

IN THE UNITED STATES BANKRUPTCY COURT

FOR THE DISTRICT OF DELAWARE

In re:)	Chapter 11
)	
DESA Holdings Corporation, <i>et al.</i> ¹)	Case No. 02-11672 (WS)
)	(Jointly Administered)
Debtors.)	
)	[Related to Docket No. 1542]

**ORDER CONFIRMING SECOND AMENDED JOINT
LIQUIDATING PLAN OF REORGANIZATION OF DESA HOLDINGS
CORPORATION AND DESA INTERNATIONAL LLC PURSUANT
TO CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE**

WHEREAS, the above-captioned debtors and debtors in possession (collectively, the “Debtors”) have filed voluntary petitions (the “Chapter 11 Cases”) for relief under chapter 11 of title 11 of the United States Code (as amended, the “Bankruptcy Code”) on June 8, 2002 (the “Petition Date”);

WHEREAS, on February 4, 2005, the Debtors filed the Second Amended Joint Liquidating Plan of Reorganization of DESA Holdings Corporation and DESA International LLC Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 1542] (the “Plan”)² and the Second Amended Disclosure Statement for the Second Amended Joint Liquidating Plan of Reorganization of DESA Holdings Corporation and DESA International

¹ The Debtors consist of the following two entities: DESA Holdings Corporation and DESA International LLC (f/k/a DESA International, Inc.).

² Unless otherwise specified, capitalized terms and phrases used herein have the meanings assigned to them in the Plan. The rules of interpretation set forth in Article I of the Plan shall apply to these Findings of Fact, Conclusions of Law and this Order (this “Confirmation Order”). If there is any direct conflict between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order shall control.

LLC Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 1541] (the "Disclosure Statement");

WHEREAS, by order entered on January 28, 2005 [Docket No. 1535] (the "Solicitation Procedures Order"), the Court, among other things, (i) approved the Disclosure Statement, (ii) established March 29, 2005, as the date of the commencement of the Confirmation Hearing, (iii) established March 7, 2005, as the deadline for submitting ballots to vote in favor or against Confirmation of the Plan and for filing objections to Confirmation of the Plan, (iv) approved the form and method of notice regarding the Confirmation Hearing, and (v) established certain procedures for soliciting and tabulating votes with respect to the Plan;

WHEREAS, as evidenced by the certification of publication [Docket No. 1564] and in accordance with the Solicitation Procedures Order, on February 2, 2005, notice of the Confirmation Hearing was published in The Wall Street Journal;

WHEREAS, in accordance with the Solicitation Procedures Order and as set forth in the affidavit of service [Docket No. 1599], on or before February 4, 2005, the Debtors provided due, adequate and sufficient notice of the Plan, the Disclosure Statement and the Confirmation Hearing, along with the deadlines for voting on the Plan and objecting to Confirmation of the Plan, to Holders of Claims in these Chapter 11 Cases and other parties in interest specified in the Solicitation Procedures Order;

WHEREAS, in accordance with the Solicitation Procedures Order and as set forth in the affidavit of service [Docket No. 1599], on or about February 4, 2005, the Debtors distributed the Plan and the Disclosure Statement to all holders of Impaired Claims against the Debtors that are entitled to vote on the Plan, together with a solicitation of votes to accept or reject the Plan;

WHEREAS, three (3) objections to Confirmation of the Plan (collectively, the "Objections") were filed by certain parties, and each such Objection has been resolved, withdrawn or overruled;

WHEREAS, on March 23, 2005, the Debtors filed the Debtors' Memorandum of Law in Support of the Confirmation of the Second Amended Joint Liquidating Plan of Reorganization of DESA Holdings Corporation and DESA International LLC Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 1598] (the "Confirmation Memorandum");

WHEREAS, on March 25, 2005, the Debtors filed the Affidavit of Balloting Agent Regarding Solicitation and Tabulation of Votes in Connection with the Debtors' Second Amended Joint Liquidating Plan of Reorganization [Docket No. 1602] (the "Voting Affidavit"), attesting to and certifying the method and results of the ballot tabulation for each of the Classes entitled to vote on the Plan;

WHEREAS, this Court having convened a hearing on Confirmation of the Plan on March 29, 2005, pursuant to Rules 3017 and 3018 of the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and sections 1126, 1128 and 1129 of the Bankruptcy Code, to consider the Confirmation of the Plan;

WHEREAS, the Court has (i) reviewed the above-referenced pleadings and all Objections and responses thereto, (ii) heard or received the statements of counsel in support of and in opposition to Confirmation of the Plan at the Confirmation Hearing; (iii) considered all testimony presented and evidence admitted by affidavits or otherwise, and (iv) taken judicial notice of all other papers, pleadings and records on file in these Chapter 11 Cases; and

WHEREAS, it appears to this Court that (i) notice of the Confirmation Hearing and the opportunity of any party in interest to object to Confirmation were adequate and appropriate as to all parties to be affected by the Plan and the transactions contemplated thereby, and (ii) the legal and factual bases set forth in the Confirmation Memorandum and presented at the Confirmation Hearing establish just cause for the relief granted herein.

NOW, THEREFORE, after due deliberation thereon and good cause appearing therefor, this Court hereby makes and issues the following Findings of Fact and Conclusions of Law and hereby orders:³

I.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Jurisdiction and Venue

A. On the Petition Date, the Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. The Debtors were and are qualified to be debtors under section 109 of the Bankruptcy Code.

B. This Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157(a) and 1334. Venue is proper in this District pursuant to 28 U.S.C. § 157(b)(2), and this Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

Judicial Notice

C. Judicial notice is hereby taken of the docket in these Chapter 11 Cases maintained by the Clerk of the Court and/or its duly appointed agent, including, without limitation, all

³ This Confirmation Order constitutes this Court's findings of fact and conclusions of law under Fed. R. Civ. P. 52, as made applicable by Bankruptcy Rules 7052 and 9014. Any and all findings of fact shall constitute findings of fact even if they are stated as conclusions of law, and any and all conclusions of law shall constitute conclusions of law even if they are stated as findings of fact.

pleadings and other documents filed, all orders entered, and the transcripts of, and all evidence and arguments made, proffered or adduced at, the hearings held before the Court during the pendency of these Chapter 11 Cases. Resolutions of the Objections to Confirmation explained in the Confirmation Memorandum or on the record at the Confirmation Hearing are hereby incorporated by reference.

Publication of Confirmation Hearing Notice

D. Pursuant to the Solicitation Procedures Order, and as evidenced in the Certification of Publication Regarding Confirmation Hearing Notice in The Wall Street Journal [Docket No. 1564], the Debtors filed the Confirmation Hearing Notice (as that term is defined in the Solicitation Procedures Order) in the national edition of The Wall Street Journal on February 2, 2005.

Transmittal and Mailing of Materials; Notice

E. Pursuant to the Solicitation Procedures Order, due, adequate and sufficient notice of the Disclosure Statement, the Plan and the Confirmation Hearing, along with all deadlines for voting on and objecting to the Plan has been given to (i) the U.S. Trustee, (ii) counsel to the prepetition and postpetition lenders, (iii) counsel to the Creditors Committee, (iv) the Securities and Exchange Commission, (v) all creditors maintained by the Debtors' solicitation agent in these Chapter 11 Cases, and (vi) those parties who requested notice pursuant to Bankruptcy Rule 2002, in compliance with Bankruptcy Rules 2002(b), 3017 and 3020(b) and the Solicitation Procedures Order, and such transmittal and service were adequate and sufficient. Adequate and sufficient notice of the Confirmation Hearing was given in compliance with the Bankruptcy Rules and the Solicitation Procedures Order, and no further notice is or shall be required.

Solicitation and Good Faith

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

G. The Debtors, the Creditors Committee, and each of its individual members, and their respective directors, officers, agents, affiliates, representatives, attorneys and advisors, as applicable, have acted in good faith in connection with and relating to the formulation, negotiation, solicitation, implementation, confirmation and consummation of the Plan, the Disclosure Statement and any plan supplement, have acted in compliance with the applicable provisions of the Bankruptcy Code, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code, the Solicitation Procedures Order, and the exculpatory and injunctive provisions in Article X of the Plan (to the extent provided therein).

Compliance with the Requirements of Section 1129 of the Bankruptcy Code

Section 1129(a)(1) — The Plan's Compliance with Applicable Provisions of the Bankruptcy Code

H. The Plan complies with all applicable provisions of the Bankruptcy Code as required by section 1129(a)(1) of the Bankruptcy Code, including, without limitation, sections 1122 and 1123 of the Bankruptcy Code. Pursuant to sections 1122(a) and 1123(a)(1) of the Bankruptcy Code, the Plan classifies Classes of Claims and Equity Interests, other than Administrative Claims and Priority Tax Claims. As required by section 1122(a) of the

Bankruptcy Code, each Class of Claims and Equity Interests contains only Claims or Equity Interests that are substantially similar to other Claims or Equity Interests within that Class. A reasonable basis exists for the classifications in the Plan.

I. Pursuant to sections 1123(a)(2) and 1123(a)(3) of the Bankruptcy Code, Article III of the Plan specifies all Claims and Equity Interests that are Unimpaired and specifies the treatment of all Claims and Equity Interests that are Impaired. Pursuant to section 1123(a)(4) of the Bankruptcy Code, the Plan provides for the same treatment for each Claim or Equity Interest within a particular Class.

J. Pursuant to section 1123(a)(5) of the Bankruptcy Code, the Plan provides adequate means for the Plan's implementation. The Debtors have sufficient Cash and assets available to make all Distributions pursuant to the terms of the Plan.

K. Section 1123(a)(6) of the Bankruptcy Code, which requires the inclusion of certain provisions in a reorganizing debtor's corporate charter, is inapplicable to these Chapter 11 Cases.

L. The Debtors have satisfied section 1123(a)(7) of the Bankruptcy Code. Pursuant to the Plan, the appointment of the Plan Administrator(s) is consistent with the interests of the Holders of Claims and Equity Interests and with public policy.

Section 1129(a)(2) — The Debtors' Compliance with Applicable Provisions of the Bankruptcy Code

M. The Debtors, as proponents of the Plan, have complied with all applicable provisions of the Bankruptcy Code as required by section 1129(a)(2) of the Bankruptcy Code, including, without limitation, sections 1125 and 1126 of the Bankruptcy Code and Bankruptcy Rules 3017, 3018 and 3019. The solicitation of acceptances or rejections of the Plan was (i) in compliance with all applicable non-bankruptcy laws, rules, and regulations governing the

adequacy of disclosure in connection with such solicitation, and (ii) solicited after disclosure of adequate information as defined in section 1125(a) of the Bankruptcy Code to Holders of Claims and Equity Interests.

N. The Debtors, their directors, officers, employees, agents, members, affiliates and professionals (acting in such capacity) have acted in “good faith,” within the meaning of section 1125(e) of the Bankruptcy Code.

O. The Plan has been accepted by creditors holding in excess of two-thirds in amount and one-half in number of the Allowed Claims in each Impaired Class entitled to vote.

Section 1129(a)(3) — Proposal of Plan in Good Faith

P. The Debtors proposed the Plan in good faith and not by any means forbidden by law. Consistent with the overriding purpose of chapter 11 of the Bankruptcy Code, the Plan is designed to distribute assets from the Debtors’ Estates in accordance with the Bankruptcy Code. The Plan itself, and the formulation process, which was extensively negotiated between the Debtors, the Creditors Committee, and the Prepetition Lenders, provides independent evidence of the Debtors’ good faith. The Plan is supported by the Creditors Committee and the Prepetition Lenders.

Section 1129(a)(4) — Bankruptcy Court Approval of Certain Payments as Reasonable

Q. Pursuant to section 1129(a)(4) of the Bankruptcy Code, any payment made or promised by the Debtors for services or for costs and expenses in, or in connection with, the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, rendered or incurred on or before the Confirmation Date, has been, or will be before payment, disclosed to this Court. Any such payment made by the Debtors before the Confirmation Date was reasonable and was made with appropriate authority of the Court. Any such payment to be made

by the Debtors after the Confirmation Date remains subject to final review for reasonableness by the Court under section 330 of the Bankruptcy Code.

Section 1129(a)(5) — Disclosure of Identity and Affiliations of Proposed Management

R. The selection and appointment of the Plan Administrator(s) is consistent with the interests of the Holders of Claims and Equity Interests and public policy in accordance with section 1129(a)(5) of the Bankruptcy Code.

Section 1129(a)(6) — Approval of Rate Changes

S. No governmental regulatory commission has or will have jurisdiction over the rates of the Debtors or the Post Confirmation Estate.

Section 1129(a)(7) — Best Interests of Creditors and Equity Interest Holders

T. With respect to each Impaired Class of Claims or Equity Interests, each Holder of a Claim or Equity Interest in such Class has accepted the Plan or will receive or retain under the Plan on account of such Claim or Equity Interest property of a value, as of the Effective Date, that is not less than the amount such Holder would receive or retain if the respective Debtor was liquidated on the Effective Date under chapter 7 of the Bankruptcy Code.

Section 1129(a)(8) — Acceptance of the Plan by Each Impaired Class

U. Class 3 (Other Priority Claims) is Unimpaired under the Plan and is not entitled to vote on the Plan and is conclusively deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

V. As reflected in the Voting Affidavit, every Impaired Class that was entitled to vote, voted in favor of the Plan. In particular, Class 1 (Prepetition Lenders Claim), Class 2 (Other Secured Claims), Class 4 (General Unsecured Claims) and Class 5 (Subordinated Note Claims) voted to accept the Plan.

W. Because the Plan provides that Class 6 (Intercompany Claims) and Class 7 (Equity Interests) (collectively, the “Deemed Rejecting Classes”) will not receive or retain any property under the Plan, the Deemed Rejecting Classes are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Notwithstanding the rejection of the Plan by the Deemed Rejecting Classes, the Plan is confirmable because the Plan satisfies section 1129(b) of the Bankruptcy Code with respect to the Deemed Rejecting Classes. The Plan does not discriminate unfairly and is fair and equitable with respect to the Deemed Rejecting Classes. There is no Holder of a Claim or Equity Interest junior to the Deemed Rejecting Classes who will receive or retain any property under the Plan on account of such junior Claim or Equity Interest.

Section 1129(a)(9) — Treatment of Claims Entitled to Priority Pursuant to Section 507(a) of the Bankruptcy Code

X. The Plan provides for treatment of Administrative Claims, Priority Tax Claims and Claims entitled to priority pursuant to sections 507(a)(3)-(6) of the Bankruptcy Code in the manner required by section 1129(a)(9) of the Bankruptcy Code.

Section 1129(a)(10) — Acceptance by at Least One Impaired Class

Y. As required by section 1129(a)(10) of the Bankruptcy Code, and as reflected in the Voting Affidavit, at least one Class of Claims or Equity Interests that is Impaired under the Plan has accepted the Plan, excluding votes cast by insiders. Specifically, Class 1 (Prepetition Lenders Claim), Class 2 (Other Secured Claims), Class 4 (General Unsecured Claims) and Class 5 (Subordinated Note Claims) voted to accept the Plan.

Section 1129(a)(11) — Feasibility of the Plan

Z. The Plan complies with section 1129(a)(11) of the Bankruptcy Code. Confirmation of the Plan is not likely to be followed by the liquidation of the Debtors. There

will be sufficient funds to satisfy the Debtors' obligations under the Plan and to fund the costs and expenses of the Debtors' Estates after Confirmation of the Plan.

Section 1129(a)(12) — Payment of Bankruptcy Fees

AA. In accordance with section 1129(a)(12) of the Bankruptcy Code, Article XI of the Plan provides for the payment of all fees payable under 28 U.S.C. § 1930 on or before the Effective Date. The Debtors have adequate means to pay all such fees.

Section 1129(a)(13) — Retiree Benefits

BB. Section 1129(a)(13) of the Bankruptcy Code is inapplicable to these Chapter 11 Cases.

Section 1129(b) — Confirmation of the Plan Over Nonacceptance of Impaired Class

CC. Pursuant to section 1129(b)(1) of the Bankruptcy Code, the Plan is confirmed notwithstanding that the Deemed Rejecting Classes are Impaired and are conclusively presumed to have rejected the Plan. The Plan does not discriminate unfairly and is fair and equitable with respect to the Deemed Rejecting Classes. There is no Holder of a Claim or Equity Interest junior to the Deemed Rejecting Classes who will receive or retain any property under the Plan on account of such Claim or Equity Interest.

Section 1129(c) — Only One Plan Is Before This Court

DD. In accordance with section 1129(c) of the Bankruptcy Code, the Plan is the only chapter 11 plan being confirmed. No other chapter 11 plans have been filed in the Chapter 11 Cases.

Section 1129(d) — No Avoidance of Taxes or Avoidance of the Application of Section 5 of the Securities Act of 1933

EE. As required by section 1129(d) of the Bankruptcy Code, the principal purpose of the Plan is not to avoid taxes or avoid the application of section 5 of the Securities Act of 1933 and no governmental unit has alleged otherwise.

Compliance With Section 1129 of the Bankruptcy Code

FF. As set forth above, the Plan complies in all respects with the applicable requirements of section 1129 of the Bankruptcy Code.

Satisfaction of Conditions to Confirmation

GG. Each of the conditions precedent to entry of this Confirmation Order under Article IX of the Plan has been satisfied or waived. Additionally, the Debtors met their burden of proving the elements of section 1129(a) and 1129(b) of the Bankruptcy Code by clear and convincing evidence.

Satisfaction of Conditions Precedent to Effectiveness

HH. Each of the conditions precedent to the Effective Date under Article IX of the Plan has been satisfied or waived in accordance with the provisions of the Plan, or is reasonably likely to be satisfied.

Retained Causes of Action

II. While the Debtors have made a reasonable effort to identify known actual or potential Causes of Action that the Debtors, the Plan Administrator(s) or the Post Confirmation Estate may pursue after the Effective Date, the Debtors, the Plan Administrator(s) and the Post Confirmation Estate have the right to pursue or defend Causes of Action not specifically or generally identified in Article VI.H of the Plan, Exhibit C of the Disclosure Statement, and Article IV.F.8 of the Disclosure Statement.

JJ. It is in the best interests of the Debtors' Estates and the Holders of Claims that all Causes of Action not expressly waived, relinquished, released, compromised or settled in the Plan or any Final Order, including this Confirmation Order, be retained by the Debtors before the Effective Date, and by the Post Confirmation Estate after the Effective Date, pursuant to Article VI of the Plan.

Exemptions from Taxation

KK. Pursuant to section 1146(c) of the Bankruptcy Code, the issuance, transfer, or exchange of a security, or the making or delivery of an instrument of transfer under the Plan, may not be taxed under any law imposing a stamp tax or similar tax.

Releases

LL. The releases of claims and causes of action described in Article X of the Plan and in this Confirmation Order, including releases by the Debtors and by those Holders of Claims who (i) voted to accept the Plan and (ii) did not affirmatively reject the Mutual Releases on their Ballots, constitute good faith compromises and settlements of the matters covered thereby and are consensual. Such compromises and settlements are made in exchange for consideration, are in the best interest of all parties in interest, are fair, equitable, reasonable, and constitute integral elements of the resolution of the Chapter 11 Cases in accordance with the Plan. Each of the release and exculpation provisions set forth in the Plan and this Confirmation Order (a) is within the jurisdiction of the Court under 28 U.S.C. §§ 1334(a), 1334(b) and 1334(d); (b) is an essential means of implementing the Plan pursuant to section 1123(a)(6) of the Bankruptcy Code; (c) is an integral element of the settlements incorporated into the Plan; (d) confers material benefit on, and is in the best interests of, the Debtors, their Estates and their creditors; (e) is important to the overall objective of the Plan to resolve all claims among or against the parties in interest in the

Chapter 11 Cases; and (f) is consistent with sections 105, 1123, 1129 and other applicable provisions of the Bankruptcy Code.

Approval of Settlements and Compromises

MM. Pursuant to 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 of all Claims or controversies relating to the contractual, legal and subordination rights that a Holder of a Claim may have with respect to any Allowed Claim with respect thereto, or any Distribution to be made on account of such an Allowed Claim. The compromise and settlement of such Claims or controversies embodied in the Plan is in the best interests of the Debtors, their Estates and Holders of Claims and is fair, equitable and reasonable.

NN. All settlements and compromises of Claims and causes of action of non-Debtor entities that are embodied in the Plan shall be, and hereby are, effective and binding on each Holder of a Claim or Equity Interest who may have standing to assert such Claims or causes of action, and no such Holder of a Claim or Equity Interest shall possess standing to assert such Claims or causes of action after the Effective Date.

Substantive Consolidation

OO. The substantive consolidation of the Debtors' Estates for the purpose of implementing the Plan, as described in Article VI.A of the Plan, will promote a more equitable distribution of the Debtors' assets under the Plan and is appropriate under section 105 of the Bankruptcy Code.

II. **ORDER**

NOW, THEREFORE, BASED ON THE FOREGOING FINDINGS OF FACTS AND CONCLUSIONS OF LAW, IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:

Confirmation of the Plan

1. The Plan and each of the Plan's provisions are confirmed in each and every respect pursuant to section 1129 of the Bankruptcy Code. The terms of the Plan, and any exhibits thereto, are incorporated by reference into, and are an integral part of, this Confirmation Order. All objections and responses to, and statements and comments regarding, the Plan, to the extent not already withdrawn, are overruled.

Plan Modifications

2. All modifications or amendments to the Plan made since the solicitation are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

Plan Classification Controlling

3. The classification of Claims and Equity Interests for purposes of 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 Holders of Claims in connection with voting on the Plan (a) were set forth on the Ballots solely for the 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 under the Plan for distribution purposes, (c) may not be relied upon by any creditors as representing the actual classification of such

Claims under the Plan for distribution purposes, and (d) shall not be binding on the Debtors or the Post Confirmation Estate.

Matters Relating to the Implementation of the Plan

Executory Contracts and Unexpired Leases

4. The executory contract and unexpired lease provisions of Article VII of the Plan are hereby approved. Any executory contracts or unexpired leases which have not (i) expired by their own terms on or prior to the Effective Date, or (ii) been assumed, assumed and assigned, or rejected with the approval of this Court, shall be deemed rejected by the Debtors as of the Effective Date.

5. Each Entity that is a party to an executory contract or unexpired lease that is rejected as of the Effective Date pursuant to the Plan and this Confirmation Order will be entitled to File, not later than thirty (30) days following the Effective Date, a proof of Claim for damages alleged to have been suffered due to such rejection; provided, however, that the opportunity afforded an Entity whose executory contract or unexpired lease is rejected as of the Effective Date pursuant to the Plan and this Confirmation Order to file a proof of Claim shall in no way apply to Entities that may assert a Claim on account of an executory contract or unexpired lease that was previously rejected by the Debtors for which a prior bar date was established. Any Entity that has a Claim for damages as a result of the rejection of an executory contract or unexpired lease pursuant to this paragraph that does not File a proof of Claim in accordance with the terms and provisions of the Plan with the Court (and serve such proof of Claim upon the Plan Administrator(s)) will be forever barred from asserting that Claim against, and such Claim shall be unenforceable against, the Debtors, their Estates and the Post Confirmation Estate.

Immediate Effectiveness; Successors and Assigns

6. Immediately upon the entry of this Confirmation Order, the terms of the Plan, all exhibits thereto and all other relevant and necessary documents, shall be, and hereby are, deemed effective and binding upon the Debtors, any and all Holders of Claims or Equity Interests, the Creditors Committee, the Prepetition Lenders, and any other interested parties and all respective heirs, executors, administrators, successors or assigns, if any, of any of the foregoing parties.

Corporate Authorization; Dissolution

7. On the Effective Date, and in accordance with and pursuant to the terms of the Plan and the Post Confirmation Estate Agreement, the Debtors shall assign and transfer to the Post Confirmation Estate all of their right, title and interest in and to all of the Post Confirmation Estate Assets, notwithstanding any prohibition of assignability under applicable non-bankruptcy law.

8. Each of the matters provided for under the Plan involving the corporate structure of any Debtor or corporate action to be taken or required by the Debtors shall, as of the Effective Date, be deemed to have occurred and be effective, and shall be authorized and approved in all respects without any requirement of further action by the Debtors, the Debtors' shareholders or the Debtors' board of directors. The Debtors (and their boards of directors) shall dissolve or otherwise terminate their existence upon the Effective Date.

Funding for the Plan

9. The payments made pursuant to the Plan shall be funded by the Post Confirmation Estate Assets, including, without limitation, (i) Cash on hand on the Effective Date and (ii) funds available after the Effective Date from, among other things, the prosecution and enforcement of Causes of Action of the Debtors.

Distributions under the Plan

10. The distribution provisions of Articles III and V of the Plan shall be, and hereby are, approved. The Debtors or the Plan Administrator(s), as applicable, will administer all Claims and make all Distributions required under the Plan.

11. Notwithstanding anything to the contrary in the Plan, the Plan Administrator(s) shall hold back an amount (the "Deng Reserve") equal to the Pro Rata Distribution to which Deng (as defined in the Disclosure Statement) would be entitled under the Plan as a Holder of a General Unsecured Claim in Class 4 in the event that the Deng Claim (as defined in the Disclosure Statement) subsequently becomes an Allowed General Unsecured Claim in the full amount of \$75 million.⁴ The Plan Administrator(s) shall hold back the Deng Reserve until the Deng Claim is either (i) resolved consensually by the parties, (ii) estimated at zero or some other amount, or (iii) actually objected to and disallowed in full or in part, whichever occurs first.

12. Pursuant to Article V.I of the Plan and consistent with applicable law, the Plan Administrator(s) may, but shall not be required to, set-off against any Allowed Claim and the Distributions to be made pursuant to the Plan on account thereof (before any Distribution is made on account of such Claim), the claims, rights and Causes of Action of any nature that the Debtors, their Estates, the Plan Administrator(s) or the Post Confirmation Estate may hold against the Holder of such Allowed Claim; provided, however, that neither the failure to effect such a set-off nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, their Estates, the Plan Administrator(s) or the Post Confirmation Estate of any such

⁴ Based upon the projections set forth in the Disclosure Statement, the Debtors and Deng estimate the amount of the Deng Reserve to be approximately \$2.625 million.

claims, rights and Causes of Action that the Debtors, their Estates, the Plan Administrator(s) or the Post Confirmation Estate may possess against such Holder.

Exemptions from Taxation

13. Pursuant to section 1146(c) of the Bankruptcy Code, (a) the creation, modification, consolidation or recording of any mortgage, deed of trust, lien, pledge or other security interest; (b) the making, recording or assignment of any lease or sublease; or (c) the making recording or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including, without limitation, any merger agreements; agreements of consolidation, restructuring, disposition, liquidation or dissolution; deeds; bills of sale; and transfers of tangible property, will not be subject to any stamp tax, recording tax, personal property tax, real estate transfer tax, sales or use tax or other similar tax. Any transfers from the Debtors to the Post Confirmation Estate or otherwise pursuant to the Plan shall not be subject to any such taxes. The appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Any of the foregoing transactions taken on or prior to the Effective Date are hereby deemed to have been in furtherance of, or in connection with, the Plan.

Cancellation of Notes, Instruments, Debentures, and Equity Interests

14. On the Effective Date, except to the extent provided otherwise in the Plan, all notes, instruments, debentures, certificates and other documents evidencing Claims and all Equity Interests in any of the Debtors shall be cancelled and deemed terminated and surrendered (regardless of whether such notes, instruments, debentures, certificates or other documents are in fact surrendered for cancellation to the appropriate indenture trustee or other such Person). On

the Effective Date, except to the extent provided otherwise in the next paragraph, any indentures to which any Debtor is a party shall be deemed cancelled as permitted by section 1123(a)(5) of the Bankruptcy Code.

15. On the Effective Date, the Indenture shall be cancelled as permitted by section 1123(a)(5) of the Bankruptcy Code; provided, however, HSBC Bank, as indenture trustee for the Subordinated Notes, shall retain its rights to enforce the HSBC Bank Lien securing the Debtors' payment obligations with respect to the Indenture Trustee Fees and Expenses under Section 7.07 of the Indenture in accordance with the Indenture.

16. The Holders of or parties to such canceled notes, share certificates, and other agreements and instruments shall have no rights arising from or relating to such notes, share certificates, and other agreements and instruments or the cancellation thereof, except the rights provided pursuant to the Plan and this Confirmation Order.

Post Confirmation Estate

17. Article VIII of the Plan pertaining to the Post Confirmation Estate and the duties, obligations and authority of the Plan Administrator(s) is hereby approved.

18. The powers, authority, responsibilities and duties of the Plan Administrator(s) shall be governed by the Plan, this Confirmation Order and the Post Confirmation Estate Agreement. The Plan Administrator(s) shall be responsible for implementing the applicable provisions of the Plan, including, without limitation, the matters described in Article IV and Article V of the Plan. The Plan Administrator(s) shall have all of the rights and powers necessary to effectuate the Plan. The Plan Administrator(s) may execute, deliver, file or record such documents, instruments, releases and other agreements, and take such actions as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

19. No Holder of a Claim or any other party-in-interest will have, or otherwise pursue, any Claim or cause of action against the Plan Administrator(s), the Post Confirmation Estate or the employees or professionals thereof (solely in the performance of their duties thereas), for making payments in accordance with the Plan or for implementing the provisions of the Plan, except for any acts or omissions to act that are the result of willful misconduct or gross negligence.

Insurance Preservation; Directors and Officers Insurance; Indemnification

20. Nothing in the Plan, including any releases, shall diminish or impair the enforceability of any policies of insurance that may cover any claims against the Debtors or any other Entity.

21. The Post Confirmation Estate shall assume the pre-Effective Date obligations to the Debtors' directors and officers solely to the extent that such obligations are covered by directors and officers insurance policies. Other than as set forth in the preceding sentence, the Post Confirmation Estate shall not be liable or responsible in any way for any pre-Effective Date obligations to the Debtors or the Debtors' directors and officers.

Objection to Claims; Prosecution of Disputed Claims

22. Notwithstanding anything to the contrary in the Plan, the deadline to object to or investigate and review Claims shall be one hundred eighty (180) days after the Effective Date; provided, however, the Debtors and the Plan Administrator(s), as the case may be, shall reserve the right to seek further extensions of time within which to object to Claims from the Court by filing a motion with the Court with proper notice to parties in interest in accordance with relevant Local Rules of this Court and the Bankruptcy Rules, and all parties in interest shall reserve the right to object to such extensions of time in accordance with relevant Local Rules of this Court

and the Bankruptcy Rules; provided, further that the deadline for the Debtors or the Plan Administrator(s) to object to the Deng Claim (as defined in the Disclosure Statement) shall be eighty (80) days after the Effective Date. To the extent the Debtors, the Plan Administrator(s) or any other party in interest Files an objection to a Claim on or before the applicable deadline, such Claim shall be deemed and treated as a Disputed Claim under the Plan.

23. Any objections to Claims and settlement thereof shall be dealt with as the Debtors or the Plan Administrator(s), as the case may be, in their sole discretion, deem to be appropriate.

24. The Debtors or the Plan Administrator(s), as the case may be, shall have the sole and complete discretion to decide not to review and/or object to proofs of Claim below a certain dollar amount to the extent such review and/or objection would be uneconomical.

25. Unless otherwise provided by the Plan, no Court approval shall be required in order for the Debtors or the Plan Administrator(s), as the case may be, to settle and/or compromise any Claim, objection to Claim, Cause of Action, or right to payment of or against the Debtors, their Estates or the Post Confirmation Estate.

26. Notwithstanding anything to the contrary in the Plan, at the option of the Debtors or the Plan Administrator(s), any unliquidated Tort Claim as to which a proof of Claim was timely filed in the Chapter 11 Cases (or as to which a late-filed proof of Claim is deemed timely filed by an order of the Bankruptcy Court) may be determined and liquidated in (i) the Bankruptcy Court, to the extent permitted by applicable law; or (ii) the administrative or judicial tribunal(s) in which it is pending on the Effective Date or, if no action was pending on the Effective Date, in any administrative or judicial tribunal of appropriate jurisdiction.

27. Notwithstanding anything to the contrary in the Plan, the Bankruptcy Court may not estimate any personal injury or wrongful death Tort Claims, except to the extent permitted by applicable law.

Preservation of Rights

28. The Plan Administrator(s) shall retain all rights of and on behalf of the Debtors and the Post Confirmation Estate to commence and pursue any and all Causes of Action (under any theory of law, including, without limitation, the Bankruptcy Code, and in any court or other tribunal including, without limitation, in an adversary proceeding filed in the Debtors' Chapter 11 Cases) to the extent the Plan Administrator(s) deems appropriate, including, without limitation, those claims and Causes of Action set forth in Article IV.F.8 of the Disclosure Statement entitled "Preservation of Causes of Action; Settlement of Causes of Action."

29. There may be numerous other Causes of Action which currently exist or may subsequently arise that are not set forth in the Plan or the Disclosure Statement because the facts upon which such Causes of Action are based are not currently or fully known by the Debtors and, as a result, cannot be raised during the pendency of the Chapter 11 Cases. The failure to list any such unknown Cause of Action in the Plan or the Disclosure Statement is not intended to limit the right of the Plan Administrator(s) to pursue any unknown Cause of Action to the extent the facts underlying such unknown Cause of Action subsequently becomes fully known to the Debtors or the Plan Administrator(s).

30. Unless Causes of Action against an Entity are expressly waived, relinquished, released pursuant to Article X.F of the Plan, compromised or settled in the Plan, or any Final Order, including this Confirmation Order, the Debtors and the Post Confirmation Estate expressly reserve all Causes of Action, known or unknown, for later adjudication and therefore,

no preclusion doctrine, including, without limitation, 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 or after Confirmation or Consummation of the Plan.

Effect of Plan Confirmation

31. Article X of the Plan is hereby approved subject to the terms and conditions of this Confirmation Order.

Termination of Equity Interests

32. All Equity Interests and other rights of equity security holders in the Debtors are hereby terminated.

Termination of Subordination Rights and Settlement of Related Claims

33. This Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Persons from enforcing or attempting to enforce any contractual, legal and equitable subordination rights satisfied, compromised or settled by the Plan.

Injunction

34. Except as otherwise expressly provided in the Plan, all Entities that have held, hold or may hold Claims against or Equity Interests in the Debtors shall be permanently enjoined, from and after the Effective Date, from taking any of the following actions against any of the Debtors, their Estates, the Post Confirmation Estate, the Plan Administrator(s), the Professionals or any of their property on account of any Claims or causes of action arising from events prior to the Effective Date, including, without limitation: (i) commencing or continuing in any manner any action or other proceeding of any kind; (ii) enforcing, attaching, collecting or recovering by any manner or in any place or means any judgment, award, decree or order; (iii) creating, perfecting, or enforcing any Lien or encumbrance of any kind; and (iv) asserting any right of setoff against any obligation, debt or liability due to the Debtors. The Debtors

expressly reserve all rights and defenses that the Debtors may have (including, without limitation, the rights of subrogation and recoupment) with respect to any obligation, debt or liability allegedly due to any Entity. By accepting Distributions pursuant to the Plan, each Holder of an Allowed Claim receiving Distributions pursuant to the Plan shall be deemed to have specifically consented to the injunctions set forth in the Plan.

Existing Injunctions and Stays Remain in Effect Until Effective Date

35. Unless otherwise provided, all injunctions or stays provided for in the Chapter 11 Cases pursuant to sections 105, 362 or 525 of the Bankruptcy Code, or otherwise, and in existence on the date of this Confirmation Order, shall remain in full force and effect until the Effective Date. This Confirmation Order will permanently enjoin the commencement or prosecution by any Entity, whether directly, derivatively or otherwise, of any Claims, Equity Interests, obligations, suits, judgments, damages, demands, debts, rights, causes of action or liabilities released pursuant to the Plan.

Exculpation

36. Neither the Debtors, their Estates, the Post Confirmation Estate, the Plan Administrator(s), the Professionals, the Creditors Committee nor any of their respective officers, directors, members, shareholders, employees, advisors, attorneys or agents acting in such capacity on or after the Petition Date or their respective affiliates, (I) shall have or incur any liability to, or be subject to any right of action by, the Debtors or any Holder of a Claim or an Equity Interest, or any other party in interest, or any of their respective agents, shareholders, employees, representatives, financial advisors, attorneys or affiliates, or any of their successors or assigns, for any act or omission in connection with, relating to, or arising out of, (a) any act taken or omitted to be taken on or after the Petition Date, (b) the Disclosure Statement, the Plan,

and the documents necessary to effectuate the Plan, (c) the solicitation of acceptances and rejections of the Plan, (d) the Mutual Releases or the solicitation thereof, (e) the Chapter 11 Cases, (f) the administration of the Plan, (g) the distribution of property under the Plan, (h) any contract, instrument, release or other agreement or document-created or entered into in connection with the Plan or the Chapter 11 Cases, or (i) the Sale, except for any acts or omissions to act that are the result of willful misconduct or gross negligence; and (II) in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan. The exculpatory provisions of the Plan are approved in all respects, in accordance with the terms and conditions of this Confirmation Order, and are fair, equitable, reasonable and in the best interests of the Debtors, their respective Estates, their creditors and other parties in interest in the Chapter 11 Cases.

Releases

Releases by the Debtors

37. Notwithstanding anything to the contrary in the Plan, Article X.F.1 of the Plan is hereby modified and approved as follows:

As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, in their individual capacities and as Debtors-in-Possession, and their Estates shall forever release, waive and discharge all claims, interests, obligations, suits, judgments, damages, losses, costs, expenses, demands, debts, liens, contracts, agreements, promises, rights, causes of action and liabilities (other than the rights of the Debtors to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder) whether direct or derivative, liquidated or unliquidated, concealed or hidden, latent or patent, 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 (i) the Debtors, (ii) the parties released pursuant to Article X.F of the Plan, (iii) any act taken or omitted to be taken on or after the Petition Date, (iv) the Disclosure Statement, the Plan and the documents necessary to effectuate the Plan, (v) the solicitation of acceptances and rejections of the Plan, (vi) the solicitation of the Mutual Releases, (vii) the Chapter 11 Cases, (viii) the administration of the Plan, (ix) the property to be distributed under the Plan, (x) the Sale or (xi) any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or the Chapter 11 Cases, and that could have been asserted by or on behalf of the Debtors or their Estates against each of (a) the Prepetition Lenders other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballots, (b) the Holders of Other Secured Claims other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballot, (c) the Holders of General Unsecured Claims other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballots, and (d) the Holders of Subordinated Note Claims other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballots; provided, however, nothing in this paragraph is intended or shall be construed to release, waive or discharge (A) any acts or omissions to act that are the result of willful misconduct or gross negligence or (B) any of the parties listed in this paragraph from any of or with respect to the Avoidance Actions, including, without limitation, the Preference Actions.

Mutual Releases by Holders of Claims and Interests.

38. Notwithstanding anything to the contrary in the Plan, Article X.F.2 of the Plan is hereby modified and approved as follows:

As of the Effective Date, in exchange for accepting consideration pursuant to the Plan, (a) each Holder of a Prepetition Lenders Claim, an Other Secured Claim, a General Unsecured Claim and a Subordinated Note Claim that (i) votes to accept the Plan and (ii) has not affirmatively rejected the Mutual Releases on its Ballots, (b) HSBC Bank and (c) the Creditors Committee and the individual members thereof shall forever release, waive and discharge all claims, interests, obligations, suits, judgments, damages, losses, costs, expenses, demands, debts, liens, contracts, agreements, promises, rights, causes of action and liabilities whether direct or derivative, liquidated or unliquidated, concealed or hidden, latent or patent, 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 (i) the Debtors, (ii) the parties released pursuant to Article X.F of the Plan, (iii) any act taken or omitted to be taken on or after the Petition Date, (iv) the Disclosure Statement, the Plan, and the documents necessary to effectuate the Plan, (v) the solicitation of acceptances and rejections of the Plan, (vi) the solicitation of the Mutual Releases, (vii) the Chapter 11 Cases, (viii) the administration of the Plan, (ix) the property to be Distributed under the Plan, (x) the Sale or (xi) any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or the Chapter 11 Cases, against each of (a) the Debtors and their Estates, (b) the directors, officers, employees and agents of the

Debtors on or after the Petition Date (other than Claims or interests unrelated to the Debtors), (c) the Professionals, (d) the Prepetition Lenders other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballot, (e) the Holders of Other Secured Claims other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballot, (f) the Holders of General Unsecured Claims other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballot, (g) the Holders of Subordinated Note Claims other than any such party that did not vote to accept the Plan or has affirmatively rejected the Mutual Releases on its Ballots, (h) HSBC Bank, (i) the Creditors Committee and the individual members thereof, and (j) the respective affiliates and representatives, officers, directors, employees, agents, members, direct and indirect shareholders, advisors, and professionals of the foregoing on or after the Petition Date; provided, however, nothing in this paragraph is intended or shall be construed to release, waive or discharge (A) any acts or omissions to act that are the result of willful misconduct or gross negligence or (B) any defenses in connection with or related to the Avoidance Actions, including, without limitation, the Preference Actions.

39. Notwithstanding anything to the contrary in Article X.F.2 of the Plan or paragraph 38 of this Confirmation Order, nothing in Article X.F.2 of the Plan or paragraph 38 of this Confirmation Order is intended or shall be construed to be a release, waiver or discharge by the Creditors Committee and the individual members thereof or HSBC Bank of (i) the Debtors and their Estates or (ii) the directors, officers, employees and agents of the Debtors on or after the Petition Date.

Mutual Releases By and Among the Debtors, Creditors Committee and Lender Parties.

40. Notwithstanding anything contained in Article X.F.1 of the Plan, Article X.F.2 of the Plan or this Confirmation Order to the contrary, pursuant to the Appeal Settlement approved by the Court on October 19, 2004, on the Effective Date, (i) Bank of America, N.A., individually and in its capacity as Agent for the Prepetition Lenders under the Credit Agreement, (ii) each of the Prepetition Lenders, (iii) JWC Bridgeco, Inc., as a party to the Last Out Participation Agreement, (iv) UBS Capital LLC, as a party to the Last Out Participation Agreement, and (v) the current and former directors, officers, agents, employees, attorneys, predecessors, professionals, representatives, subsidiaries, parents and affiliates of the foregoing and their successors and assigns (the entities set forth in (i) through (v) of this paragraph are collectively referred to as, the "Lender Parties") shall release and forever discharge the Debtors, the Debtors' Estates, the Creditors Committee and all of the Debtors' and Creditors Committee's current and former directors, officers, agents, employees, attorneys, predecessors, professionals, representatives, subsidiaries, parents and affiliates of the foregoing and their successors and assigns (collectively, the "Debtor/Committee Parties") of and from any and all manner of action or actions, cause or causes of action, in law or equity, suits, debts, liens, contracts, agreements, promises, liabilities, Claims (including, but not limited to, claims for attorneys' fees, costs and sanctions), damages, demands, losses, costs or expenses of any nature (including, without limitation, any costs or expenses incurred by the Lender Parties in connection with their efforts to dismiss the Appeal in accordance with the Appeal Settlement and to obtain Bankruptcy Court approval of the Appeal Settlement) currently existing or arising in the future, whether known or unknown, suspected or unsuspected, fixed or contingent, concealed or hidden, latent or patent, which the Lender Parties have or may have against the Debtor/Committee Parties; provided,

however, nothing in this paragraph is intended or shall be construed to release, waive or discharge any rights expressly arising out of, provided for, or reserved in the Plan.

41. Notwithstanding anything contained in Article X.F.1 of the Plan, Article X.F.2 of the Plan or this Confirmation Order to the contrary, pursuant to the Appeal Settlement approved by the Bankruptcy Court on October 19, 2004, on the Effective Date, the Debtor/Committee Parties shall release and forever discharge the Lender Parties of and from any and all manner of action or actions, cause or causes of action, in law or equity, suits, debts, liens, contracts, agreements, promises, liabilities, Claims (including, but not limited to, claims for attorneys' fees, costs and sanctions), damages, demands, losses, costs or expenses of any nature, currently existing or arising in the future, whether known or unknown, suspected or unsuspected, fixed or contingent, concealed or hidden, latent or patent, which the Debtor/Committee Parties have or may have against the Lender Parties; provided, however, nothing in this paragraph is intended or shall be construed to release, waive or discharge any rights expressly arising out of, provided for, or reserved in the Plan.

Substantial Consummation

42. The substantial consummation of the Plan, within the meaning of section 1127 of the Bankruptcy Code, shall be, and hereby is, deemed to occur on the Effective Date.

Dissolution of the Creditors Committee

43. On the Effective Date, the Creditors Committee shall dissolve and the members thereof and the professionals retained by the Creditors Committee in accordance with section 1103 of the Bankruptcy Code shall be released and discharged from their respective fiduciary obligations without the need of any further Court order.

Substantive Consolidation

44. The Debtors shall be substantively consolidated for all purposes as provided in Article VI.A of the Plan. On the Effective Date: (a) no Distributions will be made under the Plan on account of the Intercompany Claims; (b) the guarantees of certain Debtors of obligations of other Debtors, including, but not limited to, those obligations arising under the Credit Agreement and the Subordinated Notes, will be deemed eliminated so that any Claim against any Debtor and any guarantee thereof executed by any other Debtor and any joint and several liability of any Debtor with another Debtor will be deemed to be one obligation of the deemed consolidated Debtors; and (c) each and every Claim against a Debtor will be deemed asserted against the consolidated Estates of all of the Debtors, will be deemed one Claim against and obligation of the deemed consolidated Debtors and their Estates and will be treated in the same Class regardless of the Debtor. Notwithstanding the substantive consolidation herein, substantive consolidation shall not affect the obligation of each and every Debtor under 28 U.S.C. § 1930(a)(6) until a particular case is closed, converted or dismissed.

Successors and Assigns

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

Retention of Jurisdiction

46. Notwithstanding the entry of this Confirmation Order and the occurrence of the Effective Date, this Court shall retain and have exclusive jurisdiction after the Effective Date over any matter arising under the Bankruptcy Code, arising in or relating to the Chapter 11 Cases or the Plan, including, without limitation, all categories specifically set forth in Article XII of the

Plan (which provisions are incorporated herein by reference), in each case to the greatest extent permitted by applicable law.

Payment of Statutory Fees and Compliance with Reporting Obligations

47. All fees payable pursuant to 28 U.S.C. § 1930 shall be paid by the Debtors on or before the Effective Date to the extent required by applicable law. All fees payable subsequent to the Effective Date under 28 U.S.C. § 1930(a)(6) shall be paid by the Post Confirmation Estate until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first. The Post Confirmation Estate shall also comply with all post-Confirmation bankruptcy reporting requirements, including the reporting of disbursement activity under the Plan, in accordance with applicable law.

Post Confirmation Notices

48. Pursuant to Bankruptcy Rule 2002(f)(7), the Debtors are directed to serve, as soon as reasonably practicable after the Effective Date, a notice, with the Confirmation Order attached thereto, substantially in the form (or containing substantially the same information) annexed hereto as Exhibit A regarding the entry of this Confirmation Order and the occurrence of the Effective Date upon (i) the U.S. Trustee, (ii) counsel to the prepetition and postpetition lenders, (iii) counsel to the Creditors Committee, (iv) all creditors maintained by the Debtors' solicitation agent in these Chapter 11 Cases and (v) those parties who requested notice pursuant to Bankruptcy Rule 2002. No further notice of the entry of this Confirmation Order shall be required.

Closing of Chapter 11 Cases

49. The Plan Administrator(s) shall, promptly upon the full administration of the Chapter 11 Cases, file with the Court all documents required by Bankruptcy Rule 3022 and any applicable order of this Court to close the Chapter 11 Cases.

Fee Applications

50. All final fee applications by Professionals for compensation or reimbursement pursuant to section 330 of the Bankruptcy Code for services rendered or expenses incurred on or before the Confirmation Date shall be filed with this Court within sixty (60) days after the Effective Date; provided, however, a Professional may, but shall not be required to, include in a final fee application any fees and expenses incurred after the Confirmation Date in connection with the preparation, filing and prosecution of such final fee application. Such final fee applications shall also be served on each of the following parties no later than sixty (60) days after the Effective Date:

<u>Counsel for the Debtors:</u> Kirkland & Ellis LLP c/o James H.M. Sprayregen, P.C. and James W. Kapp III, Esq. 200 East Randolph Drive Chicago, Illinois 60601 Telephone: (312) 861-2000 Facsimile: (312) 861-2200 and Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C. c/o Laura Davis Jones, Esq. and Curtis A. Hehn, Esq. 919 North Market Street, 16 th Floor P.O. Box 8705 Wilmington, Delaware 19899-8705 (Courier 19801) Telephone: (302) 652-4100 Facsimile: (302) 652-4400	<u>Counsel for the Creditors Committee:</u> Stroock & Stroock & Lavan LLP c/o Gerald C. Bender, Esq. and Anna M. Taruschio, Esq. 180 Maiden Lane New York, New York 10038-4982 Telephone: (212) 806-5400 Facsimile: (212) 806-6006 and Ashby & Geddes c/o William P. Bowden, Esq. 222 Delaware Avenue P.O. Box 1150 Wilmington, Delaware 19899 Telephone: (302) 654-1888 Facsimile: (302) 654-2067
<u>United States Trustee:</u> Office of the United States Trustee c/o David L. Buchbinder, Esq. J. Caleb Boggs Federal Building 844 N. King Street	<u>Counsel for the Prepetition Lenders:</u> Shearman & Sterling LLP c/o Fredric Sosnick, Esq. 599 Lexington Avenue New York, New York 10022-6069

Suite 2207 Lock Box 35 Wilmington, Delaware 19801	Telephone: (212) 848-4000 Facsimile: (212) 848-7179
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51. The Debtors shall mail a copy of this Confirmation Order to all Professionals retained by the Debtors and the Creditors Committee within ten (10) business days from the date of entry of this Confirmation Order.

52. After the Confirmation Date, the Debtors or, on and after the Effective Date, the Plan Administrator(s), as the case may be, shall, in the ordinary course of business and without the necessity of any approval of the Bankruptcy Court, pay the reasonable fees and expenses of the Professionals in connection with the implementation and consummation of the Plan, the claims reconciliation process and any other matters as to which such Professionals may be engaged. The fees and expenses of such Professionals shall be paid within fifteen (15) Business Days after submission of a detailed invoice therefor to the Debtors. If the Debtors dispute the reasonableness of such invoice, the Debtors may submit such dispute to the Bankruptcy Court for determination of the reasonableness of such invoice, and the disputed portion of such invoice shall not be paid until the dispute is resolved. The undisputed portion of such fees and expenses shall be paid as provided for herein.

Authorization to Consummate

53. The Debtors are authorized to Consummate the Plan at any time after the entry of this Confirmation Order subject to the satisfaction or waiver of the conditions precedent to the occurrence of the Effective Date and the Consummation of the Plan set forth in Article IX of the Plan.

Governmental Approvals Not Required

54. This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules or regulations of any State or any other governmental authority with

respect to the implementation or Consummation of the Plan and any documents, instruments or agreements, any amendments or modifications thereto, and any other acts referred to in or contemplated by the Plan, the Disclosure Statement, and any documents, instruments or agreements and any amendments or modifications thereto.

Miscellaneous

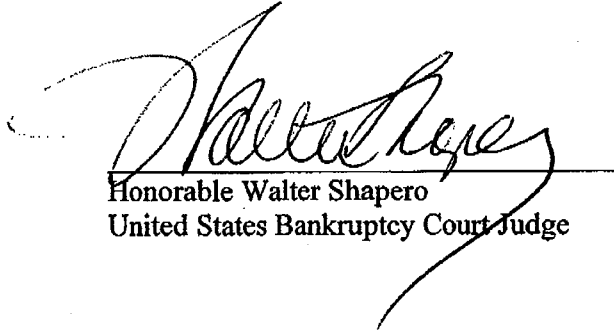
55. The provisions of this Confirmation Order are integrated with each other and are nonseverable and mutually dependent.

56. Each of the Debtors, the Post Confirmation Estate and the Plan Administrator(s) is authorized to take all actions necessary or appropriate to enter into, implement and consummate the Plan and other agreements or documents created in connection with the Plan.

57. The failure to reference or discuss any particular provision of the Plan in this Confirmation Order shall have no effect on the validity, binding effect or enforceability of such provision, and such provision shall have the same validity, binding effect and enforceability as every other provision of the Plan.

IT IS SO ORDERED.

Dated: _____, 2005



Honorable Walter Shapero
United States Bankruptcy Court Judge

EXHIBIT A

Notice of Entry of Confirmation Order and Effective Date

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:)	Chapter 11
)	
DESA Holdings Corporation, <i>et al.</i> ¹)	Case No. 02-11672 (WS)
)	
Debtors.)	(Jointly Administered)
)	

NOTICE OF ENTRY OF CONFIRMATION ORDER AND EFFECTIVE DATE

TO CREDITORS, EQUITY INTEREST HOLDERS AND OTHER PARTIES IN INTEREST OF THE ABOVE-CAPTIONED DEBTORS:

PLEASE TAKE NOTICE that on _____, 2005 (the "Confirmation Date") the United States Bankruptcy Court for the District of Delaware (the "Bankruptcy Court") entered an order (the "Confirmation Order") confirming the Second Amended Joint Liquidating Plan of Reorganization of DESA Holdings Corporation and DESA International LLC Pursuant to Chapter 11 of the United States Bankruptcy Code (the "Plan"),² filed by the above-captioned debtors (the "Debtors"). A true and correct copy of the Confirmation Order is attached hereto as Exhibit A. Pursuant to the Confirmation Order, certain provisions in the Plan concerning releases were changed. These changes are expressly set forth in paragraphs 37 – 39 of the Confirmation Order.

PLEASE TAKE FURTHER NOTICE that the Effective Date of the Plan was _____, 2005.

PLEASE TAKE FURTHER NOTICE that any executory contracts or unexpired leases which have not (i) expired by their own terms on or prior to the Effective Date, or (ii) been assumed, assumed and assigned, or rejected with the approval of the Bankruptcy Court, shall be deemed rejected by the Debtors as of the Effective Date.

PLEASE TAKE FURTHER NOTICE that each Entity that is a party to an executory contract or unexpired lease that is rejected as of the Effective Date pursuant to the Plan and the Confirmation Order will be entitled to File, not later than thirty (30) days following the Effective Date, a proof of Claim for damages alleged to have been suffered due to such rejection; provided, however, that the opportunity afforded an Entity whose executory contract or unexpired lease is rejected as of the Effective Date pursuant to the Plan and the Confirmation Order to file a proof of Claim shall in no way apply to Entities that may assert a claim on account of an executory contract or unexpired lease that was previously rejected by the Debtors for which a prior bar date was established. Any Entity that has a Claim for damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Plan that does not File a proof of Claim in accordance with the terms and provisions of the Plan with the Bankruptcy Court (and serve such proof of Claim upon the Plan Administrator(s)) will be forever barred from asserting that Claim against, and such Claim shall be unenforceable against, the Debtors, their Estates and the Post Confirmation Estate.

PLEASE TAKE FURTHER NOTICE that all final applications by professionals for compensation or reimbursement pursuant to section 330 of the Bankruptcy Code for services rendered or expenses incurred on or before the Confirmation Date must be filed with the Bankruptcy Court within sixty (60) days after the Effective

¹ The Debtors consist of the following two entities: DESA Holdings Corporation and DESA International LLC (f/k/a DESA International, Inc.).

² Capitalized terms not defined herein shall have those meanings ascribed in the Plan.

Date. Such final fee applications must also be served on each of the following parties no later than sixty (60) days after the Effective Date:

<u>Co-Counsel for the Debtors:</u> Kirkland & Ellis LLP c/o James H.M. Sprayregen, P.C. and James W. Kapp III, Esq. 200 East Randolph Drive Chicago, Illinois 60601 Telephone: (312) 861-2000 Facsimile: (312) 861-2200	<u>Co-Counsel for the Creditors Committee:</u> Stroock & Stroock & Lavan LLP c/o Gerald C. Bender, Esq. and Anna M. Taruschio, Esq. 180 Maiden Lane New York, New York 10038-4982 Telephone: (212) 806-5400 Facsimile: (212) 806-6006
<u>Co-Counsel for the Debtors:</u> Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C. c/o Laura Davis Jones, Esq. and Curtis A. Hehn, Esq. 919 North Market Street, 16 th Floor P.O. Box 8705 Wilmington, Delaware 19899-8705 (Courier 19801) Telephone: (302) 652-4100 Facsimile: (302) 652-4400	<u>Co-Counsel for the Creditors Committee:</u> Ashby & Geddes c/o William P. Bowden, Esq. 222 Delaware Avenue P.O. Box 1150 Wilmington, Delaware 19899 Telephone: (302) 654-1888 Facsimile: (302) 654-2067
<u>United States Trustee:</u> Office of the United States Trustee c/o David L. Buchbinder, Esq. J. Caleb Boggs Federal Building 844 N. King Street Suite 2207 Lock Box 35 Wilmington, Delaware 19801	<u>Counsel for the Prepetition Lenders:</u> Shearman & Sterling LLP c/o Fredric Sosnick, Esq. 599 Lexington Avenue New York, New York 10022-6069 Telephone: (212) 848-4000 Facsimile: (212) 848-7179

PLEASE TAKE FURTHER NOTICE that, pursuant to the Plan, as soon as possible after the Effective Date, the Debtors or the Plan Administrator(s), as applicable, shall make Distributions pursuant to the terms of the Plan.

Dated: _____, 2005

KIRKLAND & ELLIS LLP
James H.M. Sprayregen, P.C.
James W. Kapp III
Scott R. Zernick
200 East Randolph Drive
Chicago, IL 60601-6636
Telephone: (312) 861-2000
Facsimile: (312) 861-2200

-and-

PACHULSKI, STANG, ZIEHL, YOUNG, JONES
& WEINTRAUB P.C.
Laura Davis Jones (Bar No. 2436)
Curtis A. Hehn (Bar No. 4264)
919 North Market Street, 16th Floor
P.O. Box 8705
Wilmington, Delaware 19899-8705 (Courier 19801)
Telephone: (302) 652-4100
Facsimile: (302) 652-4400