

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.

GG. Resolution of Objections. All parties have had a full and fair opportunity to litigate all issues raised by Objections, or which might have been raised, and the Objections have been fully and fairly litigated. As presented at the Confirmation Hearing and as provided herein, the consensual resolutions of certain Objections, responses, statements, and comments in opposition to the Plan satisfy all applicable requirements of the Bankruptcy Code and the Bankruptcy Rules and are in the best interests of the Debtors and are hereby approved.

HH. Satisfaction of Confirmation Requirements. Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

Implementation and Consummation of the Plan

II. Implementation. All documents necessary to implement the Plan and all other relevant and necessary documents have been negotiated in good faith and at arms' length and shall, upon execution of the documents and upon the occurrence of the Effective Date, constitute legal, valid, binding, enforceable, and authorized obligations of the respective parties thereto and will be enforceable in accordance with their terms Pursuant to section 1142(a) of the Bankruptcy Code, the Plan Documents will apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

JJ. Good Faith. The Plan Proponents and each of their respective officers, directors, employees, attorneys, advisors, insurers, investment bankers, consultants, managers, members, partners, agents, accountants, and other professionals, and their predecessors, successors, assigns, present and former affiliates (whether by operation of law or otherwise), and

equity holders, in each case, in their respective capacities as such, as applicable, (i) have acted in good faith in negotiating, formulating, and proposing, where applicable, the Plan and agreements, compromises, settlements, transactions, and transfers contemplated thereby, and (ii) will be acting in good faith in proceeding to (a) consummate the Plan and the agreements, compromises, settlements, transactions, transfers, and documentation contemplated by the Plan Documents, including, but not limited to, the Claims Purchase and (ii) take any actions authorized and directed or contemplated by this Order.

KK. Committee Settlement. The Committee Settlement is above the lowest point in the range of reasonableness and satisfies the standards for approval under Bankruptcy Rule 9019 as set forth in *Protective Comm. for Indep. Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414 (1968).

LL. Exit Financing. The liquidity provided by the \$30 million New First Lien Facility and the issuance of the New Second Lien Notes (collectively the “**Exit Financing**”) is necessary to the consummation of the Plan and the operation of the Reorganized Debtors. The terms and conditions of the Exit Financing described in the Plan Supplement and in the Klein Declaration are fair and reasonable under the circumstances. The execution, delivery, or performance by the Debtors or the Reorganized Debtors, as the case may be, of any documents in connection with the Exit Financing (including, but not limited to, the Escrow Agreement referenced in Section 5.5(f) of the Plan), and compliance by the Debtors or the Reorganized Debtors, as the case may be, with the terms thereof is authorized by, and will not conflict with, the terms of the Plan or this Order. The financial accommodations to be extended pursuant to the Exit Financing documents are being extended in good faith, for legitimate business purposes, are reasonable, and shall not be subject to avoidance or recharacterization for any purposes

whatsoever. Moreover, the Exit Financing has been negotiated in good faith and at arms' length and each party thereto may rely on the provisions of this Order in closing the Exit Financing.

MM. Securities Exempt from Registration. The issuance of the New Common Stock and the New Second Lien Notes is or was in exchange for Claims against the Debtors, or principally in such exchange and partly for Cash or property within the meaning of section 1145(a)(1) of the Bankruptcy Code.

NN. Substantive Consolidation. Based on, among other things, the Disclosure Statement, the Klein Declaration, and the record of the Confirmation Hearing, no class of creditors is disadvantaged in any manner by the substantive consolidation of the Debtors for Plan purposes only. Having separate Classes for each of the 153 separate Debtors would be burdensome and would not provide any benefits to any party in interest. Classes 1, 2, 3, 7, and 8 are Unimpaired under the Plan and will therefore not be adversely affected by substantive consolidation. As set forth in the Klein Declaration, holders of Class 4 Senior Secured Notes Claims hold guarantees from all of the Debtors and hold security interests in substantially all of the assets of the Debtors. The Senior Secured Noteholders have elected to exchange the Senior Secured Notes for equity of the Reorganized Debtors having a value substantially in excess of the liquidation value of their collateral and therefore are not prejudiced by substantive consolidation. Also as set forth in the Klein Declaration, holders of Class 5 General Unsecured Claims are not prejudiced by substantive consolidation because even if substantive consolidation was not effected, there would be no unencumbered proceeds of assets at any of the Debtors available for distribution to General Unsecured Creditors. Likewise, holders of Claims and Interests in Classes 6 and 9 would not be entitled to any distribution of property even if the Plan was not predicated on substantive consolidation.

OO. Releases, Exculpation, and Injunction. The Court has jurisdiction under sections 1334(a) and (b) of title 28 of the United States Code and sections 105, 524, and 1141 of the Bankruptcy Code to approve the releases of the Released Parties, the exculpation, and the injunction set forth in Article X of the Plan. Section 105(a) of the Bankruptcy Code permits issuance of the injunction and approval of the limited releases set forth in Article X of the Plan if, as has been established here based upon the record in the Chapter 11 Cases, the Klein Declaration, and the evidence proffered at the Confirmation Hearing, such provisions (i) were integral to the agreement among the various parties in interest and are essential to the implementation of the Plan, as provided in section 1123 of the Bankruptcy Code, (ii) confer substantial benefits on the Debtors' estates and creditors by avoiding the cost, expense, and uncertainty of litigation over various claims asserted by parties in interest and by providing for a settlement of claims that results in a cash recovery to General Unsecured Creditors upon an election to sell one's Claim that would not otherwise be available in the absence of a global settlement and release, (iii) are fair, equitable, and reasonable, and (iv) are in the best interests of the Debtors, their Estates, and parties in interest. Each of the Released Parties made a material contribution to the Chapter 11 Cases by foregoing certain rights, or by negotiating, implementing, and in some cases, funding, the Plan. Creditors in all of the voting Classes have overwhelmingly supported the Plan, the releases have enabled diverse constituencies to reach a consensus that increases value, and no objections relating to the release have been raised after clear notice to affected parties. Further, the exculpation provision in the Plan does not relieve any party of liability for an act or omission to the extent such act or omission is determined by a Final Order to have constituted gross negligence or willful misconduct, including, without limitation, fraud and criminal misconduct. Based upon the record of these Chapter 11 Cases and

the evidence proffered, adduced, and/or presented at the Confirmation Hearing, this Court finds that the releases of the Released Parties, the exculpation, and the injunction set forth in Article X of the Plan are consistent with the Bankruptcy Code and applicable law.

PP. Compromise and Settlement. Pursuant to Bankruptcy Rule 9019, in consideration for the benefits provided under the Plan, the provisions of the Plan, including, without limitation, the Claims Purchase, shall constitute a good faith compromise and settlement of all Claims or controversies resolved pursuant to the Plan. All Plan distributions made to creditors holding Allowed Claims in any Class and all payments made to General Unsecured Creditors in connection with the Claims Purchase are intended to be and shall be final.

ORDER

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

1. Confirmation. All requirements for confirmation of the Plan have been satisfied. The Plan is CONFIRMED in its entirety pursuant to section 1129 of the Bankruptcy Code. The terms of the Plan, the Plan Supplement, and any other documents filed in connection with the Plan and/or executed or to be executed in connection with the transactions contemplated by the Plan, and all amendments and modifications thereof, are expressly incorporated into, and form an integral part of, this Order. A copy of the Plan in the form confirmed (without the Plan Supplement) is attached as Exhibit A to this Order.

2. Objections. All Objections that have not been withdrawn or resolved prior to the entry of this Order are overruled in all respects for the reasons set forth in the record of the Confirmation Hearing, which record is incorporated herein, and all withdrawn objections, if any, are deemed withdrawn with prejudice.

3. Omission of Reference to Particular Plan Provisions. The failure to specifically describe or include any particular provision of the Plan in this Order shall not diminish or impair the effectiveness of such provision, it being the intent of this Court that the Plan be approved and confirmed in its entirety.

4. Implementation. The Debtors and the Reorganized Debtors are authorized and directed to take all actions necessary, appropriate, or desirable to enter into, implement, and consummate the contracts, instruments, releases, leases, agreements, or other documents created or executed in connection with the Plan Documents. Without further order or authorization of this Court, the Debtors, the Reorganized Debtors, and their successors are authorized and empowered to make all modifications to all Plan Documents that are consistent with the Plan. Execution versions of the Plan Documents, where applicable, shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms and, to the extent applicable, shall create, as of the Effective Date, all Liens and security interests purported to be created thereby. In anticipation of the Effective Date, the Debtors are hereby authorized, without further order of the Court and prior to the Effective Date, to take actions consistent with or facilitative of the Restructuring Transactions and the Exit Financing, and are authorized to perform all obligations under the Exit Financing documents contained in the Plan Supplement or otherwise.

5. Modifications or Alterations to Plan. To the extent the Plan has been modified, supplemented, or altered subsequent to solicitation, such modifications, supplements, and alterations constitute technical changes and/or changes with respect to particular Claims by agreement with the holders of such Claims or Interests, and do not materially adversely affect or change the treatment of any Claims or Interests. Accordingly, pursuant to Bankruptcy Rule

3019, such modifications or alterations, if any, do not require additional disclosure under section 1125 of the Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that holders of Claims or Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

6. Plan Classification Controlling. The classifications of Claims and Interests for purposes of the distributions to be made pursuant to the Plan shall be governed solely by the terms of the Plan. The classification set forth on the Ballots tendered or returned by the Debtors' creditors in connection with voting on the Plan: (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan; (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of such Claims and Interests under the Plan for distribution purposes; and (c) shall not be binding on the Debtors, the Reorganized Debtors, creditors, or interest holders for purposes other than voting on the Plan. All rights of the Plan Proponents to seek to reclassify Claims are expressly reserved.

7. Binding Effect. Subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of the Plan shall bind (i) any holder of a Claim against, or Interest in, each Debtor and such holder's respective successors and assigns, whether or not the Claim or Interest is impaired under the Plan, whether or not such holder has accepted the Plan, and whether or not such holder is entitled to a distribution under the Plan, (ii) any and all non-Debtor parties to assumed executory contracts and unexpired leases with any of the Debtors, (iii) any parties that have objected to confirmation of the Plan, (iv) every other party in interest in the Chapter 11 Cases, (v) all parties receiving property under the Plan and the other Plan Documents (including, but not limited to, in connection with the Committee Settlement), and their respective heirs, executors, administrators, successors, or assigns.

8. Substantive Consolidation for Plan Purposes Only. Entry of this Order shall constitute the approval, pursuant to section 105(a) of the Bankruptcy Code, effective as of the Effective Date, of the substantive consolidation of the Debtors' Estates for voting, confirmation, and distribution purposes only as contemplated by Sections 3.1 and 5.1 of the Plan. On the Effective Date, all of the Debtors and their Estates shall, for Plan purposes only, be deemed merged and (i) all assets and liabilities of the Debtors shall be treated as though they were merged, (ii) all guarantees of any Debtor of the payment, performance, or collection of obligations of any other Debtor (other than those guarantees relating to any Debtor's obligations under assumed unexpired leases) shall be eliminated and canceled, (iii) all joint obligations of two or more Debtors, and all multiple Claims against such entities on account of such joint obligations, shall be considered as a single Claim against the substantively consolidated Debtors, and (iv) any Claim filed in the Chapter 11 Case of any Debtor shall be deemed filed against the substantively consolidated Debtors and a single obligation of the substantively consolidated Debtors on and after the Effective Date.

9. Late-Filed Ballots. Ballots filed after the Voting Deadline but prior to the Confirmation Hearing shall be deemed timely filed solely for purposes of participation in the Claims Purchase.

10. Distributions. All distributions pursuant to the Plan shall be made in accordance with Article VI of the Plan and such methods of distribution are approved.

11. Treatment Is in Full Satisfaction. All Plan distributions made to creditors holding Allowed Claims in any Class and all payments made to creditors holding General Unsecured Claims in connection with the Claims Purchase are intended to be and shall be in full and final satisfaction of the Debtors' obligations under the Plan. The classifications of Claims

and Interests for purposes of the distributions to be made under the Plan shall be governed solely by the terms of the Plan. The classifications set forth on the Ballots tendered to or returned by the Debtors' creditors and interest holders in connection with voting on the Plan (a) were set forth on the Ballots solely for purposes of voting to accept or reject the Plan; (b) do not necessarily represent and in no event shall be deemed to modify or otherwise affect the actual classification of such Claims and Interests under the Plan for distribution purposes; and (c) shall not be binding on the Debtors, the Reorganized Debtors, or any holder of a claim against the Debtors for purposes other than voting on the Plan.

12. Resolution of Claims. The provisions of Article VII of the Plan, including, without limitation, the provisions governing procedures for resolving Disputed Claims, are fair and reasonable and are approved.

13. Assumption and Rejection of Executory Contracts and Unexpired Leases. Entry of this Order shall, subject to and upon the occurrence of the Effective Date, constitute (a) the authorization and approval, pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the assumption of the executory contracts and unexpired leases (including any related guarantees) assumed pursuant to Section 8.1 of the Plan, (b) the extension of time within which the Debtors may assume, assume and assign, or reject the unexpired leases specified in Section 8.1 of the Plan through the date of entry of an order approving the assumption, assumption and assignment, or rejection of such unexpired leases, and (c) the authorization and approval, pursuant to sections 365(a) and 1123(b)(2) of the Bankruptcy Code, of the rejection of the executory contracts and unexpired leases rejected pursuant to Section 8.1 of the Plan.

14. Cure Amounts. Except as may otherwise be agreed to by the parties, the Cure Amounts listed on the Assumption Schedule shall be satisfied, in accordance with section

365(b) of the Bankruptcy Code, by the Debtors or the Reorganized Uno Companies upon the assumption thereof or as soon as practicable thereafter. Unless objections to such Cure Amounts were timely asserted prior to the Confirmation Hearing, the non-Debtor parties to each executory contract or unexpired lease to be assumed pursuant to the Plan are hereby forever barred and permanently enjoined from asserting against the Debtors or the Reorganized Debtors any defaults which must be cured other than the Cure Amounts, and the Debtors and Reorganized Debtors shall be deemed to have satisfied each element required for assumption under sections 365 and 1123(b)(2) of the Bankruptcy Code upon payment of such Cure Amounts, if any.

15. Lease Charges. Notwithstanding any other provision of the Plan, this Order, or any order establishing a Cure Amount, any accrued but unbilled charges not yet due as of the Debtors' filing of the Assumption Schedule which come due under an assumed lease prior to or after the Confirmation Date for charges including, but not limited to, common area maintenance, insurance, and tax reconciliations or year-end adjustments, shall be billed to and paid by (or, in the case of a credit balance, shall be given to) the Reorganized Debtors in compliance with the terms of such assumed and unexpired lease.

16. No Liens on Unexpired Leases. The Exit Financing does not create a Lien, other than at the Debtors' facility in Brockton, Massachusetts, on any unexpired lease of the Debtors or the Reorganized Debtors; *provided, however*, that the Liens of the New First Lien Facility lenders and the holders of the New Second Lien Notes may attach to the proceeds of such unexpired leases.

17. Right to Conduct Audits. Notwithstanding any other provision of the Plan or this Order, the Debtors or the Reorganized Debtors shall reserve the right to conduct audits of payments under unexpired leases assumed under the Plan and, notwithstanding any

payments made in respect of Cure Amounts or otherwise, if such audit uncovers a discrepancy in favor of the Debtors or the Reorganized Debtors, the Debtors or the Reorganized Debtors shall retain the ability to seek a refund or offset to reflect such discrepancy.

18. Retention of Right to Reject Executory Contracts or Unexpired Leases. If there are any objections filed with respect to executory contracts or unexpired leases that cannot be resolved by the parties, the Debtors or the Reorganized Debtors shall retain their right to reject any of the executory contracts or unexpired leases, including executory contracts or unexpired leases that are subject to a dispute concerning a Cure Amount.

19. Resolution of Westchester Fire Insurance Company Objection. In connection with resolving the informal objection of Westchester Fire Insurance Company (“**Westchester Fire**”), (a) upon confirmation of the Plan, New Uno shall execute, effective as of the Effective Date, a new indemnity agreement in favor of Westchester Fire (in substantially the same form as the current indemnity agreement) in respect of the outstanding bond executed by Westchester Fire in the face amount of \$1,100,000 (the “**Bond**”), (b) as consideration for the continuation of the Bond, and in order to secure, among other things, the indemnification obligations of New Uno, the Debtors and the Reorganized Debtors acknowledge and confirm that irrevocable letter of credit No. NZS570184 in the face amount of \$1,400,000 (the “**Westchester LOC**”) shall remain in place, and (c) upon the execution and delivery of the indemnity agreement by New Uno, and the payment of costs and expenses incurred by Westchester Fire in these Chapter 11 Cases, including, but not limited to attorneys’ fees, in an amount not to exceed \$7,500, Westchester Fire will consent to the reduction of the Westchester LOC to \$1,100,000.

20. Inclusiveness. Unless otherwise specified on the Rejection Schedule or the Assumption Schedule, each executory contract and unexpired lease listed or to be listed therein shall include any and all modifications, amendments, supplements, restatements, or other agreements made directly or indirectly by any agreement, instrument, or other document that in any manner affects such executory contract or unexpired lease, without regard to whether such agreement, instrument, or other document is listed on such schedules.

21. Bar Date for Filing Proofs of Claim Relating to Executory Contracts and Unexpired Leases Rejected Pursuant to the Plan. Claims arising out of the rejection of an executory contract or unexpired lease pursuant to Section 8.1 of Plan must be filed with the Court and served upon the Debtors (or, on and after the Effective Date, the Reorganized Debtors) no later than thirty (30) days after the later to occur of (i) notice of entry of an order approving the rejection of such executory contract or unexpired lease (which order may be this Order), (ii) notice of entry of this Order, and (iii) notice of an amendment to the Rejection Schedule or the Assumption Schedule. All such Claims not filed within such time will be forever barred from assertion against the Debtors, their Estates, the Reorganized Uno Companies, and their respective property.

22. No “Change of Control”. The effect of confirmation of the Plan, the results thereof, and the transactions resulting therefrom or any other effect of the Chapter 11 Cases shall not be and are not a “change of control” and shall not trigger any such or similar provision of any of the executory contracts and unexpired leases assumed pursuant to the Plan.

23. U.S. Foodservice. (a) Nothing in the Plan or this Order shall be construed as discharging, releasing, or relieving the Debtors or their successors, including the Reorganized Debtors, from any of their obligations under that certain Master Distribution Agreement

(“MDA”) with U.S. Foodservice, Inc. (“**U.S. Foodservice**”), approved by the Court by order, dated May 11, 2010, including that certain Irrevocable Letter of Credit (the “**Letter of Credit**”) granted to U.S. Foodservice under the MDA, (b) the Letter of Credit shall survive and remain unaffected by this Order or the occurrence of the Effective Date, and (c) notwithstanding anything contained in the Plan or this Confirmation Order, U.S. Foodservice shall retain all of its rights under the Letter of Credit and shall not be enjoined or precluded from exercising such rights. Notwithstanding anything contained in the Plan Supplement to the contrary, the MDA shall be deemed a postpetition contract of the Debtors and all amounts that remain due and owing under such contract are postpetition obligations of the Debtors.

24. Vesting of Assets in the Reorganized Debtors. Pursuant to Section 10.1 of the Plan, except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property in the Debtors’ Estates, including Retained Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall vest in the Reorganized Debtors free and clear of all Liens, Claims, charges, or other encumbrances (except for Liens, if any, expressly granted pursuant to the Plan). From and after the Effective Date, the Reorganized Debtors may operate their business and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules, subject to the terms and conditions of the Plan. The vesting does not constitute a voidable transfer under the Bankruptcy Code or applicable nonbankruptcy law.

25. DIP Financing Claims. On the Effective Date, and except as otherwise provided for in the Plan, the DIP Financing Agreement, and the DIP Financing Order, (a) all outstanding DIP Financing Claims shall be indefeasibly paid and satisfied, in full, in Cash by the

Debtors, (b) all commitments under the DIP Financing Agreement shall terminate, (c) all Letters of Credit outstanding under the DIP Financing Agreement shall either (i) be returned to the issuer undrawn and marked “cancelled” or rolled into the New First Lien Facility, (ii) be cash collateralized in an amount equal to 105% of the face amount of the outstanding letters of credit, or (iii) be collateralized by back-to-back letters of credit, in form and substance and from a financial institution acceptable to such issuer, and (d) all money posted by the Debtors in accordance with the DIP Financing Agreement and the agreements and instruments executed in connection therewith shall be released to the applicable Reorganized Debtors. Except as otherwise provided for in the Plan, the DIP Financing Agreement, and the DIP Financing Order, upon payment and satisfaction in full of all outstanding DIP Financing Claims, all Liens and security interests granted to secure such obligations, whether in the Chapter 11 Cases or otherwise, shall be terminated and shall be of no further force or effect.

26. Exit Financing. The Reorganized Debtors’ entry into the Exit Financing and the incurrence of the indebtedness thereunder on the Effective Date (including the payment of all fees, including the Backstop Commitment Fee) is authorized without the need for any further corporate action and without any further action by holders of Claims or Interests. No party shall have any claims against the New First Lien Facility lenders, the holders of the New Second Lien Notes, or their professionals based upon any actions taken with respect to the Exit Financing on or prior to the date of this Order. The terms and conditions of the Exit Financing are approved and ratified as being entered into in good faith and being critical to the success and feasibility of the Plan. As of the Effective Date, the security interests and Liens granted pursuant to the Exit Financing shall constitute legal, valid, and duly perfected Liens against the Collateral (as defined in the Exit Financing documentation) with the priority provided for in the Exit

Financing. Notwithstanding any provisions in the Plan or this Order to the contrary, from and after the Effective Date, the choice of law and jurisdiction provisions of the Exit Financing shall be applied to the Exit Financing.

27. Exemption from Transfer Taxes. Pursuant to section 1146(a) of the Bankruptcy Code, any issuance, transfer, or exchange of notes or equity securities under the Plan, the creation of any mortgage, deed of trust, or other security interest, the making or assignment of any lease or sublease, or the making or delivery of any deed or other instrument of transfer from a Debtor to a Reorganized Debtor or any other Person pursuant to the Plan shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of such tax or governmental assessment.

28. Transfers by Debtors. All transfers of property of the Debtors' estates, including, without limitation, those effectuated in connection with the Restructuring Transactions and those set forth in the Master Restructuring Agreement, shall be free and clear of all Liens, charges, Claims, encumbrances, and other interests, except as expressly provided in the Plan or this Confirmation Order.

29. Committee Settlement. The Committee Settlement embodied in the Plan is fair, equitable, and reasonable, meets the standards under Bankruptcy Rule 9019, and is hereby approved.

30. No Liens on Claims Purchase Funds. Neither the Exit Financing nor any of the documents evidencing or relating to same shall create a Lien on the Claims Purchase Funds.

31. Securities Exempt from Registration. To the maximum extent provided by section 1145 of the Bankruptcy Code and applicable non-bankruptcy law, the issuance under the Plan of the New Common Stock and the New Second Lien Notes will be exempt from registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and any state or local law requiring registration prior to the offering, issuance, distribution, or sale of securities. The issuance of the New Common Stock and the New Second Lien Notes is or was in exchange for Claims against the Debtors, or principally in such exchange and partly for Cash or property within the meaning of section 1145(a)(1) of the Bankruptcy Code. Pursuant to section 1145(c) of the Bankruptcy Code, the resale of any equity and any other securities issuable pursuant to the Plan shall be exempt from registration under the Securities Act of 1933, as amended, and all rules and regulations promulgated thereunder and any state or local law requiring registration prior to the offering, issuance, distribution, or sale of securities, except for any restrictions set forth in section 1145(b) of the Bankruptcy Code and any restriction contained in the Plan Documents. Furthermore, the issuance of management securities pursuant to the Management Incentive Plan and related employment agreements (if any) shall be exempt from registration pursuant to Section 4(2) of the Securities Act.

32. Extinguishment of Claims and Interests. Except as provided in the Plan, the rights afforded in and the payments and distributions to be made under the Plan shall terminate all Interests and discharge all existing debts and Claims of any kind, nature or description whatsoever against or in the Debtors or any of their assets or properties to the fullest

extent permitted by section 1141 of the Bankruptcy Code. Except as provided in the Plan, upon the Effective Date, all existing Claims against the Debtors and Interests shall be, and shall be deemed to be, discharged and terminated, and all holders of such Claims and Interests shall be precluded and enjoined from asserting against the Reorganized Debtors, their successors or assignees, or any of their assets or properties any other or further Claim or Interest based upon any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, whether or not such holder has filed a proof of claim or proof of interest and whether or not the facts or legal bases therefor were known or existed prior to the Effective Date.

33. Discharge of Debtors. Upon the Effective Date, in consideration of the distributions or payments to be made under the Plan and except as otherwise expressly provided in the Plan, each holder (as well as any trustees and 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 Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Deductible Claims, Interests, rights, or liabilities that arose prior to the Effective Date. Upon the Effective Date, all such persons 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 Debtors.

34. Injunction on Claims. Except as otherwise expressly provided in the Plan, all Entities who have held, hold, or may hold Claims against or Interests in the Debtors are permanently enjoined, from and after the Effective Date, from (a) commencing or continuing in any manner any action or other proceeding of any kind on any such Claim or Interest against any of the Reorganized Debtors, (b) the enforcement, attachment, collection, or recovery by any manner or means of any judgment, award, decree, or order against any Reorganized Debtor with

respect to such Claim or Interest, (c) creating, perfecting, or enforcing any encumbrance of any kind against any Reorganized Debtor or against the property or interests in property of any Reorganized Debtor with respect to such Claim or Interest, (d) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due to any Reorganized Debtor or against the property or interests in property of any Reorganized Debtor with respect to such Claim or Interest, (e) commencing or continuing in any manner any action or other proceeding of any kind on any Deductible Claim against any of the Reorganized Debtors or their insurers, and (f) pursuing any Claim released pursuant to the Plan.

35. Terms of Existing Injunctions or Stays. All injunctions or stays arising under or entered during the Chapter 11 Cases under section 105 or 362 of the Bankruptcy Code, or otherwise, that are in existence on the Confirmation Date shall remain in full force and effect until the Effective Date, *provided, however*, that no such injunction or stay shall preclude enforcement of parties' rights under the Plan and the related documents.

36. Exculpation. None of the Released Parties shall have or incur any liability for any Claim, cause of action, or other assertion of liability for any act taken or omitted to be taken in connection with, or arising out of, the Chapter 11 Cases, the formulation, dissemination, confirmation, consummation, or administration of the Plan, property to be distributed under the Plan, the Claims Purchase, or any other act or omission in connection with the Chapter 11 Cases, the Plan, the Disclosure Statement, or any contract, instrument, document, or other agreement related thereto; *provided, however*, that the foregoing shall not affect the liability of any Entity that otherwise would result from any such act or omission to the extent such act or omission is determined by a Final Order to have constituted willful misconduct or gross negligence.

37. Releases by the Debtors. Effective as of the Confirmation Date, but subject to the occurrence of the Effective Date, to the extent permitted by applicable law, for good and valuable consideration, the Debtors and the Reorganized Debtors shall and shall be deemed to completely and forever release, waive, void, extinguish, and discharge all Released Actions (other than the rights to enforce the Plan and any right or obligation hereunder, and the securities, contracts, instruments, releases, indentures, and other agreements delivered hereunder or contemplated hereby), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or in part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Reorganized Debtors, the Chapter 11 Cases, or the Plan that may be asserted by or on behalf of the Debtors or Reorganized Debtors or their respective Estates against the Released Parties; *provided, however*, that all Released Actions shall be retained in connection with the defense against any Claim asserted against the Debtors, provided that the retention of such Released Actions shall not result in any affirmative recovery for the Debtors or the Reorganized Debtors nor affect the Claims Purchase; *provided, further*, that the foregoing shall not operate as a waiver of or release from any causes of action arising out of the willful misconduct, intentional fraud, or criminal conduct of any Entity as determined by a Final Order entered by a court of competent jurisdiction.

38. Releases by the Holders of Claims and Interests. Effective as of the Confirmation Date, but subject to the occurrence of the Effective Date, to the extent permitted by applicable law, for good and valuable consideration, each holder of a Claim that (a) (i) votes to accept the Plan (or is deemed to accept the Plan) and (ii) agrees to provide releases of the

Released Parties under the Plan, or (b) otherwise has its Claim purchased pursuant to the Claims Purchase set forth herein, shall be deemed to release, waive, void, extinguish, and discharge, unconditionally and forever, all Released Actions (other than the rights to enforce the Plan, and any right or obligation under the Plan, and the securities, contracts, instruments, releases, indentures, and other agreements or documents delivered hereunder or contemplated hereby), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or in part on any act, omission, transaction, event, or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, the Reorganized Debtors, the Chapter 11 Cases, or the Plan, that otherwise may be asserted against the Released Parties; *provided, however*, that the foregoing shall not operate as a waiver of or release from any causes of action arising out of the willful misconduct, intentional fraud, or criminal conduct of any such person or entity as determined by a Final Order entered by a court of competent jurisdiction.

39. Retention of Jurisdiction. The Court shall retain, and continue to have, exclusive jurisdiction of all matters arising out of, or related to, the Chapter 11 Cases and the Plan pursuant to, and for the purposes of, sections 105(a) and 1142 of the Bankruptcy Code, including, without limitation:

(a) to resolve any matters related to the assumption, assumption and assignment, or rejection of any executory contract or unexpired lease to which a Debtor is a party or with respect to which a Debtor may be liable and to hear, determine and, if necessary, liquidate, any Claims arising therefrom, including those matters related to the amendment after the Effective Date of the Plan, to add any executory contracts or unexpired leases to the list of executory contracts and unexpired leases to be rejected;