

**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)
)	

**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**

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

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DESA Holdings Corporation and its domestic subsidiary, DESA International LLC (f/k/a DESA International, Inc.), as debtors and debtors in possession (collectively, the “Debtors”), hereby jointly propose the following joint liquidating plan of reorganization pursuant to section 1121(a) of title 11 of the United States Code, 11 U.S.C. §§ 101 et seq.

Reference is made to the Disclosure Statement accompanying the Plan, including the exhibits thereto, for a discussion of the Debtors’ history, business, results of operations and properties, and for a summary and analysis of the Plan.

All Holders of Claims and Equity Interests are encouraged to consult the Disclosure Statement and read the Plan carefully before voting to accept or reject the Plan.

ARTICLE I.
DEFINITIONS, RULES OF INTERPRETATION,
COMPUTATION OF TIME AND GOVERNING LAW

A. Rules of Interpretation, Computation of Time and Governing Law

1. For purposes of the Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neutral gender shall include the masculine, feminine and the neutral gender; (b) any reference in the Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in the Plan to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified or supplemented; (d) unless otherwise specified, all references in the Plan to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits of or to the Plan; (e) the words “herein” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (g) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (h) any term used in capitalized form in the Plan that is not defined herein but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

2. Except as otherwise specifically provided herein, in computing any period of time prescribed or allowed by the Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

3. Except to the extent that the Bankruptcy Code or Bankruptcy Rules are applicable, and subject to the provisions of any contract, instrument, release, indenture or other agreement or document entered into in connection herewith, the rights and obligations arising hereunder shall be governed by, and construed and enforced in accordance with, the laws of the State in which the Bankruptcy Court resides, without giving effect to the principles of conflict of laws thereof.

B. Defined Terms

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

1. *Administrative Claim* means a Claim for costs and expenses of administration of the Chapter 11 Cases Allowed under section 503(b) or 1114(e)(2) of the Bankruptcy Code and entitled to priority pursuant to section 507(a)(1) of the Bankruptcy Code incurred after the Petition Date, including, but not limited to: (a) any actual and necessary costs and expenses of preserving the Debtors’ Estates and operating the businesses of the Debtors (such as wages, salaries, commissions for services and payments for inventories, leased equipment and premises); (b) compensation for legal, financial, advisory, accounting and other services and reimbursement of expenses Allowed by the Bankruptcy Court under section 330, 331 or 503(b) of the Bankruptcy Code to the extent incurred prior to the Effective Date; (c) all fees and charges

assessed against the Debtors' Estates under section 1930, Chapter 123 of Title 28, United States Code; and (d) all obligations designated as Allowed Administrative Claims pursuant to an order of the Bankruptcy Court.

2. *Affiliate* means any Entity that is an "affiliate" of the Debtors within the meaning of section 101(2) of the Bankruptcy Code.

3. *Allowed* means, with respect to any Claim or Equity Interest, except as otherwise provided herein, any of the following: (a) the amount set forth in a Filed proof of Claim as to which the Debtors or any other party in interest have not Filed an objection before any final date for the filing of such objections set forth in the Plan, the Confirmation Order or other order of the Bankruptcy Court; (b) a Claim or Equity Interest that has been scheduled by the Debtors in their Schedules as other than disputed, contingent or unliquidated and as to which the Debtors or any other party in interest have not Filed an objection; (c) a Claim or Equity Interest that either is not a Disputed Claim or Equity Interest or has been allowed by a Final Order or by agreement of the Debtors or the Plan Administrator(s); (d) a Claim or Equity Interest that is allowed: (i) in any stipulation with the Debtors of the amount and nature of such Claim executed prior to the Confirmation Date and approved by the Bankruptcy Court; (ii) in any stipulation with the Debtors or the Plan Administrator(s) of the amount and nature of such Claim executed on or after the Confirmation Date and, to the extent necessary, approved by the Bankruptcy Court; or (iii) in any contract, instrument, indenture or other agreement entered into or assumed in connection with the Plan; (e) a Claim relating to a rejected executory contract or unexpired lease that (i) is not a Disputed Claim or (ii) has been allowed by a Final Order; or (f) a Claim or Equity Interest that is allowed pursuant to the terms of the Plan.

4. *Appeal* means that certain appeal filed on or about March 2, 2004, by Bank of America, N.A., on behalf of the Prepetition Lenders, against the Creditors Committee and the Debtors in the United States Court of Appeals for the Third Circuit, bearing the caption *In re Desa Holding Corp.*, Case No. 04-1596.

5. *Appeal Settlement* means that certain Stipulation Resolving Disputes Among Bank of America, N.A., as Agent, the Debtors and the Official Committee of Unsecured Creditors, approved by the Bankruptcy Court on October 19, 2004.

6. *Asset Purchase Agreement* means that certain asset purchase agreement, dated November 27, 2002, by and among HIG DESA Acquisition LLC, DESA Holdings Corporation and DESA International LLC (as subsequently amended or otherwise modified from time to time).

7. *Assets* means all assets of the Debtors of any nature whatsoever, including, without limitation, the property of the Estate pursuant to section 541 of the Bankruptcy Code, Cash, Causes of Action and the proceeds thereof, the Preference Action Recoveries, claims of right, interests and property, real and personal, tangible and intangible.

8. *Avoidance Actions* means all claims and any avoidance, recovery, subordination or other actions against insiders and/or any other Entity arising under the Bankruptcy Code,

including sections 506, 510, 542, 543, 544, 545, 547, 548, 549, 550, 551, and 553 of the Bankruptcy Code or otherwise, including, without limitation, the Preference Actions.

9. *Ballot* means each of the ballot forms distributed to each Holder of an Impaired Claim entitled to vote in which the Holder is to indicate acceptance or rejection of the Plan.

10. *Bankruptcy Code* means the Bankruptcy Reform Act of 1978, as codified in title 11 of the United States Code, 11 U.S.C. § 101, et seq., as amended from time to time.

11. *Bankruptcy Court* means the United States Bankruptcy Court for the District of Delaware, or such other court having jurisdiction over the Chapter 11 Cases and, to the extent any reference is made pursuant to section 157 of title 28 of the United States Code or the General Order of the District Court pursuant to section 151 of title 28 of the United States Code, the bankruptcy unit of such District Court.

12. *Bankruptcy Rules* means, collectively, the Federal Rules of Bankruptcy Procedures and the Official Bankruptcy Forms, as amended from time to time, the Federal Rules of Civil Procedure, as amended from time to time, as applicable to the Chapter 11 Cases or proceedings therein, and the Local Rules of the Bankruptcy Court, as applicable to the Chapter 11 Cases or proceedings therein, as the case may be.

13. *Business Day* means any day, excluding Saturdays, Sundays or “legal holidays” (as defined in Fed. R. Bankr. P. 9006(a)).

14. *Cash* means legal tender of the United States of America or equivalents thereof.

15. *Causes of Action* means all claims, actions, causes of action, choses in action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, third-party claims, counterclaims, and crossclaims of the Debtors, the Debtors in Possession, the Estates and/or the Post Confirmation Estate (including, but not limited to, the Avoidance Actions and those actions listed in the section of the Disclosure Statement titled “Preservation of Causes of Action; Settlement of Causes of Action”) that are or may be pending on the Effective Date or instituted by the Plan Administrator(s), on behalf of the Post Confirmation Estate, after the Effective Date against any Entity, based in law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted as of the date of entry of the Confirmation Order.

16. *Chapter 11 Cases* means the cases commenced under chapter 11 of the Bankruptcy Code by the Debtors on the Petition Date, styled In re DESA Holdings Corporation, et al., Case No. 02-11672 (WS), Jointly Administered, currently pending before the Bankruptcy Court.

17. *Claim* means a “Claim” (as defined in section 101(5) of the Bankruptcy Code) against one or more of the Debtors, including, but not limited to: (a) any right to payment from one or more of the Debtors, whether or not such right is reduced to judgment, liquidated, unliquidated, contingent, matured, unmatured, disputed, undisputed, legal, equitable, secured or unsecured; or (b) any right to an equitable remedy for breach of performance by one or more of the Debtors, if such performance gives rise to a right of payment from one or more of the

Debtors, whether or not such right to an equitable remedy is reduced to judgment, fixed, contingent, matured, unmatured, disputed, undisputed, secured or unsecured.

18. *Class* means a category of Holders of Claims or Equity Interests as set forth in Article III of the Plan.

19. *Confirmation* means the entry of the Confirmation Order, subject to all conditions specified in Article IX.B of the Plan having been satisfied or waived pursuant to Article IX.D of the Plan.

20. *Confirmation Date* means the date upon which the Confirmation Order is entered on the docket of the Bankruptcy Court.

21. *Confirmation Hearing* means the hearing held by the Bankruptcy Court pursuant to section 1128 of the Bankruptcy Code to consider Confirmation of the Plan in accordance with section 1129 of the Bankruptcy Code, as the same may be adjourned or continued from time to time.

22. *Confirmation Order* means the order of the Bankruptcy Court confirming the Plan in accordance with the provisions of Chapter 11 of the Bankruptcy Code.

23. *Consummation or Consummate* means the occurrence of or to achieve the Effective Date.

24. *Credit Agreement* means that certain \$195 million Credit Agreement, dated as of November 26, 1997 (as subsequently amended, restated, supplemented or otherwise modified) by and among DESA International, Inc. (n/k/a DESA International LLC), as borrower, DESA Holdings Corporation, as parent guarantor, and Bank of America, N.A. (formerly NationsBank, N.A.), as administrative agent, initial issuing bank and swing line bank, and certain other lenders specified therein.

25. *Creditors Committee* means the official committee of unsecured creditors appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code, as constituted from time to time up to the Effective Date.

26. *Debtors* means DESA Holdings Corporation and DESA International LLC (f/k/a DESA International, Inc.).

27. *Debtors in Possession* means the Debtors as debtors in possession in the Chapter 11 Cases pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

28. *Disclosure Statement* means the written Second Amended Disclosure Statement for 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, as amended, supplemented, or modified from time to time, and that is prepared and distributed in accordance with section 1125 of the Bankruptcy Code, Bankruptcy Rule 3018 and other applicable law.

29. *Disputed Claims or Equity Interest* means a Claim or Equity Interest, or any portion thereof: (i) listed on the Schedules as unliquidated, disputed or contingent or (ii) is the subject of a Filed objection or request for estimation or is otherwise disputed by any of the Debtors or any other party in interest in accordance with applicable law, which objection, request for estimation or dispute has not been withdrawn, resolved, or overruled by a Final Order.

30. *Distribution* means any consideration given to any Entity by the Debtors under the Plan.

31. *Distribution Date* means any date on which a Distribution is made by the Debtors.

32. *Effective Date* means the date selected by the Debtors which is a Business Day after the Confirmation Date on which all conditions specified in Article IX.C herein have been satisfied or waived pursuant to Article IX.D and no stay of the Confirmation Order is in effect. When used in the Plan, Effective Date means on the Effective Date or as soon as reasonably practicable thereafter.

33. *Entity* means a Person, a corporation, a general partnership, a limited partnership, a limited liability company, a limited liability partnership, an association, a joint stock company, a joint venture, an estate, a trust, an unincorporated organization, a governmental unit or any subdivision thereof, the United States Trustee or any other entity.

34. *Equity Interests* means any interest in any Debtor, including, without limitation, (i) a share in a corporation, whether or not denominated “stock,” or similar security, and whether or not issued, unissued, authorized, or outstanding, (ii) an interest of a limited partner in a limited partnership, (iii) an interest of a general partner in a general partnership, or (iv) a warrant, option, contract, or right to purchase, sell, or subscribe to a share, security, or interest of a kind specified in (i), (ii), (iii), or (iv) of this definition.

35. *Estate(s)* means, individually, the Estate of each Debtor in the Chapter 11 Cases, and, collectively, the Estates of all Debtors in the Chapter 11 Cases, created pursuant to section 541 of the Bankruptcy Code upon commencement of the Chapter 11 Cases.

36. *File or Filed* means file or filed with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

37. *Final Decree* means the decree contemplated under Bankruptcy Rule 3022.

38. *Final Order* means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction, with respect to the subject matter, that has not been reversed, stayed, modified or amended, and is no longer subject to appeal, *certiorari* proceeding or other proceeding for review, reargument, or rehearing, and as to which no appeal, *certiorari* proceeding, or other proceeding for review, reargument, or rehearing has been timely requested or is then pending and the time to file any such appeal, *certiorari* proceeding or other proceeding for review, reargument, or rehearing has expired or as to which any right to appeal, petition for *certiorari*, reargue, or seek rehearing shall have been waived in writing in form and substance satisfactory to the Debtors.

39. *Forfeited Unsecured Distributions* means the undeliverable or unclaimed Distributions relating to Allowed General Unsecured Claims and Allowed Subordinated Note Claims that are deemed forfeited pursuant to Article V.C.2 of the Plan.

40. *General Unsecured Claims* means, collectively, the Guaranteed Line of Credit Claims, the Other Unsecured Claims and the Tort Claims.

41. *Guaranteed Line of Credit* means the unsecured line of credit issued by Bank of America, N.A., to DESA International, Inc. (n/k/a DESA International LLC), pursuant to a credit agreement dated as of May 26, 1999, as amended from time to time, in an aggregate principal amount of up to \$15 million. Based upon information and belief, in connection with the May 26, 1999 credit agreement, Bank of America, N.A., J.W. Childs Equity Partners, L.P. and UBS Capital LLC entered into a guaranty agreement, pursuant to which J.W. Childs Equity Partners, L.P. and UBS Capital LLC guaranteed DESA International, Inc.'s obligations with respect to the Guaranteed Line of Credit.

42. *Guaranteed Line of Credit Claim* means any Claim arising from the Guaranteed Line of Credit.

43. *HIG* means HIG DESA Acquisition LLC.

44. *HIG Notes* means the unsecured subordinated notes issued by HIG DESA Acquisition LLC to DESA International LLC, pursuant to the Asset Purchase Agreement, in the original aggregate principal amount of \$13.0 million, bearing interest payable in kind, at the annual rate of 10%, and maturing on December 24, 2007.

45. *Holder* means any Entity owning or holding a Claim or Equity Interest.

46. *HSBC Bank* means HSBC Bank USA (formerly Marine Midland Bank), as indenture trustee under the Indenture.

47. *HSBC Bank Lien* means the lien set forth in Section 7.07 of the Indenture securing the Debtors' payment obligations of the Indenture Trustee Fees and Expenses.

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

49. *Indenture* means that certain indenture, dated as of November 26, 1997, by and among DESA International, Inc. (n/k/a DESA International LLC), Holdings, as guarantor, and HSBC Bank, as indenture trustee, pursuant to which DESA International, Inc. issued the Subordinated Notes.

50. *Indenture Trustee Fees and Expenses* means the claim amount incurred under Section 7.07 of the Indenture for the (i) reasonable compensation for HSBC Bank's services provided under the Indenture as indenture trustee and (ii) reimbursement of reasonable disbursements, advances and expenses incurred or made by HSBC Bank, as indenture trustee, including the reasonable compensation, disbursements and expenses of HSBC Bank's agents and counsel.

51. *Information Agent* means Bankruptcy Management Corporation, 1330 East Franklin Avenue, El Segundo, California 90245, (888) 909-0100.

52. *Intercompany Claim* means any Claim held by any Affiliate against any other Affiliate that is a Debtor or its Estate.

53. *Last Out Participation Agreement* means that certain Last Out Participation Agreement, dated as of March 4, 2002, by and among Bank of America, N.A., JWC Bridgeco, Inc. and UBS Capital LLC.

54. *Lien* means any charge against or interest in property to secure payment of a debt or performance of an obligation.

55. *Liquidation Reserve* means the amount of Cash estimated to adequately fund the administration of the Plan and the administration of the Chapter 11 Cases on and after the Effective Date, including, without limitation, the reasonably anticipated fees and expenses of the Plan Administrator(s) and their professionals that are incurred after the Effective Date, as well as any other fees, costs and expenses payable in connection with the implementation of the Plan and the orderly winding up of the Debtors' affairs.

56. *Mutual Releases* means the mutual releases described in Article X.F.1 and Article X.F.2 of the Plan.

57. *Other Forfeited Distributions* means any undeliverable or unclaimed Distributions on account of Administrative Claims, Priority Tax Claims, Other Secured Claims and Other Priority Claims that are deemed forfeited pursuant to Article V.C.2 of the Plan.

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

59. *Other Secured Claim* means a Secured Claim other than the Prepetition Lenders Claim.

60. *Other Unsecured Claim* means any Claim against any of the Debtors other than an Administrative Claim, a Priority Tax Claim, the Prepetition Lenders Claim, an Other Secured Claim, an Other Priority Claim, a Guaranteed Line of Credit Claim, a Tort Claim, a Subordinated Note Claim, an Intercompany Claim, or an Equity Interest.

61. *Person* means a "person" as defined in section 101(41) of the Bankruptcy Code.

62. *Petition Date* means June 8, 2002, the date on which the Debtors filed their voluntary petitions for relief under chapter 11 of the Bankruptcy Code commencing the Chapter 11 Cases.

63. *Plan* means this 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, including, without limitation, any exhibits and schedules hereto, either

in its present form or as the same may be amended, modified or supplemented from time to time in accordance with the terms and provisions hereof.

64. *Plan Administrator(s)* means James E. Ashton, Joseph J. Incandela and/or any other Person(s) designated by the Debtors and retained as of the Effective Date as the employees or fiduciaries responsible for implementing the applicable provisions of the Plan, including, without limitation, the matters described in Article IV and Article V herein. The Plan Administrator(s) shall have all rights and powers necessary to effectuate the Plan.

65. *Plan Objection Deadline* means the deadline established by the Bankruptcy Court for filing and serving objections to the Confirmation of the Plan.

66. *Post Confirmation Estate* means the grantor trust to be created on the Effective Date in accordance with the provisions of Article VI.C of the Plan for the benefit of Holders of certain Allowed Claims.

67. *Post Confirmation Estate Agreement* means the agreement, substantially in the form annexed as Exhibit D to the Disclosure Statement, that, in part, describes the powers, duties and responsibilities of the Plan Administrator(s).

68. *Post Confirmation Estate Assets* means all of the Debtors' Assets remaining on the Effective Date.

69. *Preference Action Recoveries* means all proceeds collected or recovered by the Debtors, if any, as a result of the Preference Actions.

70. *Preference Actions* means the adversary proceedings commenced by the Debtors in the United States Bankruptcy Court for the District of Delaware seeking to avoid and recover preferential transfers pursuant to sections 547 and 550 of the Bankruptcy Code. Each of the Preference Actions pending as of the date of this Plan are set forth in Exhibit C of the Disclosure Statement.

71. *Prepetition Lenders* means the lenders under the Credit Agreement.

72. *Prepetition Lenders Claim* means any Claim arising from or relating to the Credit Agreement, including, without limitation, (i) the proof of secured claim filed by the Prepetition Lenders in the Chapter 11 Cases (Claim Number 538) and (ii) the unpaid professional fees and expenses for legal and consulting services allegedly incurred by the Prepetition Lenders pursuant to the Credit Agreement.

73. *Prepetition Lenders Distribution* means the amount of \$25,000.00 in Cash to be distributed to Bank of America, N.A., as administrative agent for the Prepetition Lenders, pursuant to this Plan in full satisfaction, settlement, release and discharge of and in exchange for the Prepetition Lenders Claim.

74. *Priority Tax Claim* means a Claim of a governmental unit of the kind specified in sections 502(i) and 507(a)(8) of the Bankruptcy Code.

75. *Professional* means any professional or other Entity that (a) has been retained in the Chapter 11 Cases by a Final Order of the Bankruptcy Court pursuant to sections 327, 328 or 1103 of the Bankruptcy Code or otherwise, including, but not limited to, (i) Kirkland & Ellis LLP, (ii) Pachulski, Stang, Ziehl, Young, Jones & Weintraub P.C., (iii) Berenson & Company (f/k/a Berenson Minella & Company), (iv) Ernst & Young LLP, (v) Huron Consulting Group LLP, (vi) Stroock & Stroock & Lavan LLP, (vii) Ashby & Geddes, and (viii) Jefferies & Company, Inc., or (b) seeks compensation or reimbursement of expenses in connection with the Chapter 11 Cases pursuant to section 503(b)(4) of the Bankruptcy Code.

76. *Pro Rata* means proportionately so that with respect to an Allowed General Unsecured Claim or an Allowed Subordinated Note Claim, the ratio of (a) (i) the amount of property distributed on account of a particular Allowed General Unsecured Claim or Allowed Subordinated Note Claim to (ii) the amount of that particular Allowed General Unsecured Claim or Allowed Subordinated Note Claim, is the same as the ratio of (b) (i) the amount of property distributed on account of all Allowed General Unsecured Claims and Allowed Subordinated Note Claims in Class 4 and Class 5 to (ii) the amount of all Allowed General Unsecured Claims and Allowed Subordinated Note Claims in Class 4 and Class 5.

77. *Residual Proceeds* means the amount of the proceeds of the Debtors' Assets that exceeds the sum of (i) the Prepetition Lenders Distribution, (ii) Allowed Administrative Claims, (iii) Allowed Priority Tax Claims, (iv) Allowed Other Secured Claims, (v) Allowed Other Priority Claims, and (vi) the Liquidation Reserve.

78. *Sale* means the sale of substantially all of the Debtors' assets to HIG, pursuant to the Asset Purchase Agreement, which (i) was approved by the Bankruptcy Court on December 13, 2002, and (ii) closed on December 24, 2002.

79. *Schedules* means the respective schedules of assets and liabilities and the statements of financial affairs Filed by the Debtors in accordance with section 521 of the Bankruptcy Code and the Bankruptcy Rules as such schedules and statements have been or may be supplemented or amended from time to time.

80. *Secured Claim* means: (a) a Claim (other than a Claim in any way arising from or relating to a Claim of a lessor for damages resulting from the termination of a lease of real property) that is secured by a Lien on a property in which any of the Estates has an interest, which lien is valid, perfected and enforceable under applicable law or by reason of a Final Order, or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Claim Holder's interest in any of the Estates' interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code; or (b) a Claim Allowed under the Plan as a Secured Claim. An Allowed Claim that meets this definition but which exceeds the value of the Holder's interest in the Estates' interest in the applicable property, or which exceeds the amount of setoff, as applicable, shall be a General Unsecured Claim to the extent of such excess.

81. *Subordinated Note Claims* means any Claim arising from the Subordinated Notes.

82. *Subordinated Note Share* means the definition ascribed to it in Article III.B.5(b)(1) of the Plan.

83. *Subordinated Notes* means the \$130 million 9-7/8% unsecured senior subordinated notes due December 15, 2007, issued pursuant to the Indenture, dated as of November 26, 1997, by and among DESA International, Inc. (n/k/a DESA International LLC), DESA Holdings Corporation, as guarantor, and HSBC Bank USA (formerly Marine Midland Bank), as indenture trustee. All obligations with respect to the Subordinated Notes are subordinated in right of payment to the prior payment in full in cash of all senior indebtedness under the indenture respecting the Subordinated Notes, including, without limitation, the Guaranteed Line of Credit.

84. *Tort Claim* means any Claim relating to personal injury, property damage, products liability, general tort claims or other similar Claims asserted against the Debtors that have not previously been compromised and settled or otherwise resolved.

85. *Unimpaired* means, when used with reference to a Claim or Equity Interest, a Claim or Equity Interest that is not impaired within the meaning of section 1124 of the Bankruptcy Code.

ARTICLE II. ADMINISTRATIVE CLAIMS; PRIORITY TAX CLAIMS

A. Administrative Claims

Each Allowed Administrative Claim shall be paid by the Plan Administrator(s), at their election, (i) in full, in Cash, in such amounts as are (1) incurred in the ordinary course of business by the Debtors or (2) in such amounts as such Administrative Claim is Allowed by the Bankruptcy Court, upon the later of the Effective Date or the date upon which such Administrative Claim is Allowed, or as soon as reasonably practicable thereafter, (ii) upon such other terms as may exist in the ordinary course of the Debtors' business or (iii) upon such other terms as may be agreed upon between the Holder of such Administrative Claim and the applicable Debtor; provided, however, Administrative Claims for professional fees and expenses Allowed pursuant to section 330 of the Bankruptcy Code shall be paid in accordance with the applicable Bankruptcy Court order allowing such fees and expenses.

B. Priority Tax Claims

Each Holder of an Allowed Priority Tax Claim due and payable on or prior to the Effective Date shall receive, at the sole option and discretion of the Debtors or the Plan Administrator(s), as the case may be, (i) Cash in an amount equal to such Allowed Priority Tax Claim on the later of the Effective Date or the date such Priority Tax Claim becomes an Allowed Priority Tax Claim, or as soon as reasonably practicable thereafter, (ii) Cash in an amount equal to such Allowed Priority Tax Claim plus interest (at an interest rate, at such times and in such amounts, to be agreed upon between the Debtors and the Holder of such Allowed Priority Tax Claim, or in the absence of such agreement, as determined by the Bankruptcy Court) over a period not exceeding six (6) years after the date of assessment of such Allowed Priority Tax Claim, as provided in section 1129(a)(9)(C) of the Bankruptcy Code, or (iii) such other treatment

as to which the Debtors and the Holder of such Allowed Priority Tax Claim have agreed upon in writing.

**ARTICLE III.
CLASSIFICATION AND TREATMENT
OF CLASSIFIED CLAIMS AND EQUITY INTERESTS**

A. Summary

1. The categories of Claims and Equity Interests listed below classify Claims and Equity Interests for all purposes, including voting, Confirmation and Distribution pursuant to the Plan and pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code. A Claim or Equity Interest shall be deemed classified in a particular Class only to the extent that the Claim or Equity Interest qualifies within the description of that Class and shall be deemed classified in a different Class to the extent that any remainder of such Claim or Equity Interest qualifies within the description of such different Class. A Claim or Equity Interest is in a particular Class only to the extent that such Claim or Equity Interest is Allowed in that Class and has not been paid or otherwise settled prior to the Effective Date. In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Claims and Priority Tax Claims have not been classified, but the treatment for such unclassified claims are set forth in Article II.

2. The classification of Claims against and Equity Interests in the Debtors pursuant to the Plan is as follows:

Class	Claim	Status	Voting Right
1	Prepetition Lenders Claim	Impaired	Entitled to vote
2	Other Secured Claims	Impaired	Entitled to vote
3	Other Priority Claims	Unimpaired	Not entitled to vote – deemed to accept
4	General Unsecured Claims	Impaired	Entitled to vote
5	Subordinated Note Claims	Impaired	Entitled to vote
6	Intercompany Claims	Impaired	Not entitled to vote – deemed to reject
7	Equity Interests	Impaired	Not entitled to vote – deemed to reject

B. Treatment of Claims and Equity Interests

1. Class 1 - Prepetition Lenders Claim

(a) Classification: Class 1 consists of the Prepetition Lenders Claim.

(b) Treatment: On, or as soon as reasonably practicable after, the Effective Date, Bank of America, N.A., as administrative agent for the Prepetition Lenders, shall receive, in full satisfaction, settlement, release and discharge of and in exchange for the Prepetition Lenders Claim, the Prepetition Lenders Distribution.

(c) Voting: Class 1 is impaired. The Prepetition Lenders in Class 1 are entitled to vote to accept or reject the Plan.

2. Class 2 - Other Secured Claims

(a) Classification: Class 2 consists of all Other Secured Claims.

(b) Treatment: On, or as soon as reasonably practicable after, the later of the sixtieth (60th) day after the Effective Date or the date such Claim becomes an Allowed Other Secured Claim, each Holder of an Allowed Other Secured Claim shall receive, on account of such Allowed Other Secured Claim, one of the following distributions: (a) the payment of such Holder's Allowed Other Secured Claim in full in Cash, (b) the sale or disposition proceeds of the property securing such Allowed Other Secured Claim to the extent of the value of the Debtors' interest in such property, (c) the surrender to the Holder of any Allowed Other Secured Claim of the property securing such Claim or (d) such other distributions as shall be necessary to satisfy the requirements of the Bankruptcy Code; provided, however, no Holder of an Other Secured Claim shall be entitled to interest accruing on or after the Petition Date on account of such Claim. The manner and treatment of each Allowed Other Secured Claim shall be determined by the Debtors or the Plan Administrator(s), as applicable, in their sole and absolute discretion.

(c) Voting: Class 2 is impaired. Holders of Other Secured Claims in Class 2 are entitled to vote to accept or reject the Plan.

3. Class 3 - Other Priority Claims

(a) Classification: Class 3 consists of all Other Priority Claims.

(b) Treatment: On, or as soon as reasonably practicable after, the later of the Effective Date or the date such Claim becomes an Allowed Other Priority Claim, each Holder of an Allowed Other Priority Claim shall receive, on account of such Allowed Other Priority Claim, (i) Cash equal to the unpaid portion of such Allowed Other Priority Claim or (ii) such other treatment as to which the Debtors and such Holder have agreed upon in writing.

(c) Voting: Class 3 is unimpaired. Holders of Other Priority Claims in Class 3 are deemed to accept the Plan and are not therefore entitled to vote to accept or reject the Plan.

4. Class 4 - General Unsecured Claims

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

(b) Treatment: Each Holder of an Allowed General Unsecured Claim shall receive, on account of such Allowed General Unsecured Claim, the following treatment:

(1) each Holder of an Allowed General Unsecured Claim and an Allowed Subordinated Note Claim (pursuant to Article III.B.5(b) of the Plan) shall receive a Pro Rata share of the Residual Proceeds, if any, at

such time when all General Unsecured Claims and Subordinated Note Claims have been Allowed or otherwise resolved. The Plan Administrator(s), however, in their sole discretion, may distribute a percentage of the Residual Proceeds, Pro Rata, to Holders of Allowed General Unsecured Claims (along with Holders of Allowed Subordinated Note Claims as described in Article III.B.5(b) of the Plan) prior to such time as all General Unsecured Claims and Subordinated Note Claims have been Allowed or otherwise resolved; provided, however, the Plan Administrator(s) shall continue to hold back an appropriate amount of the Residual Proceeds that the Plan Administrator(s), in their sole discretion, deem necessary to make Pro Rata Distributions to Holders of Disputed General Unsecured Claims and Disputed Subordinated Note Claims which subsequently become Allowed General Unsecured Claims and Allowed Subordinated Note Claims;

(2) pursuant to Article V.C of the Plan, the Forfeited Unsecured Distributions, if any, and the Other Forfeited Distributions, if any, shall be added to the Residual Proceeds to be distributed on a Pro Rata basis to the remaining Holders of Allowed General Unsecured Claims and Allowed Subordinated Note Claims by the Plan Administrator(s) in accordance with Article III.B.4(b)(1) and Article III.B.5(b), respectively; and

(3) if and only to the extent Allowed Administrative Claims, Allowed Priority Tax Claims, the Prepetition Lenders Claim, Allowed Other Secured Claims and Allowed Other Priority Claims have been paid in accordance with the terms of the Plan, recoveries, including, without limitation, the Preference Action Recoveries, if any, received on account of any Cause of Action pursued by the Debtors or the Plan Administrator(s), as applicable, shall be added to the Residual Proceeds to be distributed on a Pro Rata basis to the Holders of Allowed General Unsecured Claims and Allowed Subordinated Note Claims by the Plan Administrator(s) in accordance with Article III.B.4(b)(1) and Article III.B.5(b), respectively; provided, however, nothing in the Plan is intended or shall be construed to entitle the Prepetition Lenders to any of the Preference Action Recoveries.

(c) Tort Claims: 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 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. To the extent permitted by applicable law, at all times prior to and after the Effective Date, the Bankruptcy Court shall retain jurisdiction relating to the Tort Claims, including the Debtors' rights to have such Claims (i) determined and liquidated in the Bankruptcy Court and/or (ii) estimated pursuant to section 502(c) of the Bankruptcy Code and Article IV.B of the Plan. Any Tort Claim determined and liquidated pursuant to a judgment obtained in accordance with this Article III.B.4(c) of the Plan,

which is no longer appealable or subject to review, shall be deemed an Allowed General Unsecured Claim in Class 4 against the Debtors in such liquidated amount; provided, however, such amount shall be subject to, and shall not exceed, the amount, if any, not recovered by the Holder of a Tort Claim from the Debtors' applicable insurance carriers, including, without limitation, any applicable deductible or self-insured retention amount. Nothing contained in this Article III.B.4(c) of the Plan shall constitute or be deemed a waiver of any claim, defense, right or cause of action that the Debtors may have against any Person in connection with or arising out of any Tort Claim, including, without limitation, any rights under section 157(b)(5) of title 28 of the United States Code. This entire Article III.B.4(c) of the Plan is subject to the Debtors' rights set forth in Article IV.A of the Plan.

(d) Voting: Class 4 is impaired. Holders of General Unsecured Claims in Class 4 are entitled to vote to accept or reject the Plan.

5. Class 5 - Subordinated Note Claims

(a) Classification: Class 5 consists of all Subordinated Note Claims.

(b) Treatment: Each Holder of an Allowed Subordinated Note Claim shall receive, on account of such Allowed Subordinated Note Claim, the following treatment:

(1) Each Holder of an Allowed Subordinated Note Claim (along with Holders of Allowed General Unsecured Claims as described in Article III.B.4(b) of the Plan) shall be entitled to a Pro Rata share (the "Subordinated Note Share") of the Residual Proceeds, if any, including, without limitation, the Forfeited Unsecured Distributions, if any, and Other Forfeited Distributions, if any, in accordance with Article III.B.4(b)(2) of the Plan, and the Preference Action Recoveries, if any, in accordance with Article III.B.4(b)(3) of the Plan; provided, however, (a) as a result of the HSBC Bank Lien, HSBC Bank shall first be entitled to be paid the Indenture Trustee Fees and Expenses from the Subordinated Note Share and (b) the remaining portion of the Subordinated Note Share after payment of the Indenture Trustee Fees and Expenses in full satisfaction of the HSBC Lien shall be distributed to the Holders of the Guaranteed Line of Credit Claims, until the Guaranteed Line of Credit Claims have been paid in full in cash pursuant to the terms of the Indenture; and

(2) If and only to the extent that the Guaranteed Line of Credit Claims have been paid in full in cash in accordance with Article III.B.5(b)(1) of the Plan, the remaining portion of the Subordinated Note Share, if any, shall be distributed to the Holders of Allowed Subordinated Note Claims on a pro rata basis.

(c) Voting: Class 5 is impaired. Holders of Subordinated Note Claims in Class 5 are entitled to vote to accept or reject the Plan.

6. Class 6 - Intercompany Claims

(a) Classification: Class 6 consists of all Intercompany Claims.

(b) Treatment: On the Effective Date, all Intercompany Claims shall be cancelled and Holders of Intercompany Claims shall not receive or retain any Distribution or property on account of such Intercompany Claim under the Plan.

(c) Voting: Class 6 is impaired. Because Holders of Intercompany Claims will receive no Distributions under the Plan, Class 6 will be deemed to have voted to reject the Plan.

7. Class 7 - Equity Interests

(a) Classification: Class 7 consists of all Equity Interests.

(b) Treatment: On the Effective Date, all Equity Interests shall be cancelled and the Holders of Equity Interests shall not receive or retain any Distribution or property on account of such Equity Interests.

(c) Voting: Class 7 is impaired. Because Holders of Equity Interests will receive no Distribution under the Plan, Class 7 will be deemed to have voted to reject the Plan.

**ARTICLE IV.
TREATMENT OF DISPUTED CLAIMS**

A. Objections to Claims; Prosecution of Disputed Claims

1. From and after the Effective Date, the Plan Administrator(s) shall object (and shall take over, and continue prosecuting, any outstanding objections by the Debtors) to the allowance of Disputed Claims filed with the Bankruptcy Court. All objections shall be litigated to Final Order; provided, however, that the Debtors (prior to the Effective Date) or the Plan Administrator(s) (on and after the Effective Date), as the case may be, shall have the authority and sole discretion to file, settle, compromise or withdraw any objections to Claims, without approval of the Bankruptcy Court.

2. 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, reserve the right to seek further extensions of time within which to object to Claims from the Bankruptcy Court by filing a motion with the Bankruptcy Court with proper notice to parties in interest in accordance with relevant Local Rules of the Bankruptcy Court and Federal Rules of Bankruptcy Procedure, and all parties in interest reserve the right to object to such extensions of time in accordance with relevant Local Rules of the Bankruptcy Court and Federal Rules of Bankruptcy Procedure. To the extent the Debtors, the Plan Administrator(s) or any other party in interest Files an objection to a Claim on or before such deadline, such Claim shall be deemed and treated as a Disputed Claim under the Plan. 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. Further,

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.

3. Unless otherwise provided by the Plan, no Bankruptcy 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.

B. Estimation of Claims

The Debtors (prior to the Effective Date) or the Plan Administrator(s) (on and after the Effective Date) may at any time request that the Bankruptcy Court estimate any contingent or Disputed Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors or the Plan Administrator(s) previously have objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including, without limitation, during the pendency of any appeal relating to any such objection. Subject to the provisions of section 502(j) of the Bankruptcy Code, in the event that the Bankruptcy Court estimates any contingent or Disputed Claim, the amount so estimated shall constitute the maximum allowable amount of such Claim. If the estimated amount constitutes a maximum limitation on the amount of such Claim, the Debtors or the Plan Administrator(s) may pursue supplementary proceedings to object to the allowance of such Claim. All of the aforementioned objection, estimation and resolution procedures are intended to be cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court.

C. Payments and Distributions on Disputed Claims

No interest shall be paid on Disputed Claims that later become Allowed Claims or with respect to any Distribution to such Holder. No Distribution shall be made with respect to all or any portion of any Claim, a portion of which or all of which is a Disputed Claim, pending the entire resolution thereof. To the extent any property is distributed to an Entity on account of a Claim that is not an Allowed Claim, such property shall promptly be returned to the Post Confirmation Estate for distribution in accordance with the terms of this Plan.

D. Amendments to Claims

Unless otherwise provided herein, a Holder of a Claim may not amend its proof of Claim after the Confirmation Date without the agreement of the Debtors or, on and after the Effective Date, the Plan Administrator(s). Unless otherwise provided herein, an amended Claim Filed after the Confirmation Date shall be deemed disallowed in full without any action by the Debtors or the Plan Administrator(s) to the extent that such amended Claim modifies or supplements any prior Claims of the applicable Holder.

ARTICLE V. DISTRIBUTIONS

A. Means of Cash Payment

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

B. Delivery of Distributions

Subject to the provisions of Rule 2002(g) of the Bankruptcy Rules, and except as otherwise provided herein, distributions and deliveries to Holders of Allowed Claims shall be made at the address of each such Holder as set forth on the Schedules filed with the Bankruptcy Court, unless superseded by the address set forth on timely filed proof(s) of Claim or some other writing Filed with the Bankruptcy Court and served upon the Debtors or the Plan Administrator(s).

C. Undeliverable Distributions

1. Holding of Undeliverable Distributions

If any Distribution to any Holder is returned to the Plan Administrator(s) as undeliverable, no further Distributions shall be made to such Holder unless and until the Plan Administrator(s) are notified by such Holder, in writing, of such Holder's then-current address. Upon such an occurrence, the appropriate Distribution shall be made as soon as reasonably practicable after such Distribution has become deliverable. All Entities ultimately receiving previously undeliverable Cash shall not be entitled to any interest or other accruals of any kind. Nothing contained in the Plan shall require the Debtors or the Plan Administrator(s) to attempt to locate any Holder of an Allowed Claim or an Allowed Equity Interest.

2. Failure to Claim Undeliverable Distributions

Any Holder of an Allowed Claim entitled to an undeliverable or unclaimed Distribution that does not provide notice of such Holder's correct address to the Debtors and the Plan Administrator(s) within the later of six (6) months after (i) the Effective Date or (ii) the date of the initial Distribution made by the Debtors or the Plan Administrator(s) to such Holder, shall be deemed to have forfeited its claim for such undeliverable or unclaimed Distribution and shall be forever barred and enjoined from asserting any such claim for an undeliverable or unclaimed Distribution against any of the Debtors, their Estates or the Post Confirmation Estate. In such cases, the Forfeited Unsecured Distributions and the Other Forfeited Distributions shall be distributed in accordance with Article III.B.4(b)(2) of the Plan. Nothing contained in the Plan shall require the Debtors or the Plan Administrator(s) to attempt to locate any Holder of an Allowed Claim.

D. Withholding or Reporting Requirements

In connection with the Plan and all Distributions thereunder, the Debtors and the Plan Administrator(s) shall comply with all tax withholding and reporting requirements imposed by any U.S. federal, state or local or non-U.S. taxing authority, and all Distributions hereunder shall be subject to any such withholding and reporting requirements. The Debtors and the Plan Administrator(s) shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of the Plan, (a) each Holder of an Allowed Claim that is to receive a Distribution pursuant to the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such Distribution, and (b) the Debtors and the Plan Administrator(s) reserve the option, in their discretion, to not make a Distribution to or on behalf of such Holder pursuant to the Plan unless and until such Holder has made arrangements satisfactory to the Debtors or the Plan Administrator(s) for the payment and satisfaction of such tax obligations or has, to the satisfaction of the Debtors or the Plan Administrator(s), established an exemption therefrom. Any Distributions to be made pursuant to the Plan shall, pending the implementation of such withholding and reporting requirements, be treated as undeliverable pursuant to Article V.C.2 of the Plan.

E. Time Bar to Cash Payments

Checks issued by the Debtors or the Plan Administrator(s) on account of Allowed Claims shall be null and void if not negotiated within ninety (90) days from and after the date of issuance thereof. Requests for reissuance of any check shall be made directly to the Plan Administrator(s) by the Holder of the Allowed Claim. Any claim relating to such voided check shall be made on or before the later of: (i) one hundred and eighty (180) days after the Effective Date or (ii) one hundred and eighty (180) days after the Distribution Date of such Distribution. After such date, all claims relating to such voided checks shall be discharged and forever barred, and the Post Confirmation Estate shall treat all such moneys related to Allowed General Unsecured Claims and Allowed Subordinated Note Claims in the same manner as the Forfeited Unsecured Distributions, in accordance with Article III.B.4(b)(2) of the Plan, and all such moneys related to all other Allowed Claims in the same manner as the Other Forfeited Distributions, in accordance with Article III.B.4(b)(2) of the Plan.

F. Distributions After the Effective Date

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

G. Interest

Unless otherwise required by applicable bankruptcy law, post-petition interest shall not accrue or be paid on any Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim.

H. Fractional Dollars; De Minimis Distributions

Notwithstanding anything contained herein to the contrary, payments of fractions of dollars will not be made. Whenever any payment of a fraction of a dollar under the Plan would otherwise be called for, the actual payment made will reflect a rounding of such fraction to the nearest dollar (up or down), with half dollars being rounded down. The Plan Administrator(s) will not make any payment of less than twenty dollars (\$20) on account of any Allowed Claim, unless a specific request therefor is made in writing to the Plan Administrator(s) on or before ninety (90) days after the Effective Date.

I. Set-Offs

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

J. Settlement of Claims and Controversies

Pursuant to Bankruptcy Rule 9019 and in consideration for the Distributions and other benefits provided under the Plan, the provisions of this Plan shall 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 entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims or controversies, and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtors, their Estates and Holders of Claims and is fair, equitable and reasonable.

K. Professional Fees and Expenses

Each Professional retained with approval by order of the Bankruptcy Court or requesting compensation in the Chapter 11 Cases pursuant to sections 330 or 503(b) of the Bankruptcy Code shall be required to file an application for an allowance of final compensation and reimbursement of expenses in the Chapter 11 Cases incurred through the Confirmation Date on or before a date to be set by the Bankruptcy Court in the Confirmation Order. Objections to any such application shall be filed on or before a date to be set by the Bankruptcy Court in the Confirmation Order. All compensation and reimbursement of expenses Allowed by the Bankruptcy Court shall be paid no later than ten (10) Business Days after the entry of the order allowing such fees and expenses.

**ARTICLE VI.
IMPLEMENTATION OF THE PLAN**

A. Substantive Consolidation

1. Consolidation of the Chapter 11 Cases

The Plan contemplates and shall effect the substantive consolidation of the Debtors into a single Entity solely for the purposes of all actions associated with Confirmation and Consummation 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.

2. Substantive Consolidation Order

The Plan shall serve as a motion seeking entry of an order substantively consolidating the Debtors' Chapter 11 Cases. Unless an objection to substantive consolidation is made in writing by any creditor affected by the Plan as herein provided on or before the Plan Objection Deadline, an order substantively consolidating the Debtors' Chapter 11 Cases may be entered by the Bankruptcy Court. In the event any such objections are timely filed, a hearing with respect thereto shall be scheduled by the Bankruptcy Court, which hearing may, but need not, coincide with the Confirmation Hearing.

3. Reservation of Rights

The Debtors reserve the right at any time up to the conclusion of the Confirmation Hearing to withdraw their request for substantive consolidation, to seek Confirmation of the Plan as if there were no substantive consolidation, and to seek Confirmation of the Plan with respect to one Debtor even if Confirmation with respect to the other Debtor is denied.

B. Corporate Action

Upon the entry of the Confirmation Order by the Bankruptcy Court, all matters provided under the Plan involving the corporate structure of the Debtors shall be deemed authorized and approved without any requirement of further action by the Debtors, the Debtors' shareholders or the Debtors' boards of directors. The Debtors (and their board of directors) shall dissolve or otherwise terminate their existence upon the Effective Date.

C. Establishment of the Post Confirmation Estate

1. The Debtors shall have the sole authority to administer all Assets prior to their transfer to the Post Confirmation Estate on the Effective Date.

2. On or before the Effective Date, the Debtors, on their own behalf and on behalf of Holders of Allowed Claims, shall take all steps necessary to establish the Post Confirmation Estate, including, without limitation, execution of the Post Confirmation Estate Agreement. 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. In connection with the transfer of the Post Confirmation Estate Assets, any attorney-client privilege, work-product privilege, or other privilege or immunity attaching to any documents or communications (whether written or oral) transferred to the Post Confirmation Estate shall vest in the Post Confirmation Estate and its representatives, including the Plan Administrator(s). The Debtors, the Post Confirmation Estate and the Plan Administrator(s) are authorized to take all necessary actions to effectuate the transfer of such privileges.

3. For all federal income tax purposes, all parties (including, without limitation, the Debtors, the Plan Administrator(s) and the beneficiaries of the Post Confirmation Estate) shall treat the transfer of assets to the Post Confirmation Estate in accordance with the terms of the Plan as a transfer of such assets by the Debtors to the Holders of Allowed Claims and followed by a transfer by such Holders to the Post Confirmation Estate, and the Post Confirmation Estate beneficiaries shall be treated as the grantors and owners thereof.

D. Funding for this Plan

This 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.

E. Liquidation Reserve

The Debtors, after consultation with the Creditors Committee, shall reserve sufficient Cash to adequately fund the administration of the Plan and the respective Chapter 11 Cases on and after the Effective Date, including, without limitation, the reasonably anticipated fees and expenses of the Plan Administrator(s) and the professionals of the Plan Administrator(s) that are incurred after the Effective Date, as well as any other fees, costs and expenses payable in connection with the implementation of the Plan and the orderly winding up of the Debtors' affairs; provided, however, the Creditors Committee shall retain its rights to object to the amount of such reservation of Cash. Immediately prior to the dissolution of the Post Confirmation Estate, any remaining Cash in the Liquidation Reserve will be distributed in the same manner as would Forfeited Unsecured Distributions and Other Forfeited Distributions in accordance with Article III.B.4(b)(2) of the Plan.

F. Accounts

The Debtors and the Plan Administrator(s) may establish one or more interest-bearing accounts as they determine necessary or appropriate to effectuate the provisions of this Plan.

G. Closing of the Chapter 11 Cases

When all Disputed Claims filed against the Debtors have become Allowed Claims or have been disallowed by Final Order, and all remaining Post Confirmation Estate Assets have been liquidated and converted into Cash (other than those assets, if any, abandoned by the Post Confirmation Estate), and such Cash has been distributed in accordance with this Plan, or at such earlier time as the Plan Administrator(s) deem appropriate, the Plan Administrator(s) shall seek authority from the Bankruptcy Court to close the Chapter 11 Cases in accordance with the Bankruptcy Code and the Bankruptcy Rules. Prior to the closing of the Chapter 11 Cases, the Post Confirmation Estate shall have (i) paid all fees payable subsequent to the Effective Date under 28 U.S.C. § 1930(a)(6) and (ii) complied with all post-Confirmation bankruptcy reporting requirements, including the reporting of disbursement activity under the Plan, in accordance with applicable law.

H. Preservation of Rights

The Debtors are currently investigating whether to pursue potential Causes of Action against other parties or Entities. Under the Plan, the Plan Administrator(s) 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) discovered in such investigation to the extent the Plan Administrator(s) deem appropriate. Potential Causes of Action currently being investigated by the Debtors, which may but need not (if at all) be pursued by the Debtors prior to the Effective Date and by the Plan Administrator(s) after the Effective Date to the extent warranted include, without limitation, the potential claims and Causes of Action set forth in the section of the Disclosure Statement titled "Preservation of Causes of Action; Settlement of Causes of Action."

Subject to the releases and exculpation provisions herein, Causes of Action which may be pursued by the Debtors prior to the Effective Date and by the Post Confirmation Estate and the Plan Administrator(s) after the Effective Date, also include, without limitation any other Causes of Action, whether legal, equitable or statutory in nature, arising out of, or in connection with the Debtors' businesses or operations, including, without limitation, the following: possible claims against vendors, landlords, sublessees, assignees, customers or suppliers for warranty, indemnity, back charge/set-off issues, overpayment or duplicate payment issues and collections/accounts receivables matters; deposits or other amounts owed by any creditor, lessor, utility, supplier, vendor, landlord, sublessee, assignee, or other Entity; employee, management or operational matters; claims against landlords, sublessees and assignees arising from the various leases, subleases and assignment agreements relating thereto, including, without limitation, claims for overcharges relating to taxes, common area maintenance and other similar charges; financial reporting; environmental, and product liability matters; actions against insurance carriers relating to coverage, indemnity or other matters; counterclaims and defenses relating to any Claims or

other obligations; contract or tort claims which may exist or subsequently arise; and any and all Avoidance Actions pursuant to any applicable section of the Bankruptcy Code arising from any transaction involving or concerning the Debtors, including, without limitation, the Preference Actions.

In addition, there may be numerous other Causes of Action which currently exist or may subsequently arise that are not set forth herein or in 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 herein or in 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).

The Debtors and the Plan Administrator(s) do not intend, and it should not be assumed that because any existing or potential Causes of Action have not yet been pursued by the Debtors or are not set forth herein, that any such Causes of Action have been waived.

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, the Debtors 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 the Confirmation or Consummation of the Plan.

Except as otherwise provided in the Plan or in any contract, instrument, release, indenture or other agreement entered into in connection with the Plan, in accordance with section 1123(b)(3) of the Bankruptcy Code, any claims, rights, and Causes of Action that the respective Debtors or the Post Confirmation Estate may hold against any Entity shall vest in the Post Confirmation Estate, and the Plan Administrator(s), on behalf of the Post Confirmation Estate, shall retain and may exclusively enforce, as the authorized representative of the Post Confirmation Estate, any and all such claims, rights, or Causes of Action, as appropriate, in accordance with the best interests of the Post Confirmation Estate and the Holders of Allowed Claims entitled to Distributions under the Plan. The Plan Administrator(s), on behalf of the Post Confirmation Estate, shall have the exclusive right, authority, and discretion to institute, prosecute, abandon, settle, or compromise any and all such claims, rights, and Causes of Action without the consent or approval of any third party and without any further order of the Bankruptcy Court or any other court.

I. Cancellation of Notes, Instruments, Debentures and Equity Interests

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 canceled 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 canceled as permitted by section 1123(a)(5) of the Bankruptcy Code.

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 terms of the Indenture.

J. Dissolution of the Creditors Committee

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 need of any further Bankruptcy Court order.

K. Insurance Preservation; Directors and Officers Insurance; Indemnification

1. 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.

2. 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.

L. Accounting

Any and all reserves maintained by the Debtors or the Plan Administrator(s), as the case may be, in connection with the distribution of funds on account of the Allowed Claims, may be maintained by bookkeeping entries alone; the Debtors or the Plan Administrator(s), as the case may be, need not (but may) establish separate bank accounts for such purposes.

ARTICLE VII. EXECUTORY CONTRACTS AND UNEXPIRED LEASES

A. Rejection of Executory Contracts and Unexpired Leases

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, and the entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the rejections of such executory contracts and unexpired leases pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

B. Rejection Damages Claim

Each Entity that is a party to an executory contract or unexpired lease that is rejected as of the Effective Date pursuant to this 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 this 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 this paragraph of 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.

ARTICLE VIII. POST CONFIRMATION ESTATE; PLAN ADMINISTRATOR(S)

A. Post Confirmation Estate

1. Purpose of the Post Confirmation Estate

The Post Confirmation Estate shall be established for the primary purpose of liquidating its assets, in accordance with Treas. Reg. § 301.7701-4(d), with no objective to continue or engage in the conduct of a trade or business. The Post Confirmation Estate shall not be deemed a successor-in-interest of the Debtors for any purpose other than as specifically set forth herein. The Post Confirmation Estate is intended to qualify as a “grantor trust” for federal income tax purposes with the beneficiaries treated as grantors and owners of the trust.

2. Termination of Post Confirmation Estate

The Post Confirmation Estate will dissolve when all Disputed Claims have been resolved, all Distributions have been made pursuant to the Plan and all other obligations under the Plan have been fulfilled.

B. Plan Administrator(s)

1. Generally

On the Effective Date, James E. Ashton, Joseph J. Incandela and/or any other Person(s) designated by the Debtors, after consultation with the Creditors Committee, shall be appointed the Plan Administrator(s) and each shall serve in such capacity through the earlier of the date the Post Confirmation Estate is dissolved in accordance with Article VIII.A.2 of the Plan or the date such Plan Administrator resigns, is removed, terminated or otherwise unable to serve; provided, however, the Creditors Committee shall retain its rights to object to the designation of a Plan Administrator other than James E. Ashton or Joseph J. Incandela. In the event that a Plan

Administrator resigns, is removed, terminated or otherwise unable to serve as a Plan Administrator, then the Plan Administrator shall have the right to select a successor who may be appointed a Plan Administrator and shall serve in such capacity until the Post Confirmation Estate is dissolved in accordance with Article VIII.A.2 of the Plan. In the event the Plan Administrator(s) elects not to exercise his right to select a successor, such successor Plan Administrator shall be appointed by the Bankruptcy Court. Any successor Plan Administrator appointed shall be bound by and comply with the terms of the Plan, the Confirmation Order and the Post Confirmation Estate Agreement.

The powers, authority, responsibilities and duties of the Plan Administrator(s) shall be governed by the Plan, the 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.

2. Compensation

The Plan Administrator(s) shall serve in their respective capacities on (i) the terms, conditions and rights set forth in the Plan and the Post Confirmation Estate Agreement, or (ii) such terms, conditions and rights as otherwise agreed to by the Plan Administrator(s) and the Debtors, after consultation with the Creditors Committee; provided, however, the Creditors Committee shall retain the right to object to such terms and conditions. Any professionals retained by the Plan Administrator(s) shall be entitled to reasonable compensation for services rendered and reimbursement of expenses incurred. After the Effective Date, the fees and expenses of the Plan Administrator(s) and any professionals retained by the Plan Administrator(s) that are incurred after the Effective Date shall be paid in the ordinary course of business, and shall not be subject to the approval of the Bankruptcy Court.

C. **Exculpation; Indemnification**

1. **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.**

**ARTICLE IX.
CONDITIONS PRECEDENT TO CONFIRMATION
AND EFFECTIVE DATE**

A. Acceptance or Rejection of the Plan

1. Acceptance by Impaired Classes

An Impaired Class of Claims will have accepted the Plan if the Holders of at least two-thirds in amount and more than one-half in number of the Allowed Claims in the Class actually voting have voted to accept the Plan, in each case not counting the vote of any Holder designated under section 1126(e) of the Bankruptcy Code.

2. Elimination of Classes

Any Class that does not contain any Allowed Claims or Equity Interests or any Claims or Equity Interests temporarily allowed for voting purposes under Federal Rule of Bankruptcy Procedure 3018, as of the date of the commencement of the Confirmation Hearing, will be deemed not included in the Plan for purposes of (i) voting to accept or reject the Plan and (ii) determining whether such Class has accepted or rejected the Plan under section 1129(a)(8) of the Bankruptcy Code.

3. Nonconsensual Confirmation

The Bankruptcy Court may confirm the Plan over the dissent of any Impaired Class if all of the requirements for consensual confirmation under subsection 1129(a), other than subsection 1129(a)(8), of the Bankruptcy Code and for nonconsensual confirmation under subsection 1129(b) of the Bankruptcy Code have been satisfied. In the event that any Impaired Class of Claims or Equity Interests shall fail to accept the Plan in accordance with section 1129(a) of the Bankruptcy Code, the Debtors reserve the right to (i) request that the Bankruptcy Court confirm the Plan in accordance with section 1129(b) of the Bankruptcy Code or (ii) amend the Plan.

B. Conditions Precedent to Confirmation Date of the Plan

The occurrence of the Confirmation Date shall be subject to satisfaction of the following conditions precedent:

1. The entry of the Confirmation Order in form and substance satisfactory to the Debtors, after consultation with the Creditors Committee.

2. The Debtors are 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.

3. The provisions of the Confirmation Order are nonseverable and mutually independent.

4. All Entities shall be permanently enjoined from enforcing or attempting to enforce any contractual, legal and equitable subordination right satisfied, compromised or settled pursuant to Article X.B of the Plan.

C. Conditions Precedent to the Effective Date of the Plan

The occurrence of the Effective Date and the Consummation of the Plan are subject to satisfaction of the following conditions precedent:

1. Confirmation Order. The Confirmation Order as entered by the Bankruptcy Court shall be a Final Order in full force and effect, in form and substance reasonably satisfactory to the Debtors.

2. Execution of Documents; Other Actions. All actions, documents and agreements necessary to implement the Plan, in form and substance satisfactory to the Debtors, after consultation with the Creditors Committee, shall have been effected or executed.

D. Waiver of Conditions Precedent

To the extent legally permissible, each of the conditions precedent in Article IX.B and Article IX.C of the Plan may be waived, in whole or in part, by the Debtors in their sole discretion, after consultation with the Creditors Committee. Any such waiver of a condition precedent may be effected at any time, without notice or leave or order of the Bankruptcy Court and without any formal action other than proceeding as if such condition did not exist. The failure of the Debtors to exercise any of the foregoing rights shall not be deemed a waiver of any other rights. Upon the waiver of any conditions to the Effective Date set forth in Article IX.C of the Plan, and subject to the satisfaction in full of each of the remaining conditions set forth in such Article, the Plan shall become effective in accordance with its terms without notice to third parties or any other formal action.

E. The Confirmation Order

If the Confirmation Order is vacated for whatever reason, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (i) constitute a waiver or release of any Claims by or against, or any Equity Interests in, any of the Debtors; (ii) prejudice in any manner the rights of the Debtors; or (iii) constitute an admission, acknowledgment, offer or undertaking by the Debtors.

ARTICLE X. EFFECT OF PLAN CONFIRMATION

A. Termination of Equity Interests

Confirmation shall terminate all Equity Interests and other rights of equity security holders in the Debtors.

B. Termination of Subordination Rights and Settlement of Related Claims

The classification and manner of satisfying all Claims and Equity Interests and the respective Distributions and treatments hereunder take into account and/or conform to the relative priority and rights of the Claims and Equity Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, section 510(b) of the Bankruptcy Code or otherwise, and any and all such rights are settled, compromised and released pursuant to the Plan. **The Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Persons from enforcing or attempting to enforce any such contractual, legal and equitable subordination rights satisfied, compromised and settled in this manner.**

C. Injunction

1. **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 are 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.**

2. **By accepting Distributions pursuant to the Plan, each Holder of an Allowed Claim receiving Distributions pursuant to the Plan will be deemed to have specifically consented to the injunctions set forth herein.**

D. Terms of Existing Injunctions or Stays

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 Confirmation Date, shall remain in full force and effect until the Effective Date. The 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.

E. Exculpation

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.

F. Releases

1. Releases by the Debtors

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 directors, officers, employees and agents of the Debtors on or after the Petition Date (other than for money borrowed from or owed to the Debtors by any such directors, officers, employees or agents as set forth in the Debtors' books and records), (b) the Professionals, (c) 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, (d) 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, (e) 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, (f) 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, (g) HSBC Bank, and (h) the Creditors Committee and the individual members thereof; 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.

2. Mutual Releases by Holders of Claims and Interests

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.

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

Notwithstanding anything contained in Article X.F.1 and Article X.F.2 of the Plan to the contrary, pursuant to the Appeal Settlement approved by the Bankruptcy 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.

Notwithstanding anything contained in Article X.F.1 and Article X.F.2 of the Plan 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.

**ARTICLE XI.
MISCELLANEOUS**

A. Payment of Statutory Fees and Compliance with Reporting Obligations

All fees payable pursuant to 28 U.S.C. § 1930, as determined by the Bankruptcy Court at the Confirmation Hearing, 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.

B. Post-Confirmation Date Fees and Expenses of Professionals

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 professional persons employed by the Debtors 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.

C. Section 1146 Exemption

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, and the Confirmation Order shall direct the appropriate state or local governmental officials or agents to forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Unless the Bankruptcy Court orders otherwise, any of the foregoing transactions taken on or prior to the Effective Date shall be deemed to have been in furtherance of, or in connection with, the Plan.

D. Business Day

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

E. Severability

The provisions of this Plan shall not be severable unless such severance is agreed to by the Debtors and such severance would constitute a permissible modification of the Plan pursuant to section 1127 of the Bankruptcy Code.

F. Conflicts

Except as set forth below, to the extent that any provision of the Disclosure Statement or the Confirmation Order (or any exhibits, schedules, appendices, supplements or amendments to the foregoing) or any other order referenced in the Plan, conflict with or are in any way inconsistent with the terms of the Plan, the Plan shall govern and control.

G. Further Assurances

The Debtors, the Plan Administrator(s), all Holders of Claims receiving Distributions under the Plan, and all other parties in interest shall, from time to time, prepare, execute and deliver agreements or documents and take other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

H. Notices

All notices, requests, and demands required by the Plan or otherwise, to be effective, shall be in writing, including by facsimile transmission, and, unless otherwise expressly provided herein, shall be deemed to have been duly given or made when actually delivered to all of the following, or in the case of notice by facsimile transmission, when received by all of the following, addressed as follows or to such other addresses as Filed with the Bankruptcy Court:

To Counsel for the Debtors:

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
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and

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I. Filing of Additional Documents

On or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

J. Successor and Assigns

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

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K. Closing of Case

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

L. Section Headings

The section headings contained in this Plan are for reference purposes only and shall not affect in any way the meaning or interpretation of the Plan.

M. Further Information

Requests for further information regarding the Debtors should be directed to the Information Agent.

**ARTICLE XII.
RETENTION OF JURISDICTION**

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain and have exclusive jurisdiction after the Effective Date over any matter arising under the Bankruptcy Code, arising in or related to the Chapter 11 Cases or the Plan, or that relates to the following, in each case to the greatest extent permitted by applicable law:

1. to enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases, and other agreements or documents created in connection with the Plan;
2. to determine any and all motions, adversary proceedings, applications and contested or litigated matters that may be pending on the Effective Date or that, pursuant to the Plan, may be instituted by the Plan Administrator(s) or the Post Confirmation Estate after the Effective Date; provided, however, that the Plan Administrator(s) and the Post Confirmation Estate shall reserve the right to commence collection actions, actions to recover receivables and other similar actions in all appropriate jurisdictions;
3. to ensure that distributions to Holders of Allowed Claims are accomplished as provided herein;
4. to hear and determine any timely objections to Administrative Claims and Priority Tax Claims or to proofs of Claim and Equity Interests filed, both before and after the Confirmation Date, including any objections to the classification of any Claim or Equity Interest, and to allow, disallow, determine, liquidate, classify, estimate or establish the priority of or secured or unsecured status of any Claim, in whole or in part;

5. to enter and implement such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, revoked, modified, reversed or vacated;

6. to issue such orders in aid of execution of the Plan, to the extent authorized by section 1142 of the Bankruptcy Code;

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

8. to hear and determine all applications for awards of compensation for services rendered and reimbursement of expenses incurred on or before the Confirmation Date;

9. to hear and determine disputes arising in connection with or relating to the Plan or the interpretation, implementation, or enforcement of the Plan or the extent of any Entity's obligations incurred in connection with or released or exculpated under the Plan;

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

11. to determine any other matters that may arise in connection with or are related to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan or the Disclosure Statement to be executed in connection with the Plan;

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

13. to hear any other matter or for any purpose specified in the Confirmation Order that is not inconsistent with the Bankruptcy Code; and

14. to enter a Final Decree closing the Chapter 11 Cases.

ARTICLE XIII.

MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. Modification of Plan

The Debtors reserve the right, in accordance with the Bankruptcy Code and the Bankruptcy Rules, after consultation with the Creditors Committee, to amend or modify the Plan at any time prior to the entry of the Confirmation Order; provided, however, the Creditors Committee shall retain its rights to object to such amendment or modification. Upon entry of the Confirmation Order, the Debtors may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, or remedy any defect or omission or reconcile any inconsistency in the Plan in such manner as may be necessary to carry out the purpose and intent of the Plan. A Holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan as modified if the proposed modification does not materially

and adversely change the treatment of the Claim of such Holder and the votes of each Class for or against the Plan shall be counted and used in connection with the modified plan of reorganization.

B. Revocation, Withdrawal or Non-Consummation

The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if the Confirmation Order confirming the Plan shall not be entered or become a Final Order, then (a) the Plan shall be null and void in all respects, (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain any Claim or Equity Interest or Class of Claims or Equity Interests), assumption or rejection of executory contracts or leases affected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void, and (c) nothing contained in the Plan, and no acts taken in preparation for consummation of the Plan, shall (1) constitute a waiver or release of any Claims by or against, or any Equity Interests in, the Debtors or any other Entity, (2) prejudice in any manner the rights of the Debtors or any other Entity, (3) constitute an admission of any sort by the Debtors or any other Entity, or (4) constitute a release of any Causes of Action possessed or maintained by the Debtors.

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Dated: January 26, 2005

Respectfully submitted,

DESA HOLDINGS CORPORATION AND
DESA INTERNATIONAL LLC

By: /s/ James E. Ashton

James E. Ashton
Chairman of the Board of Directors