcy law, the Amended Organizational Documents shall have been filed with the appropriate governmental authorities;

(j) all actions, documents (including the Definitive Documents), and agreements necessary to implement and consummate the Plan shall have been effected or executed and binding on all parties thereto;

(k) all governmental and third-party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan shall have been obtained, not be subject to unfulfilled conditions, and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on such transactions;

(l) the Confirmation Order has been recognized and granted full force and effect by the Philippine court pursuant to the Philippine Recognition Proceeding; and

(m) all unpaid Restructuring Expenses and all amounts payable by the Debtor pursuant to the DIP Order shall have been paid in Cash, to the extent invoiced at least four Business Days prior to the Effective Date.

### 9.3 **Waiver of Conditions Precedent.**

(a) Except as otherwise provided herein, all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action. Each of the conditions precedent in Section 9.1 and Section 9.2 of the Plan (except for Section 9.2(a)) may be waived in writing by the Debtor with the consent of the Tranche B DIP Lenders without leave of or order of the Bankruptcy Court, *provided, however*, that the condition in Section 9.2(e) of the Plan may be waived with respect to a particular Definitive Document only to the extent that every party that maintains a consent right over the subject Definitive Document as set forth in the Restructuring Support Agreements agrees to waive such

condition with respect to the subject Definitive Document, *provided, further*, that waiver of the conditions in Sections 9.2(c), (h) and (m) of the Plan shall require the consent of the DIP Agent at the direction of the Required Lenders under the DIP Credit Facility Documents.

(b) The stay of the Confirmation Order pursuant to Bankruptcy Rule 3020(e) shall be deemed waived by and upon the entry of the Confirmation Order, and the Confirmation Order shall take effect immediately upon its entry.

9.4 **Effect of Failure of a Condition.**

If the conditions listed in Section 9.2 of the Plan are not satisfied or waived in accordance with Section 9.3 of the Plan on or before the first Business Day that is more than 60 days after the date on which the Confirmation Order is entered or by such later date as set forth by the Debtor in a notice filed with the Bankruptcy Court prior to the expiration of such period, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall (a) constitute a waiver or release of any Claims against or any Interests in the Debtor or claims by the Debtor, (b) prejudice in any manner the rights of any Entity, or (c) constitute an admission, acknowledgement, offer, or undertaking by the Debtor, any of the Supporting Creditors, or any other Entity.

**ARTICLE X EFFECT OF CONFIRMATION OF PLAN.**

10.1 **Vesting of Assets.**

Except as otherwise provided herein, or in any agreement, instrument, or other document incorporated in the Plan (including the Restructuring Transactions), on the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all assets and property of the Estate shall vest in the Reorganized Debtor, free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided pursuant to the Plan, the Confirmation Order, or the Exit Facility Documents. On and after the Effective Date, the Reorganized Debtor may take any action, including the operation of its business; the use, acquisition, sale, lease and disposition of property; and the entry into transactions, agreements, understandings, or arrangements, whether in or other than in the ordinary course of business, and execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and papers or otherwise in connection with any of the foregoing, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as expressly provided herein. Without limiting the foregoing, the Reorganized Debtor may pay the charges that it incurs on or after the Effective Date for professional fees, disbursements, expenses, or related support services without application to the Bankruptcy Court.

10.2 **Binding Effect.**

As of the Effective Date, the Plan shall bind all holders of Claims against and Interests in the Debtor and its respective successors and assigns, notwithstanding whether any such holders were (a) Impaired or Unimpaired under the Plan, (b) deemed to accept or reject the Plan, (c) failed to vote to accept or reject the Plan, or (d) voted to reject the Plan.

10.3 **Discharge of Claims and Termination of Interests.**

Upon the Effective Date and in consideration of the Distributions to be made hereunder, except as otherwise expressly provided herein, each holder (as well as any representatives, trustees, or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtor, to the fullest extent permitted by section 1141

of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Upon the Effective Date, all such Entities shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in the Debtor against the Debtor, the Reorganized Debtor, or any of their assets or property, whether or not such holder has filed a proof of Claim and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

10.4 **Term of Injunctions or Stays.**

Unless otherwise provided herein, the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under section 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 later of the Effective Date and the date indicated in the order providing for such injunction or stay.

10.5 **Injunction.**

(a) **Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan in relation to any Claim or Interest extinguished, discharged or released pursuant to the Plan.**

(b) **Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtor and a holder of a Claim against or Interest in the Debtor, all Entities who have held, hold, or may hold Claims against or Interests in the Debtor (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action that will be or are extinguished, discharged, or released pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) on account of or in connection with or with respect to any such Claims or Interests or against or affecting the Released Parties or the property of any of the Released Parties, (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Released Parties or the property of any of the Released Parties, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Released Parties or the property of any of the Released Parties, (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Released Parties or the property of any of the Released Parties, except as contemplated or allowed by the Plan; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.**

(c) **By accepting Distributions pursuant to the Plan, each holder of an Allowed Claim or Interest extinguished, discharged, or released pursuant to the Plan shall be deemed to have affirmatively and specifically consented to be bound by the Plan, including, without limitation, the injunctions set forth in this Section 10.5.**

(d) **The injunctions in this Section 10.5 shall extend to any successors of the Debtor and the Reorganized Debtor and their respective property and interests in property.**

10.6 **Releases.**

(a) Releases by Debtor.

**Notwithstanding anything contained in the Plan to the contrary, pursuant to section 1123(b) of the Bankruptcy Code, on and after the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, effective as of the Effective Date and to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is confirmed by this Plan, the Released Parties shall be deemed released and discharged by the Debtor, the Reorganized Debtor, and the Estate, and any person seeking to exercise the rights of the Estate, including any successors to the Debtor or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, rights, Causes of Action, remedies, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether known or unknown, asserted or unasserted, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, the Reorganized Debtor, the Estate, or their affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the conduct of the Debtor's business, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any security of the Debtor or the Reorganized Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party, the Debtor's restructuring, the restructuring of any Claim or Interest before or during the Chapter 11 Case, the DIP Credit Facility Documents, the DIP Order, the Bridge Loan Documents, the Disclosure Statement, the Restructuring Support Agreements, any Restructuring Transactions and the Plan and related agreements, instruments, and other documents (including the Definitive Documents), and the negotiation, formulation, or preparation thereof, the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, including, without limitation, all Avoidance Actions; *provided that* nothing in this Section 10.6(a) shall be construed to release the Released Parties from gross negligence, willful misconduct or intentional fraud as determined by a Final Order.**

**Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the foregoing release, which includes by reference each of the related provisions and definitions contained in the Plan, and further, shall constitute the Bankruptcy Court's finding that such release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims released thereby; (3) in the best interests of the Debtor and all holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to the Debtor, the Reorganized Debtor, or the Estate asserting any Claim or Cause of Action released pursuant to such release.**

(b) Releases by Holders of Claims or Interests.

Notwithstanding anything contained in the Plan to the contrary, on and after the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, effective as of the Effective Date and to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is confirmed by this Plan, the Releasing Parties are deemed to have fully, conclusively, absolutely and irrevocably released and discharged the Released Parties from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, rights, Causes of Action, remedies, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether known or unknown, asserted or unasserted, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that any such Releasing Party would have been legally entitled to assert (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the conduct of the Debtor's business, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any security of the Debtor or the Reorganized Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party, the Debtor's restructuring, the restructuring of any Claim or Interest before or during the Chapter 11 Case, the DIP Credit Facility Documents, the DIP Order, the Bridge Loan Documents, the Disclosure Statement, the Restructuring Support Agreements, any Restructuring Transactions and the Plan and related agreements, instruments, and other documents (including the Definitive Documents), and the negotiation, formulation, or preparation thereof, the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, including, without limitation, all Avoidance Actions; *provided that* nothing in this Section 10.6(b) shall be construed to release the Released Parties from gross negligence, willful misconduct, or intentional fraud as determined by a Final Order.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the foregoing release, which includes by reference each of the related provisions and definitions contained in the Plan, and further, shall constitute the Bankruptcy Court's finding that such release is: (1) consensual; (2) essential to the confirmation of the Plan; (3) given in exchange for the good and valuable consideration provided by the Released Parties; (4) a good faith settlement and compromise of the Claims released thereby; (5) in the best interests of the Debtor and all holders of Claims and Interests; (6) fair, equitable, and reasonable; (7) given and made after due notice and opportunity for hearing; and (8) a bar to the Debtor, the Reorganized Debtor, or the Estate asserting any Claim or Cause of Action released pursuant to such release.

10.7 Exculpation.

To the extent permitted under 1125(e) of the Bankruptcy Code and New York Rules of Professional Conduct, notwithstanding anything herein to the contrary, and to the maximum extent permitted by other applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, remedy, loss, and liability for any claim in connection with or arising out of the administration of the Chapter 11 Case, the negotiation, formulation, preparation, and pursuit of the Disclosure Statement, the Restructuring Support Agreements, the

**DIP Credit Facility Documents, the DIP Order, the Bridge Loan Documents, the transactions relating to the Debtor's restructuring, the Plan, or the solicitation of votes for, or confirmation of, the Plan, the funding or consummation of the Plan (including the Plan Supplement), the Definitive Documents, the Restructuring Transactions, or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Distribution of any Securities issued or to be issued pursuant to the Plan, whether or not such Distribution occurs following the Effective Date, the occurrence of the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed under the Plan, except for actions determined by Final Order to constitute gross negligence, willful misconduct, or intentional fraud. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability. Nothing herein shall be deemed to be a release or waiver of the Reorganized Debtor's obligations under the Exit Facility Documents.**

**10.8 Retention of Causes of Action/Reservation of Rights.**

Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, including pursuant to Section 10.6(a) of the Plan, the DIP Order, or a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor shall retain and may enforce all rights to commence and pursue any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtor's rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or the Reorganized Debtor will not pursue any and all available Causes of Action against them. The Debtor and the Reorganized Debtor expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided herein.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, including pursuant to Section 10.6(a) of the Plan, the DIP Order, or a Bankruptcy Court order, the Reorganized Debtor expressly reserves all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the confirmation or consummation of the Plan. For the avoidance of doubt, in no instance will any Cause of Action preserved pursuant to this Section 10.8 include any claim or Cause of Action with respect to, or against, a Released Party.

In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action preserved pursuant to the first paragraph of this Section 10.8 that the Debtor may hold against any Entity shall vest in the Reorganized Debtor. The Reorganized Debtor, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtor shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court. For the avoidance of doubt, the Debtor and the Reorganized Debtor shall not retain any Claims or Causes of Action released pursuant to the Plan against the Released Parties or arising under chapter 5 of the Bankruptcy Code (except that such Claims or Causes of Action may be asserted as a defense to a Claim in connection with the claims reconciliation and objection procedures pursuant to section 502(d) of the Bankruptcy Code or otherwise).

10.9 **Solicitation of Plan.**

As of and subject to the occurrence of the Confirmation Date: (a) the Debtor shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation, and (b) the Debtor and its respective directors, officers, employees, affiliates, agents, financial advisors, investment bankers, professionals, accountants, and attorneys shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of any Securities under the Plan, and therefore are not, and on account of such offer, issuance, and solicitation will not be, liable at any time for any violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of any Securities under the Plan.

Notwithstanding anything herein to the contrary, as of the Effective Date, pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and each of its affiliates, agents, representatives, members, principals, equityholders (regardless of whether such interests are held directly or indirectly), officers, directors, managers, employees, advisors and attorneys shall be deemed to have solicited acceptance of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, and to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code, in the offer, issuance, sale, or purchase of a security offered or sold under the Plan, and shall not be liable to any Person on account of such solicitation or participation.

10.10 **Reimbursement or Contribution.**

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the Effective Date, such Claim shall be forever disallowed notwithstanding section 502(j) of the Bankruptcy Code, unless prior to the Effective Date (a) such Claim has been adjudicated as noncontingent, or (b) the relevant holder of a Claim has filed a noncontingent proof of claim on account of such Claim and a Final Order has been entered determining such Claim as no longer contingent.

10.11 **Recoupment.**

In no event shall any holder of a Claim be entitled to recoup such Claim against any Claim, right, or Cause of Action of the Debtor or the Reorganized Debtor, as applicable, unless such holder actually has performed such recoupment and provided notice thereof in writing to the Debtor on or before the Confirmation Date, notwithstanding any indication in any proof of claim or otherwise that such holder asserts, has, or intends to preserve any right of recoupment.

10.12 **Subordination Rights.**

Any Distributions to holders of Claims or Interests shall be received and retained free from any obligations to hold or transfer the same to any other holder and shall not be subject to levy, garnishment, attachment, or other legal process by any holder by reason of claimed contractual subordination rights. On the Effective Date, any such subordination rights shall be deemed waived, and the Confirmation Order shall constitute an injunction enjoining any Entity from enforcing or attempting to enforce any contractual, legal, or equitable subordination rights to property distributed under the Plan, in each case other than as provided in the Plan; *provided that* any such subordination rights shall be preserved in the event the Confirmation Order is vacated, the Effective Date does not occur in accordance with the terms hereunder or the Plan is revoked or withdrawn.

## ARTICLE XI RETENTION OF JURISDICTION.

### 11.1 Retention of Jurisdiction.

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain non-exclusive jurisdiction over all matters arising under, or arising in, or relating to the Chapter 11 Case or the Plan to the fullest extent legally permissible by 28 U.S.C. § 1334 to hear, and by 28 U.S.C. § 157 to determine, all proceedings in respect thereof, including for the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of executory contracts or unexpired leases, including Assumption Disputes, and the allowance, classification, priority, compromise, estimation, or payment of Claims resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date, including, any proceeding with respect to a Cause of Action;

(c) to ensure that Distributions to holders of Allowed Claims are accomplished as provided for in the Plan and the Confirmation Order and to adjudicate any and all disputes arising from or relating to Distributions under the Plan;

(d) to consider the allowance, classification, priority, compromise, estimation, or payment of any Claim or Interest, including any Administrative Expense Claims;

(e) to enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

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

(g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all Professional Fee Claims and any disputes related to Restructuring Expenses;

(i) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Restructuring Support Agreements, the Usage Stipulations (as defined in the Restructuring Support Agreements), the Rejection Stipulations (as defined in the Restructuring Support Agreements), the Soft Landing Stipulations (as defined in the Restructuring Support Agreements), the Super-Soft Landing Stipulations (as defined in the Restructuring Support Agreements), the Plan, the Plan Supplement, the Confirmation Order, any transactions or payments contemplated herein, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan;

(k) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(l) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(m) to hear, adjudicate, decide, or resolve any and all matters related to Article X of the Plan, including the releases, discharge, exculpations, and injunctions issued thereunder;

(n) to enforce all orders previously entered by the Bankruptcy Court;

(o) to resolve disputes concerning Disputed Claims or the administration thereof;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code, including in connection with or related to the Plan, the Disclosure Statement, the Confirmation Order, the Plan Supplement, or any document related to the foregoing;

(q) to enter a final decree closing the Chapter 11 Case;

(r) to recover all assets of the Debtor and property of the Estate, wherever located;

(s) to hear and determine any rights, Claims, or Causes of Action held by or accruing to the Debtor pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory; and

(t) to hear and resolve any dispute over the application to any Claim of any limit on the allowance of such Claim set forth in sections 502 or 503 of the Bankruptcy Code, other than defenses or limits that are asserted under non-bankruptcy law pursuant to section 502(b)(1) of the Bankruptcy Code; *provided that*, on and after the Effective Date and after the consummation of the following agreements or documents, the Bankruptcy Court shall not retain jurisdiction over matters arising out of or related to each of the Exit Facility Documents, the Amended Organizational Documents, and the New Stockholders' Agreement, and the Exit Facility Documents, the Amended Organizational Documents, and the New Stockholders' Agreement shall be governed by the respective jurisdictional provisions therein.

## 11.2 **Courts of Competent Jurisdiction.**

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

## **ARTICLE XII MISCELLANEOUS PROVISIONS.**

### 12.1 **Payment of Statutory Fees.**

On the Effective Date and thereafter as may be required, the Reorganized Debtor shall (i) pay all fees incurred pursuant to section 1930 of chapter 123 of title 28 of the United States Code,

together with interest, if any, pursuant to § 3717 of title 31 of the United States Code for the Debtor's case, and (ii) continue to file, or cause to be filed, with the Bankruptcy Court quarterly reports in accordance with the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees for Region 2*, until such time as a final decree is entered closing the Debtor's case, a Final Order converting the Debtor's case to a case under chapter 7 of the Bankruptcy Code is entered, or a Final Order dismissing the Debtor's case is entered.

#### 12.2 **Substantial Consummation of the Plan.**

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

#### 12.3 **Expedited Determination of Taxes.**

The Reorganized Debtor shall have the right to request an expedited determination under section 505(b) of the Bankruptcy Code with respect to tax returns filed, or to be filed, for any and all taxable periods of the Debtor through the Effective Date.

#### 12.4 **Exemption from Certain Transfer Taxes.**

Pursuant to section 1146 of the Bankruptcy Code, (a) the issuance, transfer or exchange of any Securities or instruments, (b) the creation, filing or recording of any Lien, mortgage, deed of trust, or other security interest, (c) the making, assignment, filing or recording of any lease or sublease or the making or delivery of any deed, bill of sale, or other instrument of transfer under, pursuant to, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan or the reinvesting, transfer, or sale of any real or personal property of the Debtor pursuant to, in implementation of or as contemplated in the Plan (whether to the Reorganized Debtor or otherwise), (d) the grant of Collateral under the Exit Facility Documents, and (e) the issuance, renewal, modification, or securing of indebtedness in furtherance of, or in connection with, the Plan, including the Confirmation Order, shall not constitute a "transfer under a plan" within the purview of section 1146 of the Bankruptcy Code and shall not be subject to or taxed under any law imposing any document recording tax, stamp tax, conveyance fee, or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax, or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city, or Governmental Unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

#### 12.5 **Amendments.**

(a) Plan Modifications. Subject to the terms of the Restructuring Support Agreements and with the consent of the Tranche B DIP Lenders, (i) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend, modify or supplement the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code and (ii) after entry of the Confirmation Order, the Debtor may, upon order of the Bankruptcy Court, amend, modify, or supplement the Plan in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, in each case without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Code may otherwise direct.

(b) Other Amendments. Subject to the Restructuring Support Agreements and with the consent of the Tranche B DIP Lenders, after the Confirmation Date, so long as such action does not materially adversely affect the treatment of holders of Claims or Interests hereunder, the Debtor may remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order with respect to such matters as may be necessary to carry out the purposes and effects of the Plan, and any holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan as amended, modified, or supplemented. Before the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement without further order or approval of the Bankruptcy Court; *provided* that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests and that any such technical adjustment or modification is consistent with the Restructuring Support Agreements, and *provided, further*, that the Debtor may not modify or seek to modify the treatment of the DIP Claims without the prior written consent of the Required Lenders (as defined in the DIP Credit Agreement).

**12.6 Effectuating Documents and Further Transactions.**

Each of the officers of the Reorganized Debtor is authorized, in accordance with his or her authority under the resolutions of the applicable board of directors or managers, to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

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

**12.7 Revocation or Withdrawal of Plan.**

Subject to the terms of the Restructuring Support Agreements, the Debtor reserves the right to revoke or withdraw the Plan prior to the Effective Date as to the Debtor. If the Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to the Debtor does not occur on the Effective Date, then, with respect to the Debtor: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing of or limiting an amount of any Claim or Interest or Class of Claims or Interests), assumption of executory contracts or unexpired leases affected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claim by or against, or any Interest in, the Debtor or any other Entity, (ii) prejudice in any manner the rights of the Debtor or any other Entity, or (iii) constitute an admission of any sort by the Debtor, any Supporting Creditor, any DIP Lender, the DIP Agent or any other Entity. This provision shall have no impact on the rights of the Supporting Creditors or the Debtor, as set forth in the Restructuring Support Agreements, or the DIP Lenders, DIP Agent or the Debtor, as set forth in the DIP Credit Facility Documents, in each case in respect of any such revocation or withdrawal.

**12.8 Severability of Plan Provisions.**

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, in each case at the

election and the request of the Debtor, shall have the power (subject to the Restructuring Support Agreements) to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (a) valid and enforceable pursuant to its terms, (b) integral to the Plan and may not be deleted or modified without the consent of the Debtor or the Reorganized Debtor (as the case may be), and (c) nonseverable and mutually dependent.

**12.9 Governing Law.**

Except to the extent that the Bankruptcy Code or other U.S. federal law is applicable, or to the extent an exhibit or schedule hereto, or a schedule in the Plan Supplement or a Definitive Document provides otherwise, the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof; *provided that* corporate or entity governance matters relating to the Debtor or the Reorganized Debtor shall be governed by the laws of the state or country of incorporation or organization of the Debtor or the Reorganized Debtor.

**12.10 Time.**

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

**12.11 Dates of Actions to Implement the Plan.**

In the event that any payment or act under the Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

**12.12 Immediate Binding Effect.**

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtor, the holders of Claims and Interests, the Released Parties, and each of their respective successors and assigns, including the Reorganized Debtor.

**12.13 Deemed Acts.**

Subject to and conditioned on the occurrence of the Effective Date, whenever an act or event is expressed under the Plan to have been deemed done or to have occurred, it shall be deemed to have been done or to have occurred without any further act by any party, by virtue of the Plan and the Confirmation Order.

12.14 **Successors and Assigns.**

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or permitted assign, if any, of each Entity.

12.15 **Entire Agreement.**

On the Effective Date, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

12.16 **Exhibits to Plan.**

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

12.17 **Reservation of Rights.**

The Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by the Debtor with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of the Debtor with respect to the holders of Claims or Interests prior to the Effective Date.

12.18 **Plan Supplement.**

After any of such documents included in the Plan Supplement are filed, copies of such documents shall be made available upon written request to the Debtor's counsel at the address above or by downloading such exhibits and documents from the Voting Agent's website at [www.kccllc.net/PAL](http://www.kccllc.net/PAL) or the Bankruptcy Court's website at <https://www.pacer.gov/>.

12.19 **Waiver or Estoppel.**

Each holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, secured or not subordinated by virtue of an agreement made with the Debtor or its counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, the Restructuring Support Agreements, or papers filed with the Bankruptcy Court prior to the Confirmation Date.

12.20 **Notices.**

To be effective, all notices, requests, and demands to or upon the Debtor, or the DIP Agent, as applicable, shall be in writing (including by electronic or facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

Philippine Airlines, Inc.  
PNB Financial Center  
President Diosdado Macapagal Avenue  
CCP Complex, Pasay City 1300  
Metro Manila, Philippines  
Attn: Nilo Thaddeus Rodriguez  
Email: nilo\_rodriguez@pal.com.ph

-and-

Debevoise & Plimpton LLP  
919 Third Avenue  
New York, New York 10022  
Attn: Jasmine Ball, Esq.  
Nick S. Kaluk, III, Esq.  
Elie J. Worenklein, Esq.  
Email: jball@debevoise.com  
nskaluk@debevoise.com  
eworenklein@debevoise.com

If to the DIP Agent:

Buona Sorte Holdings, Inc.  
19F BDO Plaza 8737 Paseo de Roxas, Makati City,  
Metro Manila, Philippines

with a copy to:

White & Case LLP  
1221 Avenue of the Americas  
New York, New York 10020  
Attention: Todd Wolynski, Esq.  
Richard Kebrdle, Esq.  
Andrew Zatz, Esq.  
Email: todd.wolynski@whitecase.com;  
rkebrdle@whitecase.com;  
azatz@whitecase.com

After the occurrence of the Effective Date, the Reorganized Debtor has authority to send a notice to Entities that in order to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entities must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the occurrence of the Effective Date, the Reorganized Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities that have filed such renewed requests.



**Exhibit A**

**List of Restructuring Support Agreements**

**RSAs entered into with Aircraft Counterparties – Operating Leases**

- RSA entered into with Aircraft MSN 6201 LLC and Aircraft MSN 6253 LLC
- RSA entered into with PP5012 Aircraft Leasing Limited and PP5103 Aircraft Leasing Limited
- RSA entered into with Pajun Aviation Leasing 1 Limited and Pajun Aviation Leasing 2 Limited
- RSA entered into with Pajun Aviation Leasing 3 Limited
- RSA entered into with Avation Pacific Leasing II Pte. Ltd.
- RSA entered into with CIT Aerospace International, SAF Leasing II (AOE 2) Limited, Avolon Aerospace AOE 95 Limited, CIT Group Finance (Ireland), HKAC Leasing 6291 (Ireland) Limited, Avolon Aerospace AOE 106 Limited, and Avolon Aerospace AOE 108 Limited
- RSA entered into with ECAF I 1482 DAC and ECAF I 6363 DAC
- RSA entered into with Fly Aircraft Holdings Twenty-One Ltd, Fly Aircraft Holdings Twenty-Two Ltd, Fly Aircraft Holdings Twenty-Six Ltd, and Fly Aircraft Holdings Twenty-Eight Ltd
- RSA entered into with Wilmington Trust SP Services (Dublin) Limited (“Castlelake”)
- RSA entered into with Wilmington Trust SP Services (Dublin) Limited (“Chorus”)
- RSA entered into with AWAS 1 Ireland Limited and AWAS 5371 Trust
- RSA entered into with DCAL 2 Leasing Limited and DCAL 1 Leasing Limited
- RSA entered into with Celestial Aviation Trading 68 Limited, Celestial EX-IM Trading 1 Limited, LAF Leasing Ireland 3 Limited, and Celestial Aviation Trading 100 Limited
- RSA entered into with Nanshi Aviation Leasing Limited
- RSA entered into with HAITONG Unitrust No. 3 Limited and HAITONG Unitrust No. 4 Limited
- RSA entered into with JPL Stratos Leasing 1 Limited
- RSA entered into with JPA No. 112 Co., Ltd., and DVB Bank SE, Singapore Branch
- RSA entered into with Macquarie Airfinance Acquisitions (UK) Ltd
- RSA entered into with Orix Aviation Systems Limited
- RSA entered into with RRPf Engine Leasing Limited
- RSA entered into with SMBC Aviation Capital Limited

- RSA entered into with TrueNoord Pinatubo Limited
- RSA entered into with Nordic Aviation Leasing Twenty Three Pte. Ltd. and Nordic Aviation Leasing Twenty Four Pte. Ltd.

RSAs entered into with Aircraft Counterparties – Finance Leases

- RSA entered into with BDO Unibank, Inc.- Trust and Investments Group, Ascend Aircraft Leasing Limited I, Ascend Aircraft Leasing Limited II, Ascend Aircraft Leasing Limited III, BDO Unibank, Inc., and BDO Capital & Investment Corporation
- RSA entered into with Cathay United Bank, Co., Ltd. and Prime Aviation Leasing
- RSA entered into with China Banking Corporation, China Banking Corporation – Trust and Asset Management Group, Pioneer Aircraft Leasing I Limited, Pioneer Aircraft Leasing II Limited, and Pioneer Aircraft Leasing III Limited
- RSA entered into with JA Mitsui Leasing, Ltd. and Paragon Aircraft Leasing Limited
- RSA entered into with MUFG Bank, Ltd., Singapore Branch, and Peak Aircraft Leasing Limited II
- RSA entered into with Ascend Aircraft Leasing Limited IV and PK AirFinance S.à r.l.
- RSA entered into with Peak Aircraft Leasing Limited I and PK AirFinance S.à r.l.
- RSA entered into with Premiere Aero Leasing Limited and PK AirFinance S.à r.l.
- RSA entered into with Paramount Aircraft Leasing Limited and PK AirFinance S.à r.l. (“Paramount 2”)
- RSA entered into with Philippine National Bank, Phoenix Aircraft Leasing Limited, and Prima Aircraft Leasing Limited
- RSA entered into with Pacific Aircraft Leasing (2012) LLC, Pacific Aircraft Leasing (2012) Trust, Porto Aircraft Leasing (2012) LLC, Porto Aircraft Leasing (2012) Trust, Penta Aircraft Leasing (2013) LLC, Penta Aircraft Leasing (2013) Trust, Wilmington Trust Company, Wells Fargo Trust Company, National Association, and Export Import Bank of the United States
- RSA entered into with Alhena Ltd. and BNP Paribas (Singapore branch)
- RSA entered into with Paramount Aircraft Leasing Limited and PK AirFinance S.à r.l. (“Paramount 1”)

RSAs entered into with Original Equipment Manufacturers

- RSA entered into with Airbus S.A.S.
- RSA entered into with Rolls Royce plc
- RSA entered into with IAE International Aero Engines AG and International Aero Engines, LLC

RSAs entered into with Local Banks

- RSA entered into with Asia United Banking Corporation
- RSA entered into with Union Bank of the Philippines
- RSA entered into with Industrial and Commercial Bank of China Limited – Manila Branch

**Exhibit B**

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE SOUTHERN DISTRICT OF NEW YORK**

In re:

PHILIPPINE AIRLINES, INC.,<sup>1</sup>

Debtor.

Chapter 11

Case No. 21-11569 (SCC)

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**CHAPTER 11 PLAN OF REORGANIZATION OF PHILIPPINE AIRLINES, INC.**

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*Counsel for Debtor and Debtor in Possession*

Dated: ~~November 9~~December 3, 2021

New York, New York

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<sup>1</sup> The Debtor in this chapter 11 case, along with its registration number in the Philippines, is Philippine Airlines, Inc. Philippine Securities and Exchange Commission Registration No. PW 37. The Debtor's corporate headquarters is located at PNB Financial Center, President Diosdado Macapagal Avenue, CCP Complex, Pasay City 1300, Metro Manila, Philippines.

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Philippine Airlines, Inc. (the “Debtor”) proposes the following chapter 11 plan of reorganization pursuant to section 1121(a) of title 11 of the United States Code.

## ARTICLE I DEFINITIONS, INTERPRETATION AND CONSENTS.

**A. Definitions.** The following terms shall have the respective meanings specified below:

1.1 **Administrative Expense Claim** means any Claim for costs or expenses of administration of the Chapter 11 Case incurred after the Petition Date and through the Effective Date under sections 503(b), 507(a)(2), and 507(b) of the Bankruptcy Code that have not already been paid by the Debtor, including (a) any actual and necessary costs and expenses of preserving the Estate, (b) any actual and necessary costs and expenses of operating the Debtor’s business, (c) any indebtedness or obligations incurred or assumed by the Debtor, as debtor in possession, during the Chapter 11 Case, including for the acquisition or lease of property or an interest in property or the performance of services, (d) the DIP Claims, (e) any compensation and reimbursement of expenses to the extent allowed under sections 330 or 503 of the Bankruptcy Code, and (f) Professional Fee Claims.

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

1.3 **Allowed** means, with reference to any Claim or Interest, a Claim or Interest (a) arising on or before the Effective Date as to which (i) no objection to allowance or priority, and no request for estimation or other challenge, including pursuant to section 502(d) of the Bankruptcy Code or otherwise, has been interposed and not withdrawn within the applicable period fixed by the Plan or applicable law, or (ii) any objection or dispute has been determined in favor of the holder of the Claim or Interest by a Final Order, (b) that is compromised, settled, or otherwise resolved pursuant to the authority of the Debtor or the Reorganized Debtor, (c) as to which the liability of the Debtor or the Reorganized Debtor, as applicable, and the amount thereof are determined by a Final Order of a court of competent jurisdiction, or (d) expressly allowed hereunder or pursuant to a Final Order; *provided* that notwithstanding the foregoing, the Reorganized Debtor shall retain all available claims and defenses with respect to Allowed Claims that are Reinstated or otherwise Unimpaired pursuant to the Plan.

1.4 **Amended Organizational Documents** means the forms of certificates of incorporation, certificates of formation, or other forms of organizational documents and bylaws for the Reorganized Debtor.

1.5 **Amendment Agreements** has the meaning ascribed to ~~it~~, as applicable, the term “Amendment Agreements”, “Lease Amendment Agreements”, or “Agreement Amendments” in the Restructuring Support Agreements.

1.6 **Assumption Dispute** means an objection or dispute relating to assumption of an executory contract or unexpired lease pursuant to section 365 of the Bankruptcy Code, including to any Cure Amount or adequate assurance of future performance under an executory contract or unexpired lease to be assumed, which objection or dispute has been timely filed or interposed in accordance with the Plan and applicable law and has not been withdrawn or determined by a Final Order.

1.7 **Avoidance Action** means any and all actual or potential claims and causes of action to avoid a transfer of property or an obligation incurred by the Debtor pursuant to any applicable section of the Bankruptcy Code, including sections 502, 510, 542, 544, 545, 547, 553 and 724(a) of the

Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.

1.8 **Bankruptcy Code** means title 11 of the United States Code, 11 U.S.C. § 101, et seq., as now in effect or hereafter amended from time to time, as applicable to the Chapter 11 Case.

1.9 **Bankruptcy Court** means the United States Bankruptcy Court for the Southern District of New York having subject matter jurisdiction over the Chapter 11 Case and, to the extent of any reference withdrawal made under section 157(d) of title 28 of the United States Code, the District Court having subject matter jurisdiction over the Chapter 11 Case under section 157 of title 28 of the United States Code.

1.10 **Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code and any Local Bankruptcy Rules of the Bankruptcy Court, in each case, as amended from time to time and applicable to the Chapter 11 Case.

1.11 **Benefit Plans** means (a) each “employee benefit plan,” as defined in section 3(3) of the Employee Retirement Income Security Act of 1974, as amended, and (b) any other pension, retirement, bonus, incentive, health, life, disability, group insurance, vacation, holiday and fringe benefit plan, program, contract, or arrangement (whether written or unwritten) maintained, contributed to, or required to be contributed to, by the Debtor for the benefit of any of its current or former employees or independent contractors, other than those that entitle employees to, or that otherwise give rise to, Interests, or consideration based on the value of Interests, in the Debtor, which, except as otherwise provided in the Plan Supplement, shall be assumed by the Debtor on the Effective Date.

1.12 **Bridge Lender** has the meaning ascribed to it in the DIP Order.

1.13 **Bridge Loan Documents** has the meaning ascribed to it in the DIP Order.

1.14 **Business Day** means any day other than a Saturday, a Sunday, “legal holiday” as such term is defined in Bankruptcy Rule 9006(a) or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

1.15 **Cash** means legal tender of the United States of America.

1.16 **Causes of Action** means, without limitation, any and all actions, proceedings, causes of action, controversies, liabilities, obligations, rights, rights of setoff, recoupment rights, suits, damages, judgments, accounts, defenses, offsets, powers, privileges, licenses, franchises, claims, Avoidance Actions, counterclaims, cross-claims, affirmative defenses, and demands of any kind or character whatsoever, whether known or unknown, asserted or unasserted, reduced to judgment or otherwise, liquidated or unliquidated, fixed or contingent, matured or unmatured, disputed or undisputed, secured or unsecured, or assertable directly or derivatively, existing or hereafter arising, in contract or in tort, in law, in equity, or otherwise, whether arising under the Bankruptcy Code or any applicable nonbankruptcy law, 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 Case, including through the Effective Date. Without limiting the generality of the foregoing, when referring to Causes of Action of the Debtor or its Estate, Causes of Action shall include (a) all rights of setoff, counterclaim, or recoupment and claims on contracts or for breaches of duties imposed by law or equity, (b) claims (including Avoidance Actions) pursuant to section 362, and chapter 5 of the Bankruptcy Code including sections 510, 542, 543, 544

through 550, or 553, and (c) claims and defenses such as fraud, mistake, duress, usury, and any other defenses set forth in section 558 of the Bankruptcy Code.

1.17 **Chapter 11 Case** means the case under chapter 11 of the Bankruptcy Code commenced by the Debtor on the Petition Date in the Bankruptcy Court and styled *In re Philippine Airlines, Inc.*, Ch. 11 Case No. 21-11569 (SCC).

1.18 **Claim** has the meaning set forth in section 101(5) of the Bankruptcy Code, as against ~~any~~the Debtor.

1.19 **Class** means any group of Claims or Interests classified herein pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

1.20 **Collateral** means any asset of the Estate that is subject to a Lien securing the payment or performance of a Claim, which Lien is valid, perfected and enforceable, and has not been avoided under the Bankruptcy Code or applicable nonbankruptcy law.

1.21 **Confirmation Date** means the date on which the Bankruptcy Court enters the Confirmation Order within the meaning of the Bankruptcy Rules 5003 and 9021.

1.22 **Confirmation Hearing** means the hearing to be held by the Bankruptcy Court to consider approval of the Disclosure Statement and confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

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

1.24 **Creditor** has the meaning set forth in section 101(10) of the Bankruptcy Code.

1.25 **Cure Amount** means the amount of Cash or other property the Debtor must distribute (as modified by the applicable counterparty, the Debtor may agree or the Bankruptcy Court may order), as necessary, to (a) cure a monetary default as required by section 365(b)(1) of the Bankruptcy Code by the Debtor in accordance with the terms of an executory contract or unexpired lease of the Debtor, and (b) permit the Debtor to assume or assume and assign such executory contract or unexpired lease under section 365(a) of the Bankruptcy Code.

1.26 **Customer Claim** means any Claim against the Debtor asserted by a customer arising out of or related to disputes or litigation involving the Debtor's ordinary course airline operations, including disputed refunds, baggage damage and ticket refunds.

1.27 **Debtor** has the meaning set forth in the introductory paragraph of the Plan.

1.28 **Debtor in Possession** means the Debtor in its capacity as debtor in possession in the Chapter 11 Case pursuant to sections 1101, 1107(a), and 1108 of the Bankruptcy Code.

1.29 **Definitive Documents** means the documents (including any related orders, pleadings, agreements, supplements, instruments, schedules, or exhibits) that are described in or contemplated by the Restructuring Support Agreements or the Plan and that are otherwise reasonably necessary or advisable to implement the Restructuring and the Plan, including: (i) the Plan; (ii) the Plan Supplement; (iii) the Disclosure Statement; (iv) the Disclosure Statement Order, (v) any motion seeking the approval of the adequacy of the Disclosure Statement, the solicitation of the Plan, and/or confirming the Plan;

(vi) the Confirmation Order; (vii) the materials related to the solicitation of the Plan; (viii) the DIP Order; (ix) the Exit Facility Documents; (x) Amended Organizational Documents; (xi) the New Stockholders' Agreement; and (xii) the [RSA Assumption](#) Order ~~approving the Restructuring Support Agreements.~~

1.30 **DIP Order** means the *Final Order (a) Authorizing the Debtor to Obtain Postpetition Financing; (b) Granting Liens and Superpriority Administrative Expense Claims; (c) Granting Adequate Protection to the Bridge Lender; (d) Modifying the Automatic Stay; and (e) Granting Related Relief* entered by the Bankruptcy Court on September 30, 2021 [Docket No. 123].

1.31 **DIP Credit Agreement** means that certain Debtor-in-Possession Credit Agreement, dated September 9, 2021 by and among Philippine Airlines, Inc., the DIP Lenders and the DIP Agent, and all exhibits, amendments, and supplements thereto.

1.32 **DIP Agent** means Buona Sorte Holdings, Inc., solely in its capacity as agent under the DIP Credit Agreement, and its successors and permitted assigns.

1.33 **DIP Claims** means all Claims arising under or related to the DIP Credit Facility Documents or the DIP Order.

1.34 **DIP Credit Facility Documents** means the DIP Credit Agreement and all other Loan Documents (as defined in the DIP Credit Agreement), in each case as amended, restated, amended and restated, modified, or supplemented from time to time.

1.35 **DIP Lenders** means the DIP Tranche A Lenders and the DIP Tranche B Lenders.

1.36 **DIP Reimbursement Claims** means a Claim against the Debtor pursuant to section 9.4(a) of the DIP Credit Agreement and/or paragraph 17 of the DIP Order.

1.37 **DIP Tranche A Claim** means a Claim arising from any Tranche A Term Loan (as defined in the DIP Credit Agreement), including, for the avoidance of doubt, all accrued and unpaid interest, fees, costs, premiums and expenses thereon (other than DIP Reimbursement Claims).

1.38 **DIP Tranche B Claim** means a Claim arising from any Tranche B Term Loan (as defined in the DIP Credit Agreement), including, for the avoidance of doubt, all accrued and unpaid interest, fees, costs, premiums and expenses thereon (other than DIP Reimbursement Claims).

1.39 **DIP Tranche A Lenders** has the meaning ascribed to "Tranche A Lenders" under the DIP Credit Agreement.

1.40 **DIP Tranche B Lenders** has the meaning ascribed to "Tranche B Lenders" under the DIP Credit Agreement.

1.41 **Disallowed** means, with respect to any Claim or Interest, that such Claim or Interest (a) has been determined by a Final Order or specified in a provision of the Plan not to be Allowed, or (b) has been agreed to by the holder of such Claim or Interest and the Debtor to be equal to \$0 or to be expunged.

1.42 **Disbursing Agent** means any Entity (including the Debtor or Reorganized Debtor, as applicable, that acts in such a capacity) in its capacity as a disbursing agent under Article VI of the

Plan, including, without limitation, the DIP Agent, to the extent the DIP Agent makes or facilitates distributions as Servicer under the Plan.

1.43 **Disclosure Statement** means the disclosure statement for the Plan, as approved by the ~~Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code, including all exhibits and schedules thereto filed by the Debtor with the Bankruptcy Court, as thereafter amended, supplemented, or modified in accordance with applicable law.~~ Disclosure Statement Order.

1.44 **Disclosure Statement Order** means the ~~order of the Bankruptcy Court approving~~ Order (A) Approving the Disclosure Statement pursuant to section 1125 of; (B) Approving Solicitation Procedures; (C) Approving Forms of Ballots; (D) Scheduling Confirmation Hearing; and (E) Establishing Notice and Objection Procedures entered by the Bankruptcy Code Court on November 12, 2021 [Docket No. 259].

1.45 **Disputed** means, with respect to a Claim or Interest, that (a) such Claim or Interest is neither Allowed nor Disallowed under the Plan or a Final Order, nor deemed Allowed under sections 502, 503, or 1111 of the Bankruptcy Code or (b) the Debtor or any party in interest has interposed a timely objection or request for estimation, and such objection or request for estimation has not been withdrawn or determined by a Final Order. If the Debtor disputes only a portion of a Claim, such Claim shall be deemed Allowed in any amount the Debtor does not dispute, and Disputed as to the balance of such Claim.

1.46 **Distribution** means any initial or subsequent payment or transfer under the Plan.

1.47 **Distribution Record Date** means, except as otherwise provided in the Plan or designated by the Bankruptcy Court, the Effective Date.

1.48 **Effective Date** means the date following entry of the Confirmation Order on which all conditions to the effectiveness of the Plan set forth in Article IX of the Plan have been satisfied or waived in accordance with the terms of the Plan and the Plan becomes effective.

1.49 **Employee Arrangements** has the meaning set forth in section 5.13 of the Plan.

1.50 **Employee Claim** means any Claim against the Debtor by a current or former employee of the Debtor that arose in the ordinary course of business on account of such employee's employment with the Debtor or services provided to the Debtor.

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

1.52 **Estate** means the estate of the Debtor created under section 541 of the Bankruptcy Code.

1.53 **Exchange Act** means the Securities Exchange Act of 1934, as amended.

1.54 **Exculpated Parties** means each of the following solely in their capacities as such: (a) the Debtor; (b) the Reorganized Debtor; (c) the DIP Lenders; (d) the DIP Agent; (e) the Bridge Lender and (f) with respect to each of (a) through (e), to the extent employed in such capacities on or after the Petition Date, each of their respective directors, officers, partners, managers, trustees, assigns, employees, agents, advisory board members, attorneys, financial advisors, investment bankers, accountants, consultants, and other professionals or representatives.

1.55 **Existing Equity** means any equity interests in the Debtor pursuant to the Debtor's certificate of incorporation or otherwise that is issued and outstanding as of the Petition Date.

1.56 **Exit Facilities** means the Secured Exit Facility (if any) and the Unsecured Exit Facility.

1.57 **Exit Facility Documents** means the Secured Exit Facility Documents (if any) and the Unsecured Exit Facility Documents, as applicable.

1.58 **Final Order** means an order or judgment of a court of competent jurisdiction that has been entered on the docket maintained by the clerk of such court, which has not been reversed, vacated or stayed and as to which (a) the time to appeal, petition for *certiorari*, or move for a new trial, reargument or rehearing has expired and as to which no appeal, petition for *certiorari*, or other proceedings for a new trial, reargument, or rehearing shall then be pending, or (b) if an appeal, writ of *certiorari*, new trial, reargument, or rehearing thereof has been sought, such order or judgment shall have been affirmed by the highest court to which such order was appealed, or *certiorari* shall have been denied, or a new trial, 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, reargument, or rehearing shall have expired; *provided* that no order or judgment shall fail to be a "Final Order" solely because of the possibility that a motion under Rules 59 or 60 of the Federal Rules of Civil Procedure or any analogous Bankruptcy Rule (or any analogous rules applicable in another court of competent jurisdiction) or sections 502(j) or 1144 of the Bankruptcy Code has been or may be filed with respect to such order or judgment.

1.59 **General Unsecured Claim** means any Claim against the Debtor as of the Petition Date that is neither secured by a Lien on Collateral nor entitled to priority under the Bankruptcy Code or any order of the Bankruptcy Court (other than an Intercompany Claim, an Employee Claim, a Customer Claim and a General Unsecured Trade Claim). For the avoidance of doubt, General Unsecured Claims include Unsecured Notes Claims and General Unsecured Claims, if any, held by Supporting Creditors.

1.60 **General Unsecured Trade Claim** means any Claim that arose in the ordinary course of business on account of goods and services provided to the Debtor held by a trade creditor, vendor, supplier, service provider, independent contractor or professional that will be providing such services or goods to the Reorganized Debtor post-Effective Date. For the avoidance of doubt, General Unsecured Trade Claims include General Unsecured Trade Claims, if any, held by Supporting Creditors to the extent set forth in such Supporting Creditor's applicable Restructuring Support Agreement.

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

1.62 **Impaired** means, with respect to a Claim, Interest, or Class of Claims or Interests, "impaired" within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

1.63 **Intercompany Claim** means any Claim between the Debtor and its affiliates.

1.64 **Interest** means any equity interest in the Debtor, including, all issued, unissued, authorized or outstanding shares of stock, preferred stock, membership interests, other instruments evidencing an ownership interest, or equity security in the Debtor, whether or not transferable, and any option, warrant, right to purchase or acquire any such interests at any time, or any other interest that is exercisable, convertible or exchangeable into equity of the Debtor, contractual or otherwise, including equity or equity-based incentives, grants, or other instruments issued, granted or promised to be granted

to current or former employees, directors, officers, or contractors of the Debtor to acquire any such interests in the Debtor that existed immediately before the Effective Date.

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

1.66 **New Board** means the initial board of directors of the Reorganized Debtor to be selected in accordance with Section 5.10 of the Plan.

1.67 **New Common Stock** means the shares of common stock, par value \$.001 per share, of Reorganized Debtor authorized pursuant to its certificate of incorporation, as included in the Plan Supplement.

1.68 **New Stockholders' Agreement** means that certain shareholders' agreement, in substantially the form to be filed as part of the Plan Supplement, effective as of the Effective Date, to which all parties receiving New Common Stock (and all persons to whom such parties may sell or transfer their New Common Stock in the future and all persons who purchase or acquire the New Common Stock in future transactions) shall be required to become or shall be deemed parties.

1.69 **Other Secured Claim** means a Claim, other than a DIP Claim, that is (a) secured by a Lien on Collateral, which lien is valid, perfected, and enforceable under applicable law or by reason of a Final Order, to the extent of the value of such Collateral as (i) set forth in the Plan, (ii) agreed to by the holder of such Claim and the Debtor or the Reorganized Debtor, as applicable, or (iii) determined by a Final Order in accordance with section 506(a) of the Bankruptcy Code, or (b) secured by the amount of any right of setoff of the holder thereof in accordance with section 553 of the Bankruptcy Code.

1.70 **PAL Holdings** means PAL Holdings, Inc.

1.71 **Parent Interests** means any Interest in PAL Holdings.

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

1.73 **Petition Date** means the date on which the Debtor commenced its Chapter 11 Case.

1.74 **Philippine Recognition Proceeding** means the proceeding commenced before the Philippine Court by John F. Reid, as foreign representative of the Debtor, on September 24, 2021, under the Philippines Financial Rehabilitation and Insolvency Act, seeking, among other things, (i) recognition of the Chapter 11 Case as a "foreign proceeding"; (ii) recognition of John F. Reid as the foreign representative of the Debtor; (iii) recognition of certain orders granted by the Bankruptcy Court in the Chapter 11 Case; and (iv) a stay of all proceedings against the Debtor.

1.75 **Plan** means this chapter 11 plan or reorganization, including all appendices, exhibits, schedules, and supplements hereto (including any appendices, schedules, and supplements to the Plan contained in the Plan Supplement), as the same may be amended, supplemented, or modified from time to time in accordance with the provisions of the Bankruptcy Code, the terms hereof, and the terms of the Restructuring Support Agreements.

1.76 **Plan Supplement** means the forms of certain documents, schedules, and exhibits effectuating the transactions contemplated in the Plan, which are to be filed with the Clerk of the Bankruptcy Court not later than seven calendar days prior to the deadline to object to the Plan, including, (a) ~~a commitment letter for the Secured Exit Facility, (b) the~~ the Amended Organizational Documents (to the extent such Amended Organizational Documents reflect material changes from the

Debtor's existing organizational documents and bylaws), (eb) the New Stockholders' Agreement, (ec) a list of retained Causes of Action, (ed) Schedule of Assumed Contracts and Leases, (fe) Schedule of Rejected Contracts and Leases, and (gf) to the extent known, information required to be disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code; *provided* that through the Effective Date, the Debtor shall have the right to amend the Plan Supplement and any schedules, exhibits, or amendments thereto, in accordance with the terms of the Plan and the Restructuring Support Agreements; *provided, further*, that the Plan Supplement and each document thereunder (and any amendment or supplement thereto) shall be acceptable to the Debtor and the DIP Tranche B Lenders.

1.77 **Priority Non-Tax Claim** means any Claim other than an Administrative Expense Claim or a Priority Tax Claim, entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code.

1.78 **Priority Tax Claim** means any secured Claim or unsecured Claim of a Governmental Unit of the kind entitled to priority in payment as specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

1.79 **Professional Fee Claim** means a Claim for professional services rendered or costs incurred on or after the Petition Date through the Effective Date by professional persons retained under sections 327, 328, 330 or 1103 of the Bankruptcy Code in ~~these~~this Chapter 11 Case by an order of the Bankruptcy Court, in each case to the extent such fees and expenses have not been paid or are not disallowed pursuant to an order of the Bankruptcy Court.

1.80 **Pro Rata** means the proportion that an Allowed Claim or Interest in a particular Class bears to the aggregate amount of Allowed Claims or Interests in that Class, or the proportion that Allowed Claims or Interests in a particular Class bear to the aggregate amount of Allowed Claims and Disputed Claims or Allowed Interests and Disputed Interests in a particular Class and other Classes entitled to share in the same recovery as such Class under the Plan.

1.81 **Reinstate, Reinstated, or Reinstatement** means (a) leaving unaltered the legal, equitable, and contractual rights to which a Claim or Interest entitles the holder of such Claim or Interest in accordance with section 1124 of the Bankruptcy Code, or (b) if applicable under section 1124 of the Bankruptcy Code: (i) curing all prepetition and postpetition defaults other than defaults relating to the insolvency or financial condition of the Debtor or its status as a debtor under the Bankruptcy Code; (ii) reinstating the maturity date of the Claim; (iii) compensating the holder of such Claim for damages incurred as a result of its reasonable reliance on a contractual provision or such applicable law allowing the Claim's acceleration; and (iv) not otherwise altering the legal, equitable or contractual rights to which the Claim entitles the holder thereof.

1.82 **Related Parties** means with respect to any Released Party, such entities' predecessors, successors and assigns (whether by operation of law or otherwise) subsidiaries, current and former affiliates, managed accounts or funds, and all of their respective current and former officers, directors, principals, shareholders (and any fund managers, fiduciaries or other agents of shareholders with any involvement related to the Debtor), members, partners, employees, agents, advisory board members, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, management companies, fund advisors and other professionals, and such entities' respective heirs, executors, estates, servants and nominees.

1.83 **Released Parties** means each of, and solely in its capacity as such, (a) the Debtor or the Reorganized Debtor, (b) the DIP Lenders, (c) the DIP Agent, (d) the Bridge Lender and (e) the Related Parties for each of the foregoing (in each case only in their capacity as such).

1.84 **Releasing Parties** means each of, and solely in its capacity as such, (a) the Debtor or the Reorganized Debtor, (b) the DIP Lenders, (c) the DIP Agent, (d) the Bridge Lender, (e) the Supporting Creditors, and (f) all Holders of Claims or Interests (i) who vote to accept the Plan, (ii) who are Unimpaired under the Plan and do not opt out of granting the releases herein, (iii) whose vote to accept or reject the Plan is solicited but do not vote either to accept or to reject the Plan and do not opt out of granting the releases herein, or (iv) who vote to reject the Plan but do not opt out of granting the releases herein.

1.85 **Reorganized Debtor** means the Debtor, as reorganized on the Effective Date in accordance with the Plan, including any newly-formed Entity that is a transferee or successor thereto by merger, consolidation, transfer or otherwise pursuant to the Restructuring Transactions.

1.86 **Restructuring** has the meaning ascribed to it in the Restructuring Support Agreements.

1.87 **Restructuring Expenses** means the reasonable and documented fees and expenses incurred by the Supporting Creditors that the Debtor has agreed to reimburse in accordance with the Restructuring Support Agreements.

1.88 **Restructuring Support Agreements** means the various Restructuring Support Agreements by and among the Debtor and the parties thereto, as may be amended, supplemented, or modified from time to time in accordance with the terms thereof. A list of the Restructuring Support Agreements, which were approved by the Bankruptcy Court ~~on October 1, 2021 [Docket No. 130]~~, pursuant to the [RSA Assumption Order](#) is attached to the Plan as **Exhibit A**.

1.89 **Restructuring Term Sheet** means that certain term sheet attached to the *Notice of Filing of Amended Plan Term Sheet* [Docket No. 84], and filed with the Bankruptcy Court on September 21, 2021.

1.90 **Restructuring Transactions** has the meaning set forth in Article V of the Plan.

[1.91 RSA Assumption Order means the Order Authorizing the Debtor to Assume, and Perform Under, Restructuring Support Agreement entered by the Bankruptcy Court on October 1, 2021 \[Docket No. 130\].](#)

[1.92](#) ~~1.91~~ **RSA Definitive Document Requirements** means those Definitive Documents that shall be subject to the respective consent rights of the Debtor and the applicable Supporting Creditors as set forth in the Restructuring Support Agreements.

[1.93](#) ~~1.92~~ **Schedule of Assumed Contracts and Leases** means the schedule of executory contracts and unexpired leases to be assumed, and, if applicable, assigned, by the Debtor, which shall be in form and substance acceptable to the Tranche B DIP Lenders, to be filed as part of the Plan Supplement.

[1.94](#) ~~1.93~~ **Schedule of Rejected Contracts and Leases** means the schedule of executory contracts and unexpired leases to be rejected by the Debtor, which shall be in form and substance acceptable to the Tranche B DIP Lenders, to be field as part of the Plan Supplement.

[1.95](#) ~~1.94~~ **Secured Exit Facility** means, [if the Debtor determines to enter into such facility on or prior to the Effective Date](#), that certain senior secured asset-based credit facility to be provided to the

Reorganized Debtor on or after the Effective Date on the terms and conditions set forth in the Secured Exit Facility Credit Agreement with commitments in the original principal amount of \$150 million.

~~1.95 **Secured Exit Facility Agent** means such agent as is chosen by the lender parties to the Secured Exit Facility Credit Agreement means, as if the administrative and collateral agent under Debtor determines to enter into the Secured Exit Facility Credit Agreement, solely in its capacity as such.~~

~~1.96 on or prior to the Effective Date, **Secured Exit Facility Credit Agreement** means that certain senior secured credit agreement for such facility (as may be amended, restated, amended and restated, supplemented, or modified from time to time, solely in accordance with the terms thereof), and containing terms substantially consistent with the Restructuring Term Sheet and otherwise acceptable to the Debtor, the Secured Exit Facility Lenders and the DIP Tranche B Lenders.~~

1.97 **Secured Exit Facility Documents** means, if the Debtor determines to enter into the Secured Exit Facility on or prior to the Effective Date, collectively, the Secured Exit Facility Credit Agreement and each other agreement, security agreement, pledge agreement, collateral assignment, notice, mortgage, control agreement, guarantee, certificate, document or instrument executed and/or delivered in connection with any of the foregoing, whether or not specifically mentioned herein or therein, as the same may be modified, amended, restated, amended and restated, supplemented or replaced from time to time and which shall be in form and substance substantially consistent with the Restructuring Term Sheet and otherwise acceptable to the Debtor, the Secured Exit Facility Lenders and the DIP Tranche B Lenders.

1.98 **Secured Exit Facility Lenders** means each lender party to the Secured Exit Facility Credit Agreement and any other Person that shall become a lender under the Secured Exit Facility from time to time in accordance with the Secured Exit Facility Credit Agreement.

1.99 **Securitization Documents** means the documents relating to the Debtor's (i) U.S. credit card receivables securitization facility, including that certain Fourth Amended and Restated Receivables Purchase Agreement by and between the Debtor and PAL Receivables Company Ltd., dated as of November 26, 2019, as amended and restated pursuant to an amendment and restatement agreement dated July 30, 2021 (as amended, the "PAL RC Receivables Purchase Agreement") and all documents entered into in connection with the PAL RC Receivables Purchase Agreement, including any related financing documents and amendments thereto and (ii) Yen receivables securitization facility including that certain Receivable Purchase Agreement by and between the Debtor and Golden Investment TMK, dated June 19 2015, including all related documents and amendments, each as amended prior to the Petition Date. Notwithstanding anything herein to the contrary, pursuant to Section 5.15 of the Plan, all the Securitization Documents which the Debtor is a party to shall be deemed assumed and all related Claims, if any, Reinstated as of the Effective Date of the Plan.

1.100 **Security** has the meaning set forth in in section 101(49) of the Bankruptcy Code.

1.101 **Servicer** means an indenture trustee, owner trustee, pass through trustee, subordination agent, agent, servicer or any other authorized representative of Creditors recognized by the Debtor.

1.102 **Supporting Creditor** has the meaning ascribed to it in the Restructuring Support Agreements.

1.103 **Tranche A Conversion Election** has the meaning ascribed to it in the DIP Credit Agreement.

1.104 **Tranche B Conversion Election** has the meaning ascribed to it in the DIP Credit Agreement.

1.105 **Unimpaired** means, with respect to a Claim, Interest, or Class of Claims or Interests, not “impaired” within the meaning of sections 1123(a)(4) and 1124 of the Bankruptcy Code.

1.106 **Unsecured Exit Facility** means the DIP Tranche A Loans after giving effect to the exercise of the Tranche A Conversion Election.

1.107 **Unsecured Exit Facility Credit Agreement** means the DIP Credit Agreement (as may be amended, restated, amended and restated, supplemented, or modified from time to time, solely in accordance with the terms thereof) after giving effect to the exercise of the Tranche A Conversion Election and the Tranche B Conversion Election and otherwise consistent with the Restructuring Term Sheet in all material respects.

1.108 **Unsecured Exit Facility Documents** means, collectively, the Unsecured Exit Facility Credit Agreement and each other agreement, certificate, document or instrument executed and/or delivered in connection with any of the foregoing, whether or not specifically mentioned herein or therein, as the same may be modified, amended, restated, amended and restated, supplemented or replaced from time to time.

1.109 **Unsecured Exit Facility Lenders** means each lender party to the Unsecured Exit Facility Credit Agreement and any other Person that shall become a lender under the Unsecured Exit Facility from time to time in accordance with the Unsecured Exit Facility Credit Agreement.

1.110 **Unsecured New Equity Allocation** means the New Common Stock to be issued on the Effective Date to holders of Allowed General Unsecured Claims, which shall be in an amount equal to 20.5% of the New Common Stock.

1.111 **Unsecured Noteholders**, means Philippine National Bank, Union Bank, China Banking Corporation, Asia United Bank, and Buona Sorte Holdings, Inc. and their successors and permitted assigns, as holders of Unsecured Notes.

1.112 **Unsecured Notes** means the prepetition unsecured promissory notes issued by the Debtor to the Unsecured Noteholders.

1.113 **Unsecured Notes Claim** means, collectively, all Claims arising under the Unsecured Notes.

1.114 **U.S. Trustee** means the United States Trustee for the Southern District of New York.

1.115 **Voting Agent** means Kurtzman Carson Consultants LLC the Debtor’s voting agent.

1.116 **Voting Deadline** means the date by which all Persons or Entities entitled to vote on the Plan must vote to accept or reject the Plan.

**B. Interpretation; Application of Definitions and Rules of Construction.**

Unless otherwise specified, all section or exhibit references in the Plan are to the respective section in, or exhibit to, the Plan, as the same may be amended, waived, or modified from

time to time. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to the Plan as a whole and not to any particular section, subsection, or clause contained therein. The headings in the Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. 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 document shall be substantially in that form or substantially on those terms and conditions; (c) unless otherwise specified, all references herein to “Sections” are references to Sections hereof or hereto; (d) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (e) 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.

**C. Reference to Monetary Figures.**

All references in the Plan to monetary figures shall refer to Cash, unless otherwise expressly provided. For the avoidance of doubt, any distribution to holders of Claims that will be paid under the Plan in the ordinary course of business post-emergence (including Claims in Class 4, Class 5 and Class 6) shall be paid in the currency listed in the applicable invoice or contract without being exchanged into the currency of the United States of America.

**D. Controlling Document.**

In the event of an inconsistency between the Plan and the Disclosure Statement, the terms of the Plan shall control. In the event of an inconsistency between the Plan and any Definitive Documents or other documents, schedules or exhibits contained in the Plan Supplement, subject to any RSA Definitive Document Requirements, such Definitive Document or other document, schedule or exhibit shall control. In the event of an inconsistency between the Plan or any Definitive Documents or other documents, schedules or exhibits contained in the Plan Supplement, on the one hand, and the Confirmation Order, on the other hand, the Confirmation Order shall control.

**ARTICLE II ADMINISTRATIVE EXPENSE CLAIMS, DIP CLAIMS, PROFESSIONAL FEE CLAIMS, AND PRIORITY TAX CLAIMS.**

**2.1 Administrative Expense Claims.**

Except to the extent that a holder of an Allowed Administrative Expense Claim (other than a Professional Fee Claim or DIP Claim) agrees to less favorable treatment, each holder of an Allowed Administrative Expense Claim (other than a Professional Fee Claim or DIP Claim) shall receive, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, Cash in an amount equal to such Allowed Administrative Expense Claim on, or as soon thereafter as is reasonably practicable, the later of (a) the Effective Date, and (b) the first Business Day after the date that is 30 calendar days after the date such Administrative Expense Claim becomes an Allowed Administrative Expense Claim; *provided* that any Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtor shall be paid by the Debtor or the Reorganized Debtor, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any course of dealing or agreements governing, instruments evidencing, or other documents relating to such transactions.

Except as otherwise provided herein, requests for payment of Administrative Expense Claims (other than DIP Claims, Professional Fee Claims, and Administrative Claims based on liabilities incurred by the Debtor from and after the Petition Date in the ordinary course of its business) must be filed and served on the Reorganized Debtor on or before the date that is 45 days after the Effective Date. Holders of Administrative Expense Claims that are required to, but do not, file and serve a request for payment of such Administrative Expense Claims by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Expense Claims against the Debtor or its property and such Administrative Expense Claims shall be deemed discharged as of the Effective Date. Objections to any Administrative Expense Claims must be filed and served on counsel for the Reorganized Debtor and the requesting party no later than 21 calendar days after the filing of the final request for payment of the Administrative Expense Claim (unless otherwise agreed by the party seeking such Administrative Expense Claim).

## 2.2 **Professional Fee Claims.**

All Entities seeking an award by the Bankruptcy Court of Professional Fee Claims shall file and serve on counsel for the Reorganized Debtor, the U.S. Trustee, and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, or other order of the Bankruptcy Court, on or before the date that is 45 days after the Effective Date, their respective final applications for allowance of compensation for services rendered and reimbursement of expenses incurred from the Petition Date through the Effective Date. Objections to any Professional Fee Claims must be filed and served on counsel for the Reorganized Debtor and the requesting party no later than 21 calendar days after the filing of the final applications for compensation or reimbursement (unless otherwise agreed by the party requesting compensation of a Professional Fee Claim).

Allowed Professional Fee Claims shall be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court (a) upon the later of (i) the Effective Date, and (ii) the date upon which an order relating to any such Allowed Professional Fee Claim is entered, in each case, as soon as reasonably practicable, or (b) upon such other terms as may be mutually agreed upon between the holder of such an Allowed Professional Fee Claim and the Debtor or the Reorganized Debtor, as applicable. On or about the Effective Date, holders of Professional Fee Claims shall provide a reasonable estimate of their unpaid Professional Fee Claims incurred in rendering services to the Debtor or its Estate as of the Effective Date; *provided* that such estimate shall not be deemed to limit the amount of the fees and expenses that are the subject of the Professional's request for payment of Professional Fee Claims. The Debtor or the Reorganized Debtor shall either escrow or separately reserve for and segregate such estimated amounts for the benefit of the holders of the Professional Fee Claims until the fee applications related thereto are resolved by order of the Bankruptcy Court or agreement of the parties.

The Reorganized Debtor is authorized to pay compensation for services rendered or reimbursement of expenses incurred after the Effective Date in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court. Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code or any order of the Bankruptcy Court governing the retention of, or compensation for services rendered by, Professionals shall terminate, and the Debtor and the Reorganized Debtor may employ or pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

2.3 **Priority Tax Claims.**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of, and in exchange for each Allowed Priority Tax Claim, each holder of such Allowed Priority Tax Claim shall be treated in accordance with the terms set forth in section 1129(a)(9)(C) of the Bankruptcy Code and, for the avoidance of doubt, holders of Allowed Priority Tax Claims will receive interest on such Allowed Priority Tax Claims after the Effective Date in accordance with sections 511 and 1129(a)(9)(C) of the Bankruptcy Code. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in accordance with the terms of any agreement between the Debtor and the holder of such Claim, or as may be due and payable under applicable non-bankruptcy law, or in the ordinary course of business.

2.4 **DIP Claims.**

All DIP Claims shall be Allowed in the full amount due and owing under the DIP Credit Facility Documents and the DIP Order, and the DIP Claims shall not be subject to any avoidance, reduction, setoff, recoupment, recharacterization, subordination (equitable, contractual or otherwise), counterclaim, defense, disallowance, impairment, objection or any challenges under applicable law or regulation.

(a) Treatment of DIP Tranche A Claims:

In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed DIP Tranche A Claim, on the Effective Date in connection with the Debtor's election to exercise the Tranche A Conversion Election pursuant to Section 5.3 hereunder, each Allowed DIP Tranche A Claim shall be converted, on a cashless basis to unsecured loans in an amount equal to such DIP Tranche A Claim, which unsecured loans shall be deemed outstanding as of the Effective Date under the Unsecured Exit Facility.

(b) Treatment of DIP Tranche B Claims:

In full and final satisfaction, settlement, release, and discharge of, and in exchange for, each Allowed DIP Tranche B Claim, on the Effective Date in connection with the Debtor's election to exercise the Tranche B Conversion Election pursuant to Section 5.3 hereunder each DIP Tranche B Lender who is a holder of an Allowed DIP Tranche B Claim shall receive its pro rata share of 79.5% of the New Common Stock issued under this Plan.

(c) Treatment of DIP Reimbursement Claims:

Except to the extent that a holder of a DIP Reimbursement Claim agrees to less favorable treatment of such Claim, in full and final satisfaction, settlement, release, and discharge of each DIP Reimbursement Claim and in exchange therefor, each Holder of a DIP Reimbursement Claim shall receive payment in full in Cash on the Effective Date or as soon as reasonably practicable thereafter.

2.5 **United States Trustee’s Fees.**

On or before the Effective Date, the Debtor shall pay all accrued and outstanding fees incurred pursuant to section 1930 of chapter 123 of title 28 of the United States Code to the Office of the United States Trustee, together with any interest, if any, pursuant to section 3717 of title 31.

**ARTICLE III CLASSIFICATION OF CLAIMS AND INTERESTS.**

3.1 **Classification in General.**

A Claim or Interest is placed in a particular Class for all purposes, including voting, confirmation, and Distribution under the Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code; *provided* that a Claim or Interest is placed in a particular Class for the purpose of receiving Distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Allowed Claim or Allowed Interest has not been satisfied, released, or otherwise settled.

3.2 **Summary of Classification.**

The following table designates the Classes of Claims against and Interests in the Debtor and specifies which of those Classes are (a) Impaired or Unimpaired by the Plan, (b) entitled to vote to accept or reject the Plan in accordance with section 1126 of the Bankruptcy Code, and (c) presumed to accept or deemed to reject the Plan. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims (including DIP Claims) and Priority Tax Claims have not been classified.

| <b>Class</b> | <b>Designation</b>             | <b>Treatment</b> | <b>Entitled to Vote</b> |
|--------------|--------------------------------|------------------|-------------------------|
| 1            | Priority Non-Tax Claims        | Unimpaired       | No (Presumed to accept) |
| 2            | Other Secured Claims           | Unimpaired       | No (Presumed to accept) |
| 3            | General Unsecured Claims       | Impaired         | Yes                     |
| 4            | General Unsecured Trade Claims | Unimpaired       | No (Presumed to accept) |
| 5            | Employee Claims                | Unimpaired       | No (Presumed to accept) |
| 6            | Customer Claims                | Unimpaired       | No (Presumed to accept) |
| 7            | Intercompany Claims            | Unimpaired       | No (Presumed to accept) |
| 8            | Existing Equity Interests      | Impaired         | No (Deemed to reject)   |

3.3 **Special Provision Governing Unimpaired Claims.**

Except as otherwise provided in the Plan, nothing under the Plan shall affect the rights of the Debtor or the Reorganized Debtor, as applicable, in respect of any Unimpaired Claims, including all rights in respect of legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claims.

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

The Debtor shall seek Confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests. The Debtor reserves the right to modify the Plan in accordance with Section 12.5 of the Plan (subject to the Restructuring Support Agreements) to the extent, if any, that Confirmation pursuant to section 1129(b) of the Bankruptcy Code requires modification, including by (a) modifying the treatment applicable to a Class of Claims or Interests to render such Class of Claims or Interests Unimpaired to the extent permitted by the Bankruptcy Code and the Bankruptcy Rules and (b) withdrawing the Plan as to the Debtor at any time before the Confirmation Date.

**ARTICLE IV TREATMENT OF CLAIMS AND INTERESTS.**

4.1 **Priority Non-Tax Claims (Class 1).**

(a) Classification: Class 1 consists of Priority Non-Tax Claims.

(b) Treatment: Except to the extent that a holder of an Allowed Priority Non-Tax Claim against the Debtor agrees to a less favorable treatment of such Claim, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Priority Non-Tax Claim, at the option of the Debtor or the Reorganized Debtor, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the Allowed amount of such Claim, payable on the later of the Effective Date and the date that is 10 Business Days after the date on which such Priority Non-Tax Claim becomes an Allowed Priority Non-Tax Claim, or as soon thereafter as is reasonably practicable, (ii) such holder's Allowed Priority Non-Tax Claim shall be Reinstated, or (iii) such holder shall receive such other treatment consistent with section 1129(a)(9) of the Bankruptcy Code so as to render such holder's Allowed Priority Non-Tax Claim Unimpaired.

(c) Voting: Class 1 is Unimpaired, and the holders of Priority Non-Tax Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Priority Non-Tax Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.2 **Other Secured Claims (Class 2).**

(a) Classification: Class 2 consists of Other Secured Claims. To the extent that Other Secured Claims are secured by different Collateral or different interests in the same Collateral, such Claims shall be treated as separate subclasses of Class 2 for purposes of voting to accept or reject the Plan and receiving Distributions under the Plan.

(b) Treatment: Except to the extent that a holder of an Allowed Other Secured Claim against the Debtor agrees to a less favorable treatment of such Claim, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Allowed Other Secured

Claim, at the option of the Debtor or the Reorganized Debtor, as applicable, (i) each such holder shall receive payment in Cash in an amount equal to the Allowed Amount of such Claim, payable on the later of the Effective Date and the date that is 10 Business Days after the date such Other Secured Claim becomes an Allowed Claim, or as soon thereafter as is reasonably practicable, (ii) Reinstatement of such holder's Allowed Other Secured Claim, or (iii) such other treatment sufficient to render such holder's Allowed Other Secured Claim Unimpaired. In the event that an Other Secured Claim against the Debtor is treated under clause (i) of Section 4.2(b) of the Plan, the Liens securing such Other Secured Claim shall be deemed released immediately upon payment.

(c) Voting: Class 2 is Unimpaired, and the holders of Other Secured Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Other Secured Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

#### 4.3 General Unsecured Claims (Class 3).

(a) Classification: Class 3 consists of General Unsecured Claims.

(b) Treatment: Except to the extent that a holder of an Allowed General Unsecured Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, on and after the Effective Date, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, such holder will receive its Pro Rata share of the Unsecured New Equity Allocation. In connection with the Debtor's exercise of the Tranche A Conversion Option and the Tranche B Conversion Option pursuant to Section 5.3 hereof, the DIP Lenders have agreed to waive and, thereby, receive no recovery on account of their General Unsecured Claims against the Debtor.

(c) Voting: Class 3 is Impaired, and the holders of General Unsecured Claims are entitled to vote to accept or reject the Plan.

#### 4.4 General Unsecured Trade Claims (Class 4).

(a) Classification: Class 4 consists of General Unsecured Trade Claims.

(b) Treatment: Except to the extent that a holder of a General Unsecured Trade Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, on and after the Effective Date, in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Claim, (i) the Reorganized Debtor shall continue to pay or treat each General Unsecured Trade Claim in the ordinary course of business as if the Chapter 11 Case had never been commenced, or (ii) such holder will receive such other treatment so as to render such holder's Allowed General Unsecured Trade Claim Unimpaired pursuant to section 1124 of the Bankruptcy Code, in each case subject to all defenses or disputes the Debtor and the Reorganized Debtor may have with respect to such Claims, including as provided in Section 6.17 of the Plan; *provided* that, notwithstanding the foregoing, the Allowed amount of General Unsecured Trade Claims shall be subject to and shall not exceed the limitations or maximum amounts permitted by the Bankruptcy Code, including sections 502 or 503 of the Bankruptcy Code, to the extent applicable.

(c) Voting: Class 4 is Unimpaired, and the holders of Allowed General Unsecured Trade Claims are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Allowed General Unsecured Trade Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.5 **Employee Claims (Class 5)**

(a) Classification: Class 5 consists of Employee Claims.

(b) Treatment: Except to the extent that a holder of an Employee Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, all Employee Claims shall be paid, adjusted, disputed, or settled, in the ordinary course of business after the Effective Date.

(c) Voting: Class 5 is Unimpaired, and the holders of Employee Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Employee Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.6 **Customer Claims (Class 6)**

(a) Classification: Class 6 consists of Customer Claims.

(b) Treatment: Except to the extent that a holder of a Customer Claim agrees to a less favorable treatment of such Claim or has been paid before the Effective Date, all Customer Claims shall be paid, adjusted, disputed, or settled, in the ordinary course of business after the Effective Date in accordance with any settlements or orders issued by the applicable courts or regulatory authorities.

(c) Voting: Class 6 is Unimpaired, and the holders of Customer Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Customer Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.7 **Intercompany Claims (Class 7).**

(a) Classification: Class 7 consists of Intercompany Claims.

(b) Treatment: On the Effective Date, or as soon as practicable thereafter, all Intercompany Claims shall be paid, adjusted, continued, settled, Reinstated, discharged, contributed to capital, or eliminated, in each case to the extent determined by the Debtor or the Reorganized Debtor, as applicable, subject to the Restructuring Transactions.

(c) Voting: Class 7 is Unimpaired, and the holders of Intercompany Claims are conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Intercompany Claims are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited.

4.8 **Existing Equity Interests (Class 8).**

(a) Classification: Class 8 consists of Existing Equity Interests.

(b) Treatment: Holders of Existing Equity Interests shall not receive any property under the Plan on account of such Existing Equity Interests. On the Effective Date, or as soon as practicable thereafter in accordance with applicable non-bankruptcy law, Holders of Existing Equity Interests shall have their Existing Equity Interests diluted to 0.001% of the number and value of such Interests as of the Petition Date.

(c) Voting: Class 8 is Impaired, and the holders of Existing Equity Interests are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code on account of receiving a nominal distribution. Therefore, holders of Existing Equity Interests are not entitled to vote to accept or reject the Plan, and the votes of such holders of Existing Equity Interests will not be solicited.

## ARTICLE V MEANS FOR IMPLEMENTATION.

### 5.1 Compromise of Controversies.

Pursuant to section 1123(b)(3)(A) of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided under the Plan, the provisions of the Plan constitute a good-faith compromise and settlement of all Claims and controversies resolved under the Plan, and the entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of such compromise and settlement under Bankruptcy Rule 9019, and the Bankruptcy Court's findings shall constitute its determination that such compromises and settlements are within the range of reasonableness, in the best interests of the Debtor, its estate, its creditors, and other parties-in-interest, and fair and equitable. Each provision of the Plan constitutes a part of this settlement that is non-severable from the remaining terms of the Plan.

### 5.2 Sources of Cash for Plan Distribution.

Except as otherwise provided in the Plan or Confirmation Order, all Cash required for the payments to be made hereunder shall be obtained from the Debtor's and the Reorganized Debtor's operations and cash balances ~~and the Secured Exit Facility.~~

### 5.3 Exercise of the Equity Conversion Elections.

The Debtor hereby elects, in its sole discretion, to exercise the Tranche A Conversion Election and the Tranche B Conversion Election. The Debtor's election shall take effect on the Effective Date of the Plan, and shall constitute notice to the DIP Lenders as required by sections 1.8 and 1.9 of the DIP Credit Agreement and no other or further notice shall be required.

### 5.4 Restructuring Expenses.

To the extent not otherwise paid and notwithstanding any contrary limitations or conditions to such payment in an order of the Bankruptcy Court other than the Confirmation Order, the Debtor or the Reorganized Debtor, as applicable, shall promptly pay outstanding and invoiced Restructuring Expenses on the Effective Date; *provided* that such Restructuring Expenses shall be paid in accordance with the terms of the Restructuring Support Agreements without the requirement for the filing of retention applications, fee applications, or any other applications in the Chapter 11 Case, and without any requirement for further notice or Bankruptcy Court review or approval.

### 5.5 Continued Corporate Existence; Corporate Action.

(a) Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement (including the Restructuring Transactions), on the Effective Date, the Debtor shall continue to exist after the Effective Date as a separate corporation with all the powers of a corporation pursuant to the applicable law in the jurisdiction in which the Debtor is incorporated or formed and pursuant to the certificate of incorporation and by-laws (or other

analogous formation documents) in effect before the Effective Date, except to the extent such certificate of incorporation or bylaws (or other analogous formation documents) is amended by the Plan or otherwise, and to the extent any such document is amended, such document is deemed to be amended pursuant to the Plan and will be effective without any further action or approval (other than any requisite filings required under applicable state, federal, or foreign law).

(b) On the Effective Date, the Reorganized Debtor and all the holders of the New Common Stock shall be deemed to be parties to the New Stockholders' Agreement, substantially in the form contained in the Plan Supplement, without the need for execution by any such holder. The New Stockholders' Agreement shall be binding on all parties receiving, and all holders of, New Common Stock.

(c) On the Effective Date, entry of the Confirmation Order shall establish conclusive corporate and other authority to demonstrate all actions contemplated by the Plan to be deemed authorized and approved by the Bankruptcy Court in all respects, including, as applicable: (i) the adoption and/or filing of the Amended Organizational Documents and the New Stockholders' Agreement (the material terms of which shall be satisfactory in form and substance to the DIP Tranche B Lenders); (ii) the selection of the directors, managers, and officers for the Reorganized Debtor, including the appointment of the New Board; (iii) the authorization, issuance, and distribution of New Common Stock and the shares of New Common Stock; (iv) the rejection, assumption, or assumption and assignment, as applicable, of executory contracts and unexpired leases; (v) the entry into the ~~Exit Facilities and the execution, delivery, and filing of the~~ Unsecured Exit Facility Documents, as applicable; (vi) implementation of the Restructuring Transactions; and (vii) all other actions contemplated by the Plan (whether to occur before, on, or after the Effective Date). Upon the Effective Date, all matters provided for in the Plan involving the corporate structure of Reorganized Debtor, and any corporate action required by the Debtor or the other Reorganized Debtor in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the security holders, directors, or officers of the Debtor or Reorganized Debtor. On or (as applicable) before the Effective Date, the appropriate officers of the Debtor, or the Reorganized Debtor shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effectuate the Restructuring Transactions) in the name of and on behalf of the Reorganized Debtor, including the Exit Facility Documents (as applicable) and any and all other agreements, documents, and instruments relating to the foregoing, to the extent not previously authorized by the Bankruptcy Court. The authorizations and approvals contemplated by this Section 5.5(b) shall be effective notwithstanding any requirements under non-bankruptcy law.

#### 5.6 Exit Facilities.

(a) ~~On or after~~ If the Debtor determines on or before the Effective Date, ~~in accordance with, and subject to, the terms and conditions of~~ to enter into the Secured Exit Facility ~~Documents, and a commitment letter therefor containing terms substantially consistent with the Restructuring Term Sheet and otherwise acceptable to the Debtor, the Secured Exit Facility Lenders and the DIP Tranche B Lenders has been executed, the Debtor shall file such commitment letter with the Bankruptcy Court on or before the Effective Date. If such commitment letter is filed,~~ the Reorganized Debtor will be authorized, but not directed, to enter into the Secured Exit Facility without the need for any further corporate action and without further action by the holders of Claims or Interests. The proceeds of the Secured Exit Facility if executed shall be used to ~~(i) fund other Distributions, costs, and expenses contemplated by the Plan and (ii) fund general working capital and for general corporate purposes of the Reorganized Debtor, in each case subject to the terms of the Secured Exit Facility Documents.~~

(b) The Confirmation Order shall constitute approval of the Exit Facilities (including the transactions contemplated thereby and all payments contemplated thereunder, and all actions to be taken, undertakings to be made, and obligations to be incurred and fees paid by the Reorganized Debtor in connection therewith), as applicable, and authorization for the Reorganized Debtor to enter into and perform under the Exit Facility Documents, as applicable, and such other documents and make such payment and any other payment in connection therewith as may be required or appropriate. Without limiting the foregoing, the Reorganized Debtor shall pay, as and when due, all fees, expenses, losses, damages, indemnities and other amounts, including any applicable refinancing premiums and applicable exit fees, provided under the DIP Credit Facility Documents related to the DIP Credit Facility and/or the Exit Facilities Documents relating to such Exit Facilities (as applicable).

(c) If the ~~Reorganized Debtor elects to proceed with~~ Debtor determines on or before the Effective Date to enter into the Secured Exit Facility ~~Documents~~, which shall be substantially on the terms and conditions set forth in the Restructuring Term Sheet, all Liens and security interests granted pursuant to the Secured Exit Facility Documents shall be (i) valid, binding, perfected, and enforceable Liens and security interests in the personal and real property described in and subject to such document, with the priorities established in respect thereof under applicable non-bankruptcy law, (ii) granted in good faith and deemed not to constitute a fraudulent conveyance or fraudulent transfer, and (iii) not otherwise subject to avoidance, recharacterization, or subordination under any applicable law. Each of the Debtor, the Reorganized Debtor, 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 any applicable law, and shall 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.

(d) The Reorganized Debtor shall be authorized to execute, deliver, and enter into and perform under the Exit Facility Documents, as applicable, without the need for any further corporate action and without further action by the holders of Claims or Interests.

#### 5.7 **Authorization and Issuance of New Common Stock.**

(a) As of the Effective Date, all existing interests in the Debtor shall be diluted by reducing the par value of the Existing Equity Interests to approximately 1/1000th of the amounts as of the Petition Date. Subject to the Restructuring Transactions, on the Effective Date, the Debtor or the Reorganized Debtor, as applicable, are authorized to issue or cause to be issued and shall issue the New Common Stock in accordance with the terms of the Plan and the Amended Organizational Documents, without the need for any further corporate or shareholder action. Upon the issuance of the New Common Stock, the par value and amount of the Existing Equity Interests shall be then increased to align with the par value of the New Common Stock, resulting in such Existing Equity Interests having only nominal economic value.

(b) All of the New Common Stock issuable under the Plan, when so issued, shall be duly authorized, validly issued, fully paid, and non-assessable, and the holders of New Common Stock shall be deemed to have accepted the terms of the New Stockholders' Agreement (solely in their capacity as shareholders of Reorganized Debtor) and to be parties thereto without further action or signature. The New Stockholders' Agreement shall be effective as of the Effective Date and, as of such date, shall be deemed to be valid, binding, and enforceable in accordance with its terms, and each holder of New Common Stock shall be bound thereby.

(c) Upon the Effective Date, (i) the New Common Stock shall not be registered under the Securities Act of 1933, and shall not be listed for public trading on any securities exchange, and (ii) the Reorganized Debtor shall not be a reporting company under the Exchange Act. Except as provided in the Plan or the Confirmation Order, the New Common Stock to be distributed under the Plan shall be issued in the names of such holders or their nominees in accordance with the Debtor's stock and transfer book-entry procedures.

#### 5.8 **Exemption from Registration.**

(a) The offer, issuance, and distribution of the New Common Stock hereunder shall be exempt, pursuant to section 1145 of the Bankruptcy Code, if applicable, or other available exemptions without further act or action by any Entity, from registration under (i) the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder, and (ii) any state or local law requiring registration for the offer, issuance, or distribution of Securities.

(b) The New Common Stock shall be issued without registration under the Securities Act or any similar federal, state or local law in reliance on available exemptions or section 1145(a) of the Bankruptcy Code and, if applicable, shall be freely tradable by the recipients thereof, subject to: (i) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act of 1933; (ii) compliance with any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such securities or instruments; and (iii) any applicable regulatory approval.

(c) Notwithstanding anything to the contrary in the Plan, no entity shall be entitled to require a legal opinion regarding the validity of any transaction contemplated by the Plan, including, for the avoidance of doubt, whether the New Common Stock are exempt from registration and/or eligible to be issued using the Debtor's stock and transfer book-entry procedures.

#### 5.9 **Cancellation of Existing Securities and Agreements.**

(a) Except for the purpose of evidencing a right to a Distribution under the Plan and except as otherwise set forth in the Plan, including with respect to executory contracts or unexpired leases that shall be assumed by the Debtor, on the Effective Date, all agreements, instruments, and other documents evidencing any Claims or any Interest (other than Intercompany Claims that are not modified by the Plan) and any rights of any holder in respect thereof shall be deemed cancelled, discharged, and of no force or effect solely as against the Debtor and the obligations of the Debtor thereunder shall be deemed fully satisfied, released, and discharged.

(b) Notwithstanding the foregoing, any provision in any document, instrument, lease, or other agreement that causes or effectuates, or purports to cause or effectuate, a default, termination, waiver, or other forfeiture of, or by, the Debtor of its interests, as a result of the cancellations, terminations, satisfaction, releases, or discharges provided for in this Section 5.9 shall be deemed null and void and shall be of no force and effect. Nothing contained herein shall be deemed to cancel, terminate, release, or discharge the obligation of the Debtor or any of its counterparties under any executory contract or unexpired lease to the extent such executory contract or unexpired lease has been assumed by the Debtor pursuant to a Final Order of the Bankruptcy Court or hereunder.

5.10 **Officers and Board of Directors.**

(a) On the Effective Date, the New Board shall consist of at least five directors in total to be designated by the DIP Tranche B Lenders in a manner to be determined consistent with the Restructuring Term Sheet. To the extent then known and determined, the identities of the members of the board of directors or managers of the Reorganized Debtor, as applicable, and, to the extent applicable, the officers of the Reorganized Debtor, shall be disclosed at or prior to the Confirmation Hearing in accordance with section 1129(a)(5) of the Bankruptcy Code.

(b) Commencing on the Effective Date, each of the directors, managers, and officers of the Reorganized Debtor shall be elected and serve pursuant to the terms of the applicable Amended Organizational Documents of the Reorganized Debtor and may be replaced or removed in accordance with such Amended Organizational Documents.

(c) Except to the extent that a director, manager, or officer of the Debtor continues to serve in such capacity on the Effective Date, the Persons and Entities acting as authorized persons, directors, managers, or officers of the Debtor prior to the Effective Date, as the case may be, shall have no further authority, duties, responsibilities, or obligations relating to or arising from operating the Debtor or the Chapter 11 Case, and shall be deemed to have resigned from all of their respective positions with the Debtor on the Effective Date without any further action required on the part of the Debtor or such Persons or Entities.

5.11 **Restructuring Transactions.**

(a) On or as soon as practicable after the Effective Date, the Reorganized Debtor shall take such actions as may be or become necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan (collectively, the “**Restructuring Transactions**”), including (i) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, financing, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may determine, (ii) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms to which the applicable parties agree, (iii) the filing of appropriate certificates or articles of incorporation, formation, reincorporation, merger, consolidation, conversion, or dissolution, the Amended Organizational Documents, (iv) the issuance of the New Common Stock, all of which shall be authorized and approved in all respects in each case without further action being required under applicable law, regulation, order, or rule, (v) all other actions that the Reorganized Debtor determines to be necessary or appropriate, including (A) making filings or recordings that may be required by applicable law, subject, in each case, to the Amended Organizational Documents, and (B) such other transactions that may be required or necessary to effectuate any of the Restructuring Transactions in the most tax-efficient manner, including mergers, consolidations, restructurings, conversions, dispositions, transfers, formations, organizations, dissolutions, or liquidations; (vi) the execution, delivery, and filing, ~~if~~<sup>as</sup> applicable, of the Exit Facility Documents, the Amended Organizational Documents, the New Stockholders’ Agreement; and (vii) all other actions that the Reorganized Debtor determines to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

(b) Each officer, member of the board, or manager of the Debtor is (and each officer, member of the board, or manager of the Reorganized Debtor shall be) authorized and directed to

issue, execute, deliver, file, or record such contracts, securities, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and any Restructuring Transaction (including the New Common Stock) in the name of and on behalf of the Reorganized Debtor, all of which shall be authorized and approved in all respects, in each case, without the need for any approvals, authorization, consents, or any further action required under applicable law, regulation, order, or rule (including any action by the shareholders or directors or managers of the Debtor or the Reorganized Debtor) except for those expressly required pursuant to the Plan.

(c) On the Effective Date, or as soon thereafter as is reasonably practicable, the Reorganized Debtor's certificate of incorporation, bylaws, and other formation and constituent documents shall be amended as may be required to be consistent with the provisions of the Plan, the New Stockholders' Agreement, and the Exit Facility Documents, as applicable, and the Bankruptcy Code. The Amended Organizational Documents shall, among other things: (i) authorize the issuance of the New Common Stock and the shares of New Common Stock; and (ii) pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision prohibiting the issuance of non-voting equity securities. After the Effective Date, the Reorganized Debtor may amend and restate its certificate of incorporation and other formation and constituent documents as permitted by the laws of its respective jurisdiction of formation and the terms of the Amended Organizational Documents and the New Stockholders' Agreement.

(d) All matters provided for herein involving the corporate structure of the Debtor or the Reorganized Debtor, to the extent applicable, or any corporate or related action required by the Debtor or the Reorganized Debtor in connection herewith shall be deemed to have occurred and shall be in effect, without any requirement of further action by the shareholders, members, or directors or managers of the Debtor or the Reorganized Debtor, and with like effect as though such action had been taken unanimously by the shareholders, members, directors, managers, or officers, as applicable, of the Debtor or the Reorganized Debtor.

#### 5.12 **Cancellation of Liens.**

Except as otherwise specifically provided herein, the Exit Facility Documents (including in connection with any express written amendment of any mortgage, deed of trust, Lien, pledge, or other security interest under the Exit Facility Documents), or in any contract, instrument, release, or other agreement or document created pursuant to the Plan upon the indefeasible payment in full in Cash of an Other Secured Claim, any Lien securing an Other Secured Claim that is indefeasibly paid in full, in Cash, shall be deemed released and discharged, and the holder of such Other Secured Claim shall be authorized and directed to release any Collateral or other property of the Debtor (including any Cash collateral) held by such holder and to take such actions as may be requested by the Reorganized Debtor to evidence the release or discharge of such Lien, including the execution, delivery and filing or recording of such releases or discharges as may be requested by the Reorganized Debtor, and the Reorganized Debtor and its designees shall be authorized to file UCC-3 termination statements and other release or discharge documentation (to the extent applicable) with respect thereto. The filing of the Confirmation Order with any federal, state, provincial, or local agency or department shall constitute good and sufficient evidence of, but shall not be required to effect, the termination of such Liens.

#### 5.13 **Employee Matters.**

Except as otherwise provided in the Plan Supplement, on the Effective Date, all employee compensation plans, Benefit Plans, employment agreements, severance agreements, offer letters, or award letters to which the Debtor is a party with respect to employees employed as of the

Effective Date (collectively, the “**Employee Arrangements**”) shall be neither assumed nor rejected. Rather, the Employee Arrangements and the Debtor’s benefits and obligations thereunder shall be deemed to “ride through” the Chapter 11 Case unaffected by the Chapter 11 Case and shall remain as benefits and obligations of the Reorganized Debtor after the Effective Date. Notwithstanding anything contrary in the Employee Arrangements, the consummation of the Plan shall not be treated as a change in control or change of control or other similar transaction under the Employee Arrangements.

All other employment, confidentiality, training, non-competition agreements, vacation, holiday pay, retirement, supplemental retirement, indemnity, executive retirement, pension, deferred compensation, medical, dental, vision, life and disability insurance, flexible spending account, and other health and welfare benefit plans, programs, agreements and arrangements, and all other wage, compensation, employee expense reimbursement, and other benefit obligations to employees employed as of the Effective Date are deemed to be, and shall be treated as, Executory Contracts under the Plan and, on the Effective Date, shall be deemed assumed pursuant to sections 365 and 1123 of the Bankruptcy Code. From and after the Effective Date, the Reorganized Debtor shall be authorized to comply with all applicable laws regarding compensation obligations to employees employed as of the Effective Date.

5.14 **Post-Emergence Exchange Offer.**

The Reorganized Debtor shall launch a mandatory exchange process of converting the New Common Stock into Parent Interests, within 12 months of the Effective Date. The applicable conversion percentage ratio of equity shall be based on an independent third-party valuation by a valuation expert accredited by the Philippines Stock Exchange (PSE) and the Securities and Exchange Commission (SEC). Any such post-emergence conversion shall be subject to applicable approvals, including by the PSE, the SEC of the Philippines, the Bureau of Internal Revenue with respect to the certificate authorizing registration (CAR) of the New Common Stock to the Parent, the submission of a special auditor’s report on the two companies acceptable to the SEC and PSE, and applicable board and shareholder approvals. For the avoidance of doubt, nothing in the Plan is meant to impact or modify the Parent Interests, which shall remain outstanding and unchanged until the post-emergence exchange offer contemplated by Section 5.14 of the Plan.

5.15 **Securitization Facilities.**

On the Effective Date, the Debtor and/or Reorganized Debtor, as applicable, shall be deemed to have assumed the Securitization Documents to which it is a party to enable the transactions contemplated by the Securitization Documents to continue on terms currently contemplated in the Securitization Documents, in accordance with the Restructuring Support Agreements. All Claims in connection with the Securitization Documents (including any related Intercompany Claims), if any, shall be Reinstated.

5.16 **Implementation of Amendment Agreements.**

On the Effective Date, and in accordance with the Restructuring Support Agreements, the Amendment Agreements, including any schedules, annexes, and exhibits thereto, shall be assumed and binding on the Reorganized Debtor and the applicable Supporting Creditors.

5.17 **Release of Avoidance Actions.**

On the Effective Date, the Debtor, on behalf of itself and its Estate, shall release any and all Avoidance Actions and the Debtor and the Reorganized Debtor, and any of their successors or assigns, and any Entity acting on behalf of the Debtor or the Reorganized Debtor, shall be deemed to

have waived the right to pursue any and all Avoidance Actions, except for Avoidance Actions brought as counterclaims or defenses to claims asserted against the Debtor.

5.18 **Closing of Chapter 11 Case.**

After the Estate has been fully administered, the Reorganized Debtor shall seek authority from the Bankruptcy Court to close the Chapter 11 Case in accordance with the Bankruptcy Code and Bankruptcy Rules.

5.19 **Notice of Effective Date.**

On the Effective Date, the Debtor shall file a notice of the occurrence of the Effective Date with the Bankruptcy Court.

**ARTICLE VI DISTRIBUTIONS.**

6.1 **Distributions Generally.**

One or more Disbursing Agents shall make all Distributions under the Plan to the appropriate holders of Allowed Claims in accordance with the terms of the Plan.

6.2 **Distribution Record Date.**

As of the close of business on the Effective Date, the various lists of holders of Claims or Interests in each Class, as maintained by the Debtor or its respective agents, shall be deemed closed, and there shall be no further changes in the record holders of any of the Claims or Interests. The Debtor or the Reorganized Debtor shall have no obligation to recognize any transfer of the Claims or Interests occurring on or after the Effective Date. In addition, with respect to payment of any Cure Amounts or disputes over any Cure Amounts, neither the Debtor nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable executory contract or unexpired lease as of the Effective Date, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure Amount.

6.3 **Date of Distributions.**

Except as otherwise provided in the Plan, any Distributions and deliveries to be made under the Plan shall be made on the Effective Date or as otherwise determined in accordance with the Plan (including the treatment provisions of General Unsecured Trade Claims in Section 4.4 of the Plan); *provided that* the Reorganized Debtor may implement periodic Distribution dates to the extent it determines them to be appropriate.

6.4 **Disbursing Agent.**

All Distributions under the Plan shall be made by the Disbursing Agent, on behalf of the Debtor (unless otherwise provided herein), on or after the Effective Date or as otherwise provided herein. The Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties, and all reasonable and documented fees and expenses incurred by such Disbursing Agent directly related to Distributions hereunder shall be reimbursed by the Reorganized Debtor. The Reorganized Debtor shall use all commercially reasonable efforts to provide the Disbursing Agent (if other than the Reorganized Debtor) with the amounts of Claims and the identities and addresses of holders of Claims, in each case, as set forth in the Debtor's or the Reorganized Debtor's

books and records. The Reorganized Debtor shall cooperate in good faith with the applicable Disbursing Agent (if other than the Reorganized Debtor) to comply with the reporting and withholding requirements outlined in Section 6.18 of the Plan. The DIP Agent will be considered the Servicer for DIP Claims other than DIP Reimbursement Claims.

**6.5 Rights and Powers of Disbursing Agent.**

(a) From and after the Effective Date, the Disbursing Agent, solely in its capacity as Disbursing Agent, shall not incur any liability whatsoever on account of any distributions under the Plan, except in the event of gross negligence or willful misconduct, as determined by a Final Order of a court of competent jurisdiction. No holder of a Claim or Interest or other party in interest shall have or pursue any claim or Cause of Action against the Disbursing Agent, solely in its capacity as Disbursing Agent, for making payments in accordance with the Plan or for implementing provisions of the Plan, except for actions or omissions to act arising out of the gross negligence or willful misconduct, fraud, malpractice, criminal conduct, or ultra vires acts of such Disbursing Agent.

(b) The Disbursing Agent shall be empowered to (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties hereunder, (ii) make all Distributions contemplated hereby, and (iii) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

**6.6 Expenses of Disbursing Agent.**

Except as otherwise ordered by the Bankruptcy Court, any reasonable and documented fees and expenses incurred by the Disbursing Agent acting in such capacity (including reasonable documented attorneys' fees and expenses) on or after the Effective Date shall be paid in Cash by the Reorganized Debtor in the ordinary course of business.

**6.7 Postpetition Interest.**

Except as otherwise specifically provided for in the Plan, the Confirmation Order, or another order of the Bankruptcy Court (including the DIP Order), interest shall not accrue or be paid on any Claims on or after the Petition Date; *provided that*, if interest is payable pursuant to this Section 6.7, interest shall accrue at the federal judgment rate pursuant to 28 U.S.C. § 1961 on a non-compounded basis from the date the obligation underlying the Claim becomes due and is not timely paid through the date of payment.

**6.8 Delivery of Distributions.**

All Distributions to any holder of an Allowed Claim as and when required by the Plan shall be made by the Disbursing Agent. In the event that any Distribution to any holder is returned as undeliverable, no further Distributions shall be made to such holder unless and until the Disbursing Agent is notified in writing of such holder's then-current address, at which time all currently due, missed Distributions shall be made to such holder as soon as reasonably practicable thereafter without interest, *provided, however*, such distributions or payments shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of 180 days from the date of the attempted Distribution. Nothing herein shall require the Disbursing Agent to attempt to locate holders of undeliverable Distributions and, if located, assist such holders in complying with Section 6.18 of the Plan.

6.9 **Distributions after Effective Date.**

Distributions made after the Effective Date to holders of Disputed Claims that are not Allowed Claims as of the Effective Date but which later become Allowed Claims shall be deemed to have been made on the Effective Date.

6.10 **Unclaimed Property.**

Undeliverable Distributions or unclaimed Distributions shall remain in the possession of the Reorganized Debtor until such time as a Distribution becomes deliverable or the holder accepts Distribution, or such Distribution reverts back to the Reorganized Debtor, and shall not be supplemented with any interest, dividends, or other accruals of any kind. Such Distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of 180 days from the date of the attempted Distribution. After such date, all unclaimed property or interest in property shall revert to the Reorganized Debtor, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred. The Reorganized Debtor and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Debtor's books and records and filings with the Bankruptcy Court.

6.11 **Time Bar to Cash Payments.**

Checks issued by the Disbursing Agent in respect of Allowed Claims shall be null and void if not negotiated within 180 days after the date of issuance thereof. Thereafter, the amount represented by such voided check shall irrevocably revert to the Reorganized Debtor, and any Claim in respect of such voided check shall be discharged and forever barred, notwithstanding any federal or state escheat laws to the contrary. Requests for re-issuance of any check shall be made to the Disbursing Agent by the holder of the Allowed Claim to whom such check was originally issued.

6.12 **Manner of Payment under the Plan.**

Except as otherwise specifically provided in the Plan, at the option of the Debtor or the Reorganized Debtor, as applicable, any Cash payment to be made hereunder may be made by a check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtor.

6.13 **Satisfaction of Claims.**

Except as otherwise specifically provided in the Plan, any Distributions and deliveries to be made on account of Allowed Claims under the Plan shall be in complete and final satisfaction, settlement, and discharge of and exchange for such Allowed Claims.

6.14 **Fractional Stock.**

If any Distributions of New Common Stock pursuant to the Plan would result in the issuance of a fractional share of New Common Stock, then the number of shares of New Common Stock to be issued in respect of such Distribution shall be calculated to one decimal place and rounded up or down to the closest whole share (with a half share or greater rounded up and less than a half share rounded down). The total number of shares of New Common Stock to be distributed in connection with the Plan shall be adjusted as necessary to account for the rounding provided for in this Section 6.14. No consideration shall be provided in lieu of fractional shares that are rounded down. Neither the

Reorganized Debtor nor the Disbursing Agent shall have any obligation to make a Distribution that is less than one (1) share of New Common Stock.

6.15 **Minimum Cash Distributions.**

The Disbursing Agent shall not be required to make any Distribution of Cash less than Seventy-Five Dollars (\$75) to any holder of an Allowed Claim; *provided that* if any Distribution is not made pursuant to this Section 6.15, such Distribution shall be added to any subsequent Distribution to be made on behalf of the holder's Allowed Claim.

6.16 **Maximum Distributions and Rights of Reimbursement.**

(a) In no event shall a holder of an Allowed Claim receive Distributions under the Plan in excess of the Allowed amount of such Claim, except to the extent postpetition interest is permitted by Section 6.7 of the Plan.

(b) Nothing contained herein shall in any way affect, impair or modify the rights of a holder of a Claim against an Entity that is not the Debtor.

6.17 **Setoffs.**

Except as otherwise expressly provided for herein, the Reorganized Debtor, pursuant to the Bankruptcy Code (including section 553 of the Bankruptcy Code), applicable non-bankruptcy law, or as may be agreed to by the holder of a Claim, may set off against any Allowed Claim and the Distributions to be made pursuant to the Plan on account of such Allowed Claim (before any Distribution is made on account of such Allowed Claim), any claims, rights, and Causes of Action of any nature that the Debtor or Reorganized Debtor, as applicable, may hold against the holder of such Allowed Claim, to the extent such Claims, rights, or Causes of Action against such holder have not been otherwise compromised or settled on or prior to the Effective Date (whether pursuant to the Plan or otherwise); provided, however, that neither the failure to effect such a setoff nor the allowance of any Claim pursuant to the Plan shall constitute a waiver or release by the Reorganized Debtor of any such Claims, rights, and Causes of Action that the Reorganized Debtor may possess against such holder. In no event shall any holder of Claims be entitled to set off any such Claim against any Claim, right, or Cause of Action of the Debtor or Reorganized Debtor (as applicable), unless such holder has filed a motion with the Bankruptcy Court requesting the authority to perform such setoff on or before the Confirmation Date, and notwithstanding any indication in any proof of claim or otherwise that such holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 of the Bankruptcy Code or otherwise.

6.18 **Withholding and Reporting Requirements.**

(a) **Withholding Rights.** In connection with the Plan, any party issuing any instrument or making any Distribution described in the Plan shall comply with all applicable withholding and reporting requirements imposed by any Governmental Unit, and all Distributions pursuant to the Plan and all related agreements shall be subject to any such withholding or reporting requirements. In the case of a non-Cash Distribution that is subject to withholding, the distributing party may withhold an appropriate portion of such distributed property and either (i) sell such withheld property to generate Cash necessary to pay over the withholding tax (or reimburse the distributing party for any advanced payment of the withholding tax), or (ii) pay the withholding tax using its own funds and retain such withheld property. Any amounts withheld pursuant to the preceding sentence shall be deemed to have been distributed to and received by the applicable recipient for all purposes of the Plan. Notwithstanding

the foregoing, each holder of an Allowed Claim or any other Entity that receives a Distribution pursuant to the Plan shall have responsibility for any taxes imposed by any Governmental Unit, including income, withholding, and other taxes, on account of such Distribution. Any party issuing any instrument or making any Distribution pursuant to the Plan has the right, but not the obligation, to not make a Distribution until such holder has made arrangements reasonably satisfactory to such issuing or disbursing party for payment of any such tax obligations. Any party issuing any instrument or making any Distribution pursuant to the Plan, shall, to the extent reasonably practicable, notify any recipient of a Distribution pursuant to the Plan and all related agreements if it is going to withhold taxes pursuant to this Section 6.18 and reasonably cooperate with the recipient to minimize or avoid such withholding.

(b) **Forms.** Any party entitled to receive any property as an issuance or Distribution under the Plan shall, upon request, deliver to the Disbursing Agent or such other Person designated by the Reorganized Debtor (which Person shall subsequently deliver to the Disbursing Agent any tax forms or documents received) any tax forms or documents (including an IRS Form W-9 or IRS Form W-8, as applicable) reasonably requested to reduce or eliminate any withholding required by any Governmental Unit.

6.19 **Hart-Scott-Rodino Antitrust Improvements Act.**

Any New Common Stock to be distributed under the Plan to an Entity required to file a premerger notification and report form under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, to the extent applicable, shall not be distributed until the notification and waiting periods applicable under such Act to such Entity have expired or been terminated.

6.20 **Claims Paid or Payable by Third Parties.**

(a) **Claims Paid by Third Parties**

A Claim shall be correspondingly reduced, and the applicable portion of such Claim shall be disallowed without an objection to such Claim having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the holder of such Claim receives a payment on account of such Claim from a party that is not the Debtor or Reorganized Debtor; *provided that* the Debtor shall provide 21 days' notice to the holder prior to any disallowance of such Claim during which period the holder may object to such disallowance, and if the parties cannot reach an agreed resolution, the matter shall be decided by the Bankruptcy Court. Subject to the last sentence of this paragraph, to the extent a holder of a Claim receives a Distribution on account of such Claim and receives payment from a party that is not the Debtor or the Reorganized Debtor on account of such Claim, such holder shall, within 14 days of receipt thereof, repay or return the Distribution to the Reorganized Debtor to the extent the holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such Distribution under the Plan. The failure of such holder to timely repay or return such Distribution shall result in the holder owing the Reorganized Debtor annualized interest at the federal judgment rate on such amount owed for each Business Day after the 14 day grace period specified above until the amount is repaid.

(b) **Claims Payable by Insurance Carriers**

No Distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtor's insurance policies until the holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtor's insurers agree to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such

Claim may be expunged without a Claim objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court; *provided that* the Debtor shall provide 21 days' notice to the holder of such Claim prior to any disallowance of such Claim during which period the holder may object to such disallowance, and if the parties cannot reach an agreed resolution, the matter shall be decided by the Bankruptcy Court.

(c) **Applicability of Insurance Policies**

Except as otherwise provided in the Plan, Distributions to holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Notwithstanding anything to the contrary herein, nothing contained in the Plan shall constitute or be deemed a release, settlement, satisfaction, compromise, or waiver of any Cause of Action that the Debtor or any other Entity may hold against any other Entity, including insurers, under any policies of insurance or applicable indemnity, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

6.21 **Allocation Between Principal and Accrued Interest.**

The aggregate consideration paid to holders with respect to their Allowed Claims shall be treated pursuant to the Plan as allocated first to the principal amount of such Allowed Claims (to the extent thereof) and, thereafter, to interest, if any, on such Allowed Claim accrued but unpaid through the Effective Date.

**ARTICLE VII PROCEDURES FOR DISPUTED CLAIMS.**

7.1 **Disputed Claims Process.**

Notwithstanding section 502(a) of the Bankruptcy Code, and in light of the Unimpaired status of all Claims other than Claims in Class 3 under the Plan, holders of Claims do not need to file proofs of Claim with the Bankruptcy Court, and the Debtor or the Reorganized Debtor, as applicable, and the holders of Claims shall determine, adjudicate, and resolve any disputes over the validity and amounts of such Claims in the ordinary course of business; *provided*, that (unless expressly waived pursuant to the Plan) the Allowed amount of such Claims shall be subject to and shall not exceed the limitations under or maximum amounts permitted by the Bankruptcy Code, including sections 502 or 503 of the Bankruptcy Code, to the extent applicable. If a holder of a Claim elects to file a proof of claim with the Bankruptcy Court, such holder shall be deemed to have consented to the jurisdiction of the Bankruptcy Court for all purposes with respect to the Claim, and the Bankruptcy Court shall retain nonexclusive jurisdiction over all such Claims, which shall be resolved on a case-by-case basis through settlements, Claim objections (or, if necessary, through adversary proceedings), adjudication in a forum other than the Bankruptcy Court, or by withdrawal of the Claims by the holders of such Claims. From and after the Effective Date, the Reorganized Debtor may satisfy, dispute, settle, or otherwise compromise any Claim without approval of the Bankruptcy Court.

7.2 **Objections to Claims.**

Any objections to proofs of Claim shall be served and filed (a) on or before 180 days following the later of (i) the Effective Date and (ii) the date that a proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of a holder of such Claim, or (b) by such later date as ordered by the Bankruptcy Court upon motion filed by the Debtor or the Reorganized Debtor. The expiration of such period shall not limit or affect the Reorganized Debtor's rights to dispute Claims asserted other than through a proof of Claim.

7.3 **Estimation of Claims.**

The Debtor or the Reorganized Debtor, as applicable, may at any time request that the Bankruptcy Court estimate any contingent, unliquidated, or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtor previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent, unliquidated, or Disputed Claim, the amount so estimated shall constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtor or the Reorganized Debtor may pursue supplementary proceedings to object to the allowance of such Claim.

7.4 **No Distributions Pending Allowance.**

If an objection, motion to estimate, or other challenge to a Claim is filed, no payment or Distribution provided under the Plan shall be made on account of such Claim unless and until (and only to the extent that) such Claim becomes an Allowed Claim.

7.5 **Distributions after Allowance.**

To the extent that a Disputed Claim ultimately becomes, in whole or in part, an Allowed Claim, Distributions (if any) shall be made to the holder of such Allowed Claim in accordance with the provisions of the Plan, including the treatment provisions provided in Article IV of the Plan. Such Distributions shall be made as soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing such Disputed Claim (or portion thereof) becomes a Final Order.

7.6 **Claim Resolution Procedures Cumulative.**

All of the objection, estimation, and resolution procedures in the Plan are intended to be cumulative and not exclusive of one another. Claims may be estimated and subsequently settled, compromised, withdrawn, or resolved in accordance with the Plan without further notice or Bankruptcy Court approval.

7.7 **Resolution of Disputed Claims**

On and after the Effective Date, the Reorganized Debtor shall have the authority to litigate, compromise, settle, otherwise resolve or withdraw any objections to all Claims against the Debtor and to compromise and settle any such Disputed Claims without notice to or approval by the Bankruptcy Court or any other party.

7.8 **Disallowance of Claims.**

All Claims and Interests of any Entity from which property is sought by the Debtor under sections 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtor or the Reorganized Debtor allege is a transferee of a transfer that is avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if: (a) the Entity, on the one hand, and the Debtor or the Reorganized Debtor, as applicable, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turn over any property or

monies under any of the aforementioned sections of the Bankruptcy Code; and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order.

## **ARTICLE VIII EXECUTORY CONTRACTS AND UNEXPIRED LEASES.**

### **8.1 General Treatment.**

(a) As of and subject to the occurrence of the Effective Date, all executory contracts and unexpired leases to which the Debtor is a party, and which have not expired or terminated by their own terms on or prior to the Effective Date shall be deemed rejected by the Debtor except for any executory contract or unexpired lease that (i) previously has been assumed, assumed and assigned, or rejected pursuant to a Final Order of the Bankruptcy Court, (ii) is specifically designated on the Schedule of Assumed Contracts and Leases filed and served prior to commencement of the Confirmation Hearing or is designated for assumption pursuant to Section 5.15 of the Plan, (iii) is the subject of a separate motion or notice filed by the Debtor on or before the Confirmation Date seeking to assume, assume and assign, or reject pursuant to this Plan, the Confirmation Order or section 365 of the Bankruptcy Code, or (iv) is the subject of a pending Assumption Dispute. The Debtor reserves the right to modify the treatment of any particular executory contract or unexpired lease pursuant to this Plan.

(b) Subject to satisfaction of the conditions set forth in Section 8.1(a), resolution of any Assumption Dispute in accordance with Section 8.2 of the Plan, payment of any applicable Cure Amount, and the occurrence of the Effective Date, entry of the Confirmation Order shall constitute approval of the assumptions or rejections provided for in the Plan pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed or assumed and assigned pursuant to the Plan shall vest in and be fully enforceable by the Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption, or applicable law, *provided that* the assumption of executory contracts and unexpired leases hereunder may include the assignment of certain of such contracts to Affiliates.

(c) Except as otherwise provided herein, in the Plan Supplement or otherwise agreed to by the Debtor and the applicable counterparty, each assumed executory contract or unexpired lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, without regard to whether such document is specifically listed in any notice of assumed contracts. Modifications, amendments, supplements, and restatements to prepetition executory contracts and unexpired leases that have been executed by the Debtor during the Chapter 11 Case 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.

### **8.2 Determination of Assumption Disputes and Deemed Consent.**

(a) The Debtor shall file, as part of the Plan Supplement, and serve a notice on parties to executory contracts and unexpired leases to be assumed or assumed and assigned reflecting the Debtor's intention to assume or assume and assign the executory contract or unexpired lease in connection with the Plan and indicating that the Cure Amount shall be asserted against the Debtor or the Reorganized Debtor, as applicable, in the ordinary course of business.

(b) Upon assumption, Cure Amounts shall be paid by the Debtor or the Reorganized Debtor, as applicable, in the ordinary course, subject to all defenses and disputes the Debtor or the

Reorganized Debtor may have with respect to the underlying executory contracts or unexpired leases, which the Debtor or the Reorganized Debtor may assert in the ordinary course. If there is an Assumption Dispute pertaining to assumption of an executory contract or unexpired lease, such dispute shall be heard by the Bankruptcy Court prior to such assumption being effective, *provided, however*, that the Debtor may settle any dispute regarding Cure Amounts or the nature thereof without any further notice to any party or any action, order, or approval of the Bankruptcy Court. For the avoidance of doubt, if the Debtor is unable to resolve an Assumption Dispute relating solely to the amount of a Cure Claim prior to the Confirmation Hearing, such Assumption Dispute may be scheduled to be heard by the Bankruptcy Court after the Confirmation Hearing. To the extent the Assumption Dispute relates solely to the Cure Amount, the Debtor may assume and/or assume and assign the applicable executory contract or unexpired lease prior to the resolution of the Assumption Dispute, *provided that* the Debtor reserves Cash in an amount sufficient to pay the full amount reasonably asserted as the required cure payment by the non-Debtor counterparty to such contract or lease (or such lesser amount as may be fixed or estimated by the Bankruptcy Court or otherwise agreed to by such non-Debtor counterparty and the Debtor or the Reorganized Debtor). To the extent the Assumption Dispute is resolved or determined unfavorably to the Debtor or the Reorganized Debtor, as applicable, the Debtor or Reorganized Debtor, as applicable, may reject the applicable executory contract or unexpired lease after such determination.

(c) Any non-Debtor counterparty to an executory contract or unexpired lease that fails to object timely to the notice of the proposed assumption, assumption and assignment or sublease of such executory contract or unexpired lease shall be deemed to have assented to assumption, assumption and assignment or sublease of the applicable executory contract or unexpired lease notwithstanding any provision thereof that purports to (i) prohibit, restrict, restrain, or condition the transfer, assignment or sublease of such executory contract or unexpired lease (including provisions related to rights of first refusal, rights of first offer, tag rights, drag rights, or change of control fees or other like limitations), (ii) terminate or modify, or permit the termination or modification of, an executory contract or unexpired lease as a result of any direct or indirect transfer or assignment of the rights of the Debtor under such contract or lease or a change, if any, in the ownership or control as contemplated by the Plan, (iii) increase, accelerate, or otherwise alter any obligations or liabilities of the Debtor or the Reorganized Debtor under such executory contract or unexpired lease, or (iv) create or impose a Lien upon any property or asset of the Debtor or the Reorganized Debtor, as applicable. Each such provision shall be deemed to not apply to the assumption, assumption and assignment or sublease of such executory contract or unexpired lease pursuant to the Plan, and non-Debtor counterparties thereto that fail to object to the proposed assumption, assumption and assignment or sublease in accordance with the terms set forth in this Section 8.2(c) shall forever be barred and enjoined from objecting to the proposed assumption, assumption and assignment, or sublease, or to the validity of such assumption, assumption and assignment (including the provision of adequate assurance of future performance), or sublease, or taking actions prohibited by the foregoing on account of transactions contemplated by the Plan.

### 8.3 **Rejection.**

In the event that the rejection of an executory contract or unexpired lease hereunder results in damages to the other party or parties to such contract or lease, any Claim for such damages, if not heretofore evidenced by a timely filed proof of Claim, shall be forever barred and shall not be enforceable against the Debtor or the Reorganized Debtor, or its Estate, properties or interests in property, unless a proof of Claim is filed with the Bankruptcy Court and served upon the Debtor or the Reorganized Debtor, as applicable, no later than 30 days after the Effective Date. The Confirmation Order shall constitute the Bankruptcy Court's approval of the rejection of all the Debtor's unexpired leases and executory contracts not otherwise explicitly assumed.

8.4 **Payment of Cure Amounts.**

Subject to resolution of any Assumption Dispute, all Cure Amounts relating to an executory contract or unexpired lease that is to be assumed by the Debtor or the Reorganized Debtor shall be satisfied by the Debtor or the Reorganized Debtor, as applicable, following assumption or assignment of the underlying executory contract or unexpired lease. Such Cure Amounts shall, in the discretion of the Debtor or the Reorganized Debtor, as applicable, be paid on the later of (i) the Effective Date and (ii) without acceleration in the ordinary course of business and according to the terms of the executory contract or unexpired lease. Assumption or assignment and assignment of any executory contract or unexpired lease pursuant to the Plan, or otherwise, shall, subject to satisfaction of the Cure Amount, result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed or assigned executory contract or unexpired lease at any time before the effective date of the assumption or assignment and assignment.

8.5 **Survival of the Debtor's Indemnification Obligations and Guarantees.**

Any obligations of the Debtor pursuant to its corporate charters, bylaws, or other organizational documents to indemnify current and former officers, directors, agents, and/or employees with respect to all present and future actions, suits, and proceedings against the Debtor or such directors, officers, agents, and/or employees, based upon any act or omission for or on behalf of the Debtor, shall not be discharged or impaired by confirmation of the Plan; *provided, however*, that the Reorganized Debtor shall not indemnify directors of the Debtor for any Claims or Causes of Action arising out of or relating to any act or omission that constitutes intentional fraud, gross negligence, or willful misconduct. Except as otherwise provided in the Plan Supplement, such obligations shall be deemed and treated as executory contracts to be assumed by the Debtor under the Plan and shall continue as obligations of the Reorganized Debtor. Any claim based on such obligations shall not be a Disputed Claim or subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

8.6 **Insurance Policies.**

Except as otherwise provided in the Plan Supplement, all insurance policies (including all directors' and officers' insurance policies and tail coverage liability insurance) pursuant to which the Debtor has any obligations in effect as of the date of the Confirmation Order shall be deemed and treated as executory contracts pursuant to the Plan and shall be assumed by the Debtor and the Reorganized Debtor and shall continue in full force and effect thereafter in accordance with their respective terms. All other insurance policies shall vest in the Reorganized Debtor.

8.7 **Intellectual Property Licenses and Agreements.**

Except as otherwise provided in the Plan Supplement, all intellectual property contracts, licenses, royalties, or other similar agreements to which the Debtor have any rights or obligations in effect as of the date of the Confirmation Order shall be deemed and treated as executory contracts pursuant to the Plan and shall be assumed by the Debtor and shall continue in full force and effect unless any such intellectual property contract, license, royalty, or other similar agreement otherwise is specifically rejected pursuant to a separate order of the Bankruptcy Court or is the subject of a separate rejection motion filed by the Debtor in accordance with Section 8.1 of the Plan. Unless otherwise noted hereunder, all other intellectual property contracts, licenses, royalties, or other similar agreements shall

vest in the Reorganized Debtor and the Reorganized Debtor may take all actions as may be necessary or appropriate to ensure such vesting as contemplated herein.

**8.8 Reservation of Rights.**

(a) Neither the exclusion nor inclusion of any contract or lease by the Debtor on any exhibit, schedule, or other annex to the Plan or in the Plan Supplement, nor anything contained in the Plan, will constitute an admission by the Debtor that any such contract or lease is or is not in fact an executory contract or unexpired lease or that the Debtor or the Reorganized Debtor or their respective affiliates have any liability thereunder.

(b) Except as otherwise provided in the Plan, nothing in the Plan shall waive, excuse, limit, diminish, or otherwise alter any of the defenses, claims, Causes of Action, or other rights of the Debtor and the Reorganized Debtor under any executory or non-executory contract or any unexpired or expired lease.

(c) Nothing in the Plan shall increase, augment, or add to any of the duties, obligations, responsibilities, or liabilities of the Debtor or the Reorganized Debtor under any executory or non-executory contract or any unexpired or expired lease.

(d) If there is an Assumption Dispute or a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection under the Plan, the Debtor or the Reorganized Debtor, as applicable, shall have 60 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease by filing a notice indicating such altered treatment.

**ARTICLE IX CONDITIONS PRECEDENT TO CONFIRMATION OF PLAN AND  
EFFECTIVE DATE**

**9.1 Conditions Precedent to Confirmation of Plan.**

The following are conditions precedent to confirmation of the Plan:

- (a) the Bankruptcy Court shall have entered the Confirmation Order;
- (b) the Plan Supplement and all of the schedules, documents, and exhibits contained therein shall be in form and substance consistent in all material respects with the Restructuring Support Agreements and shall have satisfied the RSA Definitive Document Requirements to the extent applicable under the Restructuring Support Agreements; and
- (c) none of the Restructuring Support Agreements shall have been terminated and no termination notice shall have been given that with the passage of time would cause or permit a termination of any Restructuring Support Agreement.

**9.2 Conditions Precedent to Effective Date.**

The following are conditions precedent to the Effective Date of the Plan:

- (a) the Bankruptcy Court shall have entered the Confirmation Order and no stay thereof shall be in effect;

(b) none of the Restructuring Support Agreements shall have been terminated and no termination notice shall have been given that with the passage of time would cause or permit a termination of any Restructuring Support Agreement;

(c) the Debtor shall not be in default under the DIP Credit Facility or the DIP Order (or, to the extent that the Debtor is in default on the proposed Effective Date, such default shall have been waived by the applicable DIP Lenders or cured by the Debtor in a manner consistent with the DIP Credit Facility or the applicable DIP Order);

(d) the Unsecured Exit Facility Documents and ~~to the extent, if~~ the Debtor determines on or before the Effective Date to enter into the Secured Exit Facility, the Secured Exit Facility Documents shall have been executed and delivered by all of the Entities that are parties thereto, and all conditions precedent (other than any conditions related to the occurrence of the Effective Date) to the consummation of the applicable Exit Facility Documents shall have been waived or satisfied in accordance with the terms thereof, and the closing of the applicable Exit Facility Documents shall be deemed to occur concurrently with the occurrence of the Effective Date;

(e) ~~(i)~~ the Definitive Documents shall (x) have satisfied the RSA Definitive Document Requirements (to the extent applicable) and be acceptable to the Tranche B DIP Lenders, (y) have been executed and delivered, and any conditions precedent contained to effectiveness therein have been satisfied or waived in accordance therewith or in accordance with the Restructuring Support Agreements (other than any conditions precedent related to the occurrence of the Effective Date), and (z) be in full force and effect and binding upon the relevant parties; ~~and (ii) to the extent the Debtor determines to enter into the Secured Exit Facility, the Secured Exit Facility Documents governing the Secured Exit Facility also shall be in form and substance reasonably satisfactory to the Secured Exit Facility Agent and the Tranche B DIP Lenders;~~

(f) all conditions precedent (other than any conditions related to the occurrence of the Effective Date) to the consummation of the New Stockholders' Agreement shall have been waived or satisfied in accordance with the terms thereof, and the closing of the New Stockholders' Agreement shall be deemed to occur concurrently with the occurrence of the Effective Date;

(g) all conditions precedent to the issuance of the New Common Stock, other than any conditions related to the occurrence of the Effective Date, shall have occurred;

(h) the payment in Cash in full of all DIP Reimbursement Claims;

(i) to the extent required under applicable non-bankruptcy law, the Amended Organizational Documents shall have been filed with the appropriate governmental authorities;

(j) all actions, documents (including the Definitive Documents), and agreements necessary to implement and consummate the Plan shall have been effected or executed and binding on all parties thereto;

(k) all governmental and third-party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated by the Plan shall have been obtained, not be subject to unfulfilled conditions, and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on such transactions;

(l) the Confirmation Order has been recognized and granted full force and effect by the Philippine court pursuant to the Philippine Recognition Proceeding; and

(m) all unpaid Restructuring Expenses and all amounts payable by the Debtor pursuant to the DIP Order shall have been paid in Cash, to the extent invoiced at least four Business Days prior to the Effective Date.

**9.3 Waiver of Conditions Precedent.**

(a) Except as otherwise provided herein, all actions required to be taken on the Effective Date shall take place and shall be deemed to have occurred simultaneously and no such action shall be deemed to have occurred prior to the taking of any other such action. Each of the conditions precedent in Section 9.1 and Section 9.2 of the Plan (except for Section 9.2(a)) may be waived in writing by the Debtor with the consent of the Tranche B DIP Lenders without leave of or order of the Bankruptcy Court, *provided, however*, that the condition in Section 9.2(e) of the Plan may be waived with respect to a particular Definitive Document only to the extent that every party that maintains a consent right over the subject Definitive Document as set forth in the Restructuring Support Agreements agrees to waive such condition with respect to the subject Definitive Document, *provided, further*, that waiver of the conditions in Sections 9.2(c), (h) and (m) of the Plan shall require the consent of the DIP Agent at the direction of the Required Lenders under the DIP Credit Facility Documents.

(b) The stay of the Confirmation Order pursuant to Bankruptcy Rule 3020(e) shall be deemed waived by and upon the entry of the Confirmation Order, and the Confirmation Order shall take effect immediately upon its entry.

**9.4 Effect of Failure of a Condition.**

If the conditions listed in Section 9.2 of the Plan are not satisfied or waived in accordance with Section 9.3 of the Plan on or before the first Business Day that is more than 60 days after the date on which the Confirmation Order is entered or by such later date as set forth by the Debtor in a notice filed with the Bankruptcy Court prior to the expiration of such period, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall (a) constitute a waiver or release of any Claims against or any Interests in the Debtor or claims by the Debtor, (b) prejudice in any manner the rights of any Entity, or (c) constitute an admission, acknowledgement, offer, or undertaking by the Debtor, any of the Supporting Creditors, or any other Entity.

**ARTICLE X EFFECT OF CONFIRMATION OF PLAN.**

**10.1 Vesting of Assets.**

Except as otherwise provided herein, or in any agreement, instrument, or other document incorporated in the Plan (including the Restructuring Transactions), on the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all assets and property of the Estate shall vest in the Reorganized Debtor, free and clear of all Claims, Liens, encumbrances, charges, and other interests, except as provided pursuant to the Plan, the Confirmation Order, or the Exit Facility Documents. On and after the Effective Date, the Reorganized Debtor may take any action, including the operation of its business; the use, acquisition, sale, lease and disposition of property; and the entry into transactions, agreements, understandings, or arrangements, whether in or other than in the ordinary course of business, and execute, deliver, implement, and fully perform any and all obligations, instruments, documents, and

papers or otherwise in connection with any of the foregoing, free of any restrictions of the Bankruptcy Code or Bankruptcy Rules and in all respects as if there were no pending cases under any chapter or provision of the Bankruptcy Code, except as expressly provided herein. Without limiting the foregoing, the Reorganized Debtor may pay the charges that it incurs on or after the Effective Date for professional fees, disbursements, expenses, or related support services without application to the Bankruptcy Court.

10.2 **Binding Effect.**

As of the Effective Date, the Plan shall bind all holders of Claims against and Interests in the Debtor and its respective successors and assigns, notwithstanding whether any such holders were (a) Impaired or Unimpaired under the Plan, (b) deemed to accept or reject the Plan, (c) failed to vote to accept or reject the Plan, or (d) voted to reject the Plan.

10.3 **Discharge of Claims and Termination of Interests.**

Upon the Effective Date and in consideration of the Distributions to be made hereunder, except as otherwise expressly provided herein, each holder (as well as any representatives, trustees, or agents on behalf of each holder) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtor, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date. Upon the Effective Date, all such Entities shall be forever precluded and enjoined, pursuant to section 524 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in the Debtor against the Debtor, the Reorganized Debtor, or any of their assets or property, whether or not such holder has filed a proof of Claim and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

10.4 **Term of Injunctions or Stays.**

Unless otherwise provided herein, the Confirmation Order, or in a Final Order of the Bankruptcy Court, all injunctions or stays arising under or entered during the Chapter 11 Case under section 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 later of the Effective Date and the date indicated in the order providing for such injunction or stay.

10.5 **Injunction.**

(a) **Upon entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates, shall be enjoined from taking any actions to interfere with the implementation or consummation of the Plan in relation to any Claim or Interest extinguished, discharged or released pursuant to the Plan.**

(b) **Except as expressly provided in the Plan, the Confirmation Order, or a separate order of the Bankruptcy Court or as agreed to by the Debtor and a holder of a Claim against or Interest in the Debtor, all Entities who have held, hold, or may hold Claims against or Interests in the Debtor (whether proof of such Claims or Interests has been filed or not and whether or not such Entities vote in favor of, against or abstain from voting on the Plan or are presumed to have accepted or deemed to have rejected the Plan) and other parties in interest, along with their respective present or former employees, agents, officers, directors, principals, and affiliates are permanently enjoined, on and after the Effective Date, solely with respect to any Claims, Interests, and Causes of Action that will be or are extinguished, discharged, or released**

pursuant to the Plan from (i) commencing, conducting, or continuing in any manner, directly or indirectly, any suit, action, or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) on account of or in connection with or with respect to any such Claims or Interests or against or affecting the Released Parties or the property of any of the Released Parties, (ii) enforcing, levying, attaching (including, without limitation, any prejudgment attachment), collecting, or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree, or order against the Released Parties or the property of any of the Released Parties, (iii) creating, perfecting, or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Released Parties or the property of any of the Released Parties, (iv) asserting any right of setoff, directly or indirectly, against any obligation due the Released Parties or the property of any of the Released Parties, except as contemplated or allowed by the Plan; and (v) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of the Plan.

(c) By accepting Distributions pursuant to the Plan, each holder of an Allowed Claim or Interest extinguished, discharged, or released pursuant to the Plan shall be deemed to have affirmatively and specifically consented to be bound by the Plan, including, without limitation, the injunctions set forth in this Section 10.5.

(d) The injunctions in this Section 10.5 shall extend to any successors of the Debtor and the Reorganized Debtor and their respective property and interests in property.

#### 10.6 Releases.

(a) Releases by Debtor.

Notwithstanding anything contained in the Plan to the contrary, pursuant to section 1123(b) of the Bankruptcy Code, on and after the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, effective as of the Effective Date and to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is confirmed by this Plan, the Released Parties shall be deemed released and discharged by the Debtor, the Reorganized Debtor, and the Estate, and any person seeking to exercise the rights of the Estate, including any successors to the Debtor or any Estate representative appointed or selected pursuant to section 1123(b)(3) of the Bankruptcy Code, from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, rights, Causes of Action, remedies, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether known or unknown, asserted or unasserted, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that the Debtor, the Reorganized Debtor, the Estate, or their affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the conduct of the Debtor's business, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any security of the Debtor or the Reorganized Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party, the Debtor's restructuring, the restructuring of any Claim or Interest before or during the Chapter 11 Case, the DIP Credit Facility Documents, the DIP Order, the Bridge Loan Documents, the Disclosure Statement, the Restructuring Support Agreements, any

Restructuring Transactions and the Plan and related agreements, instruments, and other documents (including the Definitive Documents), and the negotiation, formulation, or preparation thereof, the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, including, without limitation, all Avoidance Actions; *provided that* nothing in this Section 10.6(a) shall be construed to release the Released Parties from gross negligence, willful misconduct or intentional fraud as determined by a Final Order.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the foregoing release, which includes by reference each of the related provisions and definitions contained in the Plan, and further, shall constitute the Bankruptcy Court's finding that such release is: (1) in exchange for the good and valuable consideration provided by the Released Parties; (2) a good faith settlement and compromise of the Claims released thereby; (3) in the best interests of the Debtor and all holders of Claims and Interests; (4) fair, equitable, and reasonable; (5) given and made after due notice and opportunity for hearing; and (6) a bar to the Debtor, the Reorganized Debtor, or the Estate asserting any Claim or Cause of Action released pursuant to such release.

(b) Releases by Holders of Claims or Interests.

Notwithstanding anything contained in the Plan to the contrary, on and after the Effective Date, except for the right to enforce the Plan or any right or obligation arising under the Definitive Documents that remains in effect after the Effective Date, effective as of the Effective Date and to the fullest extent permitted by applicable law, for good and valuable consideration provided by each of the Released Parties, the adequacy of which is confirmed by this Plan, the Releasing Parties are deemed to have fully, conclusively, absolutely and irrevocably released and discharged the Released Parties from any and all Claims, obligations, rights, suits, judgments, damages, demands, debts, rights, Causes of Action, remedies, losses, and liabilities whatsoever, including any derivative claims, asserted or assertable on behalf of the Debtor, the Reorganized Debtor, or the Estate, whether known or unknown, asserted or unasserted, foreseen or unforeseen, liquidated or unliquidated, matured or unmatured, contingent or fixed, existing or hereinafter arising, in law, equity or otherwise, that any such Releasing Party would have been legally entitled to assert (whether individually or collectively) or on behalf of the holder of any Claim or Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtor, the Estate, the conduct of the Debtor's business, the Chapter 11 Case, the purchase, sale or rescission of the purchase or sale of any security of the Debtor or the Reorganized Debtor, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the business or contractual arrangements between the Debtor and any Released Party, the Debtor's restructuring, the restructuring of any Claim or Interest before or during the Chapter 11 Case, the DIP Credit Facility Documents, the DIP Order, the Bridge Loan Documents, the Disclosure Statement, the Restructuring Support Agreements, any Restructuring Transactions and the Plan and related agreements, instruments, and other documents (including the Definitive Documents), and the negotiation, formulation, or preparation thereof, the solicitation of votes with respect to the Plan, or any other act or omission, in all cases based upon any act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, including, without limitation, all Avoidance Actions; *provided that* nothing in this Section 10.6(b) shall be construed to release the Released Parties from gross negligence, willful misconduct, or intentional fraud as determined by a Final Order.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the foregoing release, which includes by reference each of

the related provisions and definitions contained in the Plan, and further, shall constitute the Bankruptcy Court's finding that such release is: (1) consensual; (2) essential to the confirmation of the Plan; (3) given in exchange for the good and valuable consideration provided by the Released Parties; (4) a good faith settlement and compromise of the Claims released thereby; (5) in the best interests of the Debtor and all holders of Claims and Interests; (6) fair, equitable, and reasonable; (7) given and made after due notice and opportunity for hearing; and (8) a bar to the Debtor, the Reorganized Debtor, or the Estate asserting any Claim or Cause of Action released pursuant to such release.

#### 10.7 Exculpation.

To the extent permitted under 1125(e) of the Bankruptcy Code and New York Rules of Professional Conduct, notwithstanding anything herein to the contrary, and to the maximum extent permitted by other applicable law, no Exculpated Party will have or incur, and each Exculpated Party is hereby released and exculpated from, any claim, obligation, suit, judgment, damage, demand, debt, right, cause of action, remedy, loss, and liability for any claim in connection with or arising out of the administration of the Chapter 11 Case, the negotiation, formulation, preparation, and pursuit of the Disclosure Statement, the Restructuring Support Agreements, the DIP Credit Facility Documents, the DIP Order, the Bridge Loan Documents, the transactions relating to the Debtor's restructuring, the Plan, or the solicitation of votes for, or confirmation of, the Plan, the funding or consummation of the Plan (including the Plan Supplement), the Definitive Documents, the Restructuring Transactions, or any related agreements, instruments, or other documents, the solicitation of votes on the Plan, the offer, issuance, and Distribution of any Securities issued or to be issued pursuant to the Plan, whether or not such Distribution occurs following the Effective Date, the occurrence of the Effective Date, negotiations regarding or concerning any of the foregoing, or the administration of the Plan or property to be distributed under the Plan, except for actions determined by Final Order to constitute gross negligence, willful misconduct, or intentional fraud. This exculpation shall be in addition to, and not in limitation of, all other releases, indemnities, exculpations and any other applicable law or rules protecting such Exculpated Parties from liability. Nothing herein shall be deemed to be a release or waiver of the Reorganized Debtor's obligations under the Exit Facility Documents.

#### 10.8 Retention of Causes of Action/Reservation of Rights.

Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, including pursuant to Section 10.6(a) of the Plan, the DIP Order, or a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtor shall retain and may enforce all rights to commence and pursue any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtor's rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtor or the Reorganized Debtor will not pursue any and all available Causes of Action against them. The Debtor and the Reorganized Debtor expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided herein.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, including pursuant to Section 10.6(a) of the Plan, the DIP Order, or a Bankruptcy Court order, the Reorganized Debtor expressly reserves all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such

Causes of Action upon, after, or as a consequence of the confirmation or consummation of the Plan. For the avoidance of doubt, in no instance will any Cause of Action preserved pursuant to this Section 10.8 include any claim or Cause of Action with respect to, or against, a Released Party.

In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action preserved pursuant to the first paragraph of this Section 10.8 that the Debtor may hold against any Entity shall vest in the Reorganized Debtor. The Reorganized Debtor, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtor shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court. For the avoidance of doubt, the Debtor and the Reorganized Debtor shall not retain any Claims or Causes of Action released pursuant to the Plan against the Released Parties or arising under chapter 5 of the Bankruptcy Code (except that such Claims or Causes of Action may be asserted as a defense to a Claim in connection with the claims reconciliation and objection procedures pursuant to section 502(d) of the Bankruptcy Code or otherwise).

#### 10.9 **Solicitation of Plan.**

As of and subject to the occurrence of the Confirmation Date: (a) the Debtor shall be deemed to have solicited acceptances of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, including sections 1125(a) and (e) of the Bankruptcy Code, and any applicable non-bankruptcy law, rule, or regulation governing the adequacy of disclosure in connection with such solicitation, and (b) the Debtor and its respective directors, officers, employees, affiliates, agents, financial advisors, investment bankers, professionals, accountants, and attorneys shall be deemed to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer and issuance of any Securities under the Plan, and therefore are not, and on account of such offer, issuance, and solicitation will not be, liable at any time for any violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or the offer and issuance of any Securities under the Plan.

Notwithstanding anything herein to the contrary, as of the Effective Date, pursuant to section 1125(e) of the Bankruptcy Code, the Debtor and each of its affiliates, agents, representatives, members, principals, equityholders (regardless of whether such interests are held directly or indirectly), officers, directors, managers, employees, advisors and attorneys shall be deemed to have solicited acceptance of the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, and to have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code, in the offer, issuance, sale, or purchase of a security offered or sold under the Plan, and shall not be liable to any Person on account of such solicitation or participation.

#### 10.10 **Reimbursement or Contribution.**

If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the Effective Date, such Claim shall be forever disallowed notwithstanding section 502(j) of the Bankruptcy Code, unless prior to the Effective Date (a) such Claim has been adjudicated as noncontingent, or (b) the relevant holder of a Claim has filed a noncontingent proof of claim on account of such Claim and a Final Order has been entered determining such Claim as no longer contingent.

10.11 **Recoupment.**

In no event shall any holder of a Claim be entitled to recoup such Claim against any Claim, right, or Cause of Action of the Debtor or the Reorganized Debtor, as applicable, unless such holder actually has performed such recoupment and provided notice thereof in writing to the Debtor on or before the Confirmation Date, notwithstanding any indication in any proof of claim or otherwise that such holder asserts, has, or intends to preserve any right of recoupment.

10.12 **Subordination Rights.**

Any Distributions to holders of Claims or Interests shall be received and retained free from any obligations to hold or transfer the same to any other holder and shall not be subject to levy, garnishment, attachment, or other legal process by any holder by reason of claimed contractual subordination rights. On the Effective Date, any such subordination rights shall be deemed waived, and the Confirmation Order shall constitute an injunction enjoining any Entity from enforcing or attempting to enforce any contractual, legal, or equitable subordination rights to property distributed under the Plan, in each case other than as provided in the Plan; *provided that* any such subordination rights shall be preserved in the event the Confirmation Order is vacated, the Effective Date does not occur in accordance with the terms hereunder or the Plan is revoked or withdrawn.

**ARTICLE XI RETENTION OF JURISDICTION.**

11.1 **Retention of Jurisdiction.**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain non-exclusive jurisdiction over all matters arising under, or arising in, or relating to the Chapter 11 Case or the Plan to the fullest extent legally permissible by 28 U.S.C. § 1334 to hear, and by 28 U.S.C. § 157 to determine, all proceedings in respect thereof, including for the following purposes:

(a) to hear and determine motions and/or applications for the assumption or rejection of executory contracts or unexpired leases, including Assumption Disputes, and the allowance, classification, priority, compromise, estimation, or payment of Claims resulting therefrom;

(b) to determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date, including, any proceeding with respect to a Cause of Action;

(c) to ensure that Distributions to holders of Allowed Claims are accomplished as provided for in the Plan and the Confirmation Order and to adjudicate any and all disputes arising from or relating to Distributions under the Plan;

(d) to consider the allowance, classification, priority, compromise, estimation, or payment of any Claim or Interest, including any Administrative Expense Claims;

(e) to enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;

(f) to issue injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Entity with the consummation,

implementation, or enforcement of the Plan, the Confirmation Order, or any other order of the Bankruptcy Court;

(g) to hear and determine any application to modify the Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in the Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;

(h) to hear and determine all Professional Fee Claims and any disputes related to Restructuring Expenses;

(i) to hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Restructuring Support Agreements, the Usage Stipulations (as defined in the Restructuring Support Agreements), the Rejection Stipulations (as defined in the Restructuring Support Agreements), the Soft Landing Stipulations (as defined in the Restructuring Support Agreements), the Super-Soft Landing Stipulations (as defined in the Restructuring Support Agreements), the Plan, the Plan Supplement, the Confirmation Order, any transactions or payments contemplated herein, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(j) to take any action and issue such orders as may be necessary to construe, interpret, enforce, implement, execute, and consummate the Plan;

(k) to determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(l) to hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code (including any requests for expedited determinations under section 505(b) of the Bankruptcy Code);

(m) to hear, adjudicate, decide, or resolve any and all matters related to Article X of the Plan, including the releases, discharge, exculpations, and injunctions issued thereunder;

(n) to enforce all orders previously entered by the Bankruptcy Court;

(o) to resolve disputes concerning Disputed Claims or the administration thereof;

(p) to hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code, including in connection with or related to the Plan, the Disclosure Statement, the Confirmation Order, the Plan Supplement, or any document related to the foregoing;

(q) to enter a final decree closing the Chapter 11 Case;

(r) to recover all assets of the Debtor and property of the Estate, wherever located;

(s) to hear and determine any rights, Claims, or Causes of Action held by or accruing to the Debtor pursuant to the Bankruptcy Code or pursuant to any federal statute or legal theory; and

(t) to hear and resolve any dispute over the application to any Claim of any limit on the allowance of such Claim set forth in sections 502 or 503 of the Bankruptcy Code, other than defenses or limits that are asserted under non-bankruptcy law pursuant to section 502(b)(1) of the Bankruptcy Code; *provided that*, on and after the Effective Date and after the consummation of the following agreements or documents, the Bankruptcy Court shall not retain jurisdiction over matters arising out of or related to each of the Exit Facility Documents, the Amended Organizational Documents, and the New Stockholders' Agreement, and the Exit Facility Documents, the Amended Organizational Documents, and the New Stockholders' Agreement shall be governed by the respective jurisdictional provisions therein.

#### 11.2 **Courts of Competent Jurisdiction.**

If the Bankruptcy Court abstains from exercising, or declines to exercise, jurisdiction or is otherwise without jurisdiction over any matter arising out of the Plan, such abstention, refusal, or failure of jurisdiction shall have no effect upon and shall not control, prohibit, or limit the exercise of jurisdiction by any other court having competent jurisdiction with respect to such matter.

### **ARTICLE XII MISCELLANEOUS PROVISIONS.**

#### 12.1 **Payment of Statutory Fees.**

On the Effective Date and thereafter as may be required, the Reorganized Debtor shall (i) pay all fees incurred pursuant to section 1930 of chapter 123 of title 28 of the United States Code, together with interest, if any, pursuant to § 3717 of title 31 of the United States Code for the Debtor's case, and (ii) continue to file, or cause to be filed, with the Bankruptcy Court quarterly reports in accordance with the *Operating Guidelines and Reporting Requirements for Debtors in Possession and Trustees for Region 2*, until such time as a final decree is entered closing the Debtor's case, a Final Order converting the Debtor's case to a case under chapter 7 of the Bankruptcy Code is entered, or a Final Order dismissing the Debtor's case is entered.

#### 12.2 **Substantial Consummation of the Plan.**

On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

#### 12.3 **Expedited Determination of Taxes.**

The Reorganized Debtor shall have the right to request an expedited determination under section 505(b) of the Bankruptcy Code with respect to tax returns filed, or to be filed, for any and all taxable periods of the Debtor through the Effective Date.

#### 12.4 **Exemption from Certain Transfer Taxes.**

Pursuant to section 1146 of the Bankruptcy Code, (a) the issuance, transfer or exchange of any Securities or instruments, (b) the creation, filing or recording of any Lien, mortgage, deed of trust, or other security interest, (c) the making, assignment, filing or recording of any lease or sublease or the making or delivery of any deed, bill of sale, or other instrument of transfer under, pursuant to, in furtherance of, or in connection with the Plan, including any deeds, bills of sale, or assignments executed in connection with any of the transactions contemplated under the Plan or the reinvesting, transfer, or sale of any real or personal property of the Debtor pursuant to, in implementation of or as contemplated

in the Plan (whether to the Reorganized Debtor or otherwise), (d) the grant of Collateral under the Exit Facility Documents, and (e) the issuance, renewal, modification, or securing of indebtedness in furtherance of, or in connection with, the Plan, including the Confirmation Order, shall not constitute a “transfer under a plan” within the purview of section 1146 of the Bankruptcy Code and shall not be subject to or taxed under any law imposing any document recording tax, stamp tax, conveyance fee, or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales tax, use tax, or other similar tax or governmental assessment. Consistent with the foregoing, each recorder of deeds or similar official for any county, city, or Governmental Unit in which any instrument hereunder is to be recorded shall, pursuant to the Confirmation Order, be ordered and directed to accept such instrument without requiring the payment of any filing fees, documentary stamp tax, deed stamps, stamp tax, transfer tax, intangible tax, or similar tax.

#### 12.5 **Amendments.**

(a) **Plan Modifications.** Subject to the terms of the Restructuring Support Agreements and with the consent of the Tranche B DIP Lenders, (i) the Debtor reserves the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend, modify or supplement the Plan prior to the entry of the Confirmation Order, including amendments or modifications to satisfy section 1129(b) of the Bankruptcy Code and (ii) after entry of the Confirmation Order, the Debtor may, upon order of the Bankruptcy Court, amend, modify, or supplement the Plan in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, in each case without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as the Bankruptcy Code may otherwise direct.

(b) **Other Amendments.** Subject to the Restructuring Support Agreements and with the consent of the Tranche B DIP Lenders, after the Confirmation Date, so long as such action does not materially adversely affect the treatment of holders of Claims or Interests hereunder, the Debtor may remedy any defect or omission or reconcile any inconsistencies in the Plan or the Confirmation Order with respect to such matters as may be necessary to carry out the purposes and effects of the Plan, and any holder of a Claim or Interest that has accepted the Plan shall be deemed to have accepted the Plan as amended, modified, or supplemented. Before the Effective Date, the Debtor may make appropriate technical adjustments and modifications to the Plan and the documents contained in the Plan Supplement without further order or approval of the Bankruptcy Court; *provided* that such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests and that any such technical adjustment or modification is consistent with the Restructuring Support Agreements, and *provided, further*, that the Debtor may not modify or seek to modify the treatment of the DIP Claims without the prior written consent of the Required Lenders (as defined in the DIP Credit Agreement).

#### 12.6 **Effectuating Documents and Further Transactions.**

Each of the officers of the Reorganized Debtor is authorized, in accordance with his or her authority under the resolutions of the applicable board of directors or managers, to execute, deliver, file, or record such contracts, instruments, releases, indentures, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

On or before the Effective Date, the Debtor may file with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtor or the Reorganized Debtor, as applicable, and all

holders of Claims receiving Distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

**12.7 Revocation or Withdrawal of Plan.**

Subject to the terms of the Restructuring Support Agreements, the Debtor reserves the right to revoke or withdraw the Plan prior to the Effective Date as to the Debtor. If the Plan has been revoked or withdrawn prior to the Effective Date, or if confirmation or the occurrence of the Effective Date as to the Debtor does not occur on the Effective Date, then, with respect to the Debtor: (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan (including the fixing of or limiting an amount of any Claim or Interest or Class of Claims or Interests), assumption of executory contracts or unexpired leases affected by the Plan, and any document or agreement executed pursuant to the Plan shall be deemed null and void; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claim by or against, or any Interest in, the Debtor or any other Entity, (ii) prejudice in any manner the rights of the Debtor or any other Entity, or (iii) constitute an admission of any sort by the Debtor, any Supporting Creditor, any DIP Lender, the DIP Agent or any other Entity. This provision shall have no impact on the rights of the Supporting Creditors or the Debtor, as set forth in the Restructuring Support Agreements, or the DIP Lenders, DIP Agent or the Debtor, as set forth in the DIP Credit Facility Documents, in each case in respect of any such revocation or withdrawal.

**12.8 Severability of Plan Provisions.**

If, before the entry of the Confirmation Order, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, in each case at the election and the request of the Debtor, shall have the power (subject to the Restructuring Support Agreements) to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan shall remain in full force and effect and shall in no way be affected, impaired or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is (a) valid and enforceable pursuant to its terms, (b) integral to the Plan and may not be deleted or modified without the consent of the Debtor or the Reorganized Debtor (as the case may be), and (c) nonseverable and mutually dependent.

**12.9 Governing Law.**

Except to the extent that the Bankruptcy Code or other U.S. federal law is applicable, or to the extent an exhibit or schedule hereto, or a schedule in the Plan Supplement or a Definitive Document provides otherwise, the rights, duties, and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof; *provided that* corporate or entity governance matters relating to the Debtor or the Reorganized Debtor shall be governed by the laws of the state or country of incorporation or organization of the Debtor or the Reorganized Debtor.

12.10 **Time.**

In computing any period of time prescribed or allowed by the Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

12.11 **Dates of Actions to Implement the Plan.**

In the event that any payment or act under the Plan is required to be made or performed on a date that is not on a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

12.12 **Immediate Binding Effect.**

Notwithstanding Bankruptcy Rules 3020(e), 6004(h), 7062, or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon and inure to the benefit of the Debtor, the holders of Claims and Interests, the Released Parties, and each of their respective successors and assigns, including the Reorganized Debtor.

12.13 **Deemed Acts.**

Subject to and conditioned on the occurrence of the Effective Date, whenever an act or event is expressed under the Plan to have been deemed done or to have occurred, it shall be deemed to have been done or to have occurred without any further act by any party, by virtue of the Plan and the Confirmation Order.

12.14 **Successors and Assigns.**

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor, or permitted assign, if any, of each Entity.

12.15 **Entire Agreement.**

On the Effective Date, the Plan, the Plan Supplement, and the Confirmation Order shall supersede all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

12.16 **Exhibits to Plan.**

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

12.17 **Reservation of Rights.**

The Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of the Plan, any statement or provision contained in the Plan, or

the taking of any action by ~~any~~the Debtor with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of ~~any~~the Debtor with respect to the holders of Claims or Interests prior to the Effective Date.

12.18 **Plan Supplement.**

After any of such documents included in the Plan Supplement are filed, copies of such documents shall be made available upon written request to the Debtor's counsel at the address above or by downloading such exhibits and documents from the Voting Agent's website at [www.kccllc.net/PAL](http://www.kccllc.net/PAL) or the Bankruptcy Court's website at <https://www.pacer.gov/>.

12.19 **Waiver or Estoppel.**

Each holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, secured or not subordinated by virtue of an agreement made with the Debtor or its counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, the Restructuring Support Agreements, or papers filed with the Bankruptcy Court prior to the Confirmation Date.

12.20 **Notices.**

To be effective, all notices, requests, and demands to or upon the Debtor, or the DIP Agent, as applicable, shall be in writing (including by electronic or facsimile transmission) and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

Philippine Airlines, Inc.  
PNB Financial Center  
President Diosdado Macapagal Avenue  
CCP Complex, Pasay City 1300  
Metro Manila, Philippines  
Attn: Nilo Thaddeus Rodriguez  
Email: [nilo\\_rodriguez@pal.com.ph](mailto:nilo_rodriguez@pal.com.ph)

-and-

Debevoise & Plimpton LLP  
919 Third Avenue  
New York, New York 10022  
Attn: Jasmine Ball, Esq.  
Nick S. Kaluk, III, Esq.  
Elie J. Worenklein, Esq.  
Email: [jball@debevoise.com](mailto:jball@debevoise.com)  
[nskaluk@debevoise.com](mailto:nskaluk@debevoise.com)  
[eworenklein@debevoise.com](mailto:eworenklein@debevoise.com)

If to the DIP Agent:

Buona Sorte Holdings, Inc.

19F BDO Plaza 8737 Paseo de Roxas, Makati City,  
Metro Manila, Philippines

with a copy to:

White & Case LLP  
1221 Avenue of the Americas  
New York, New York 10020  
Attention: Todd Wolynski, Esq.  
Richard Kebrdle, Esq.  
Andrew Zatz, Esq.  
Email: todd.wolynski@whitecase.com;  
rkebrdle@whitecase.com;  
azatz@whitecase.com

After the occurrence of the Effective Date, the Reorganized Debtor has authority to send a notice to Entities that in order to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entities must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the occurrence of the Effective Date, the Reorganized Debtor is authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities that have filed such renewed requests.

IN WITNESS WHEREOF, the Debtor has executed this Plan this ~~9<sup>th</sup>~~3<sup>rd</sup> day of  
~~November~~December, 2021.

Respectfully submitted,

**PHILIPPINE AIRLINES, INC.**

By: /s/ Nilo Thaddeus Rodriguez  
Name: Nilo Thaddeus Rodriguez  
Title: Chief Financial Officer

**Exhibit A**

**List of Restructuring Support Agreements**

RSAs entered into with Aircraft Counterparties – Operating Leases

- RSA entered into with Aircraft MSN 6201 LLC and Aircraft MSN 6253 LLC
- RSA entered into with PP5012 Aircraft Leasing Limited and PP5103 Aircraft Leasing Limited
- RSA entered into with Pajun Aviation Leasing 1 Limited and Pajun Aviation Leasing 2 Limited
- RSA entered into with Pajun Aviation Leasing 3 Limited
- RSA entered into with Avation Pacific Leasing II Pte. Ltd.
- RSA entered into with CIT Aerospace International, SAF Leasing II (AOE 2) Limited, Avolon Aerospace AOE 95 Limited, CIT Group Finance (Ireland), HKAC Leasing 6291 (Ireland) Limited, Avolon Aerospace AOE 106 Limited, and Avolon Aerospace AOE 108 Limited
- RSA entered into with ECAF I 1482 DAC and ECAF I 6363 DAC
- RSA entered into with Fly Aircraft Holdings Twenty-One Ltd, Fly Aircraft Holdings Twenty-Two Ltd, Fly Aircraft Holdings Twenty-Six Ltd, and Fly Aircraft Holdings Twenty-Eight Ltd
- RSA entered into with Wilmington Trust SP Services (Dublin) Limited (“Castlelake”)
- RSA entered into with Wilmington Trust SP Services (Dublin) Limited (“Chorus”)
- RSA entered into with AWAS 1 Ireland Limited and AWAS 5371 Trust
- RSA entered into with DCAL 2 Leasing Limited and DCAL 1 Leasing Limited
- RSA entered into with Celestial Aviation Trading 68 Limited, Celestial EX-IM Trading 1 Limited, LAF Leasing Ireland 3 Limited, and Celestial Aviation Trading 100 Limited
- RSA entered into with Nanshi Aviation Leasing Limited
- RSA entered into with HAITONG Unitrust No. 3 Limited and HAITONG Unitrust No. 4 Limited
- RSA entered into with JPL Stratos Leasing 1 Limited
- RSA entered into with JPA No. 112 Co., Ltd., and DVB Bank SE, Singapore Branch
- RSA entered into with Macquarie Airfinance Acquisitions (UK) Ltd
- RSA entered into with Orix Aviation Systems Limited
- RSA entered into with RRP Engine Leasing Limited
- RSA entered into with SMBC Aviation Capital Limited
- RSA entered into with TrueNoord Pinatubo Limited

- RSA entered into with Nordic Aviation Leasing Twenty Three Pte. Ltd. and Nordic Aviation Leasing Twenty Four Pte. Ltd.

RSAs entered into with Aircraft Counterparties – Finance Leases

- RSA entered into with BDO Unibank, Inc.- Trust and Investments Group, Ascend Aircraft Leasing Limited I, Ascend Aircraft Leasing Limited II, Ascend Aircraft Leasing Limited III, BDO Unibank, Inc., and BDO Capital & Investment Corporation
- RSA entered into with Cathay United Bank, Co., Ltd. and Prime Aviation Leasing
- RSA entered into with China Banking Corporation, China Banking Corporation – Trust and Asset Management Group, Pioneer Aircraft Leasing I Limited, Pioneer Aircraft Leasing II Limited, and Pioneer Aircraft Leasing III Limited
- RSA entered into with JA Mitsui Leasing, Ltd. and Paragon Aircraft Leasing Limited
- RSA entered into with MUFG Bank, Ltd., Singapore Branch, and Peak Aircraft Leasing Limited II
- RSA entered into with Ascend Aircraft Leasing Limited IV and PK AirFinance S.à r.l.
- RSA entered into with Peak Aircraft Leasing Limited I and PK AirFinance S.à r.l.
- RSA entered into with Premiere Aero Leasing Limited and PK AirFinance S.à r.l.
- RSA entered into with Paramount Aircraft Leasing Limited and PK AirFinance S.à r.l. (“Paramount 2”)
- RSA entered into with Philippine National Bank, Phoenix Aircraft Leasing Limited, and Prima Aircraft Leasing Limited
- RSA entered into with Pacific Aircraft Leasing (2012) LLC, Pacific Aircraft Leasing (2012) Trust, Porto Aircraft Leasing (2012) LLC, Porto Aircraft Leasing (2012) Trust, Penta Aircraft Leasing (2013) LLC, Penta Aircraft Leasing (2013) Trust, Wilmington Trust Company, Wells Fargo Trust Company, National Association, and Export Import Bank of the United States
- RSA entered into with Alhena Ltd. and BNP Paribas (Singapore branch)
- RSA entered into with Paramount Aircraft Leasing Limited and PK AirFinance S.à r.l. (“Paramount 1”)

RSAs entered into with Original Equipment Manufacturers

- RSA entered into with Airbus S.A.S.
- RSA entered into with Rolls Royce plc
- RSA entered into with IAE International Aero Engines AG and International Aero Engines, LLC

RSAs entered into with Local Banks

- RSA entered into with Asia United Banking Corporation
- RSA entered into with Union Bank of the Philippines
- RSA entered into with Industrial and Commercial Bank of China Limited – Manila Branch