

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

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In re:	)	Chapter 11
	)	
DELUXE ENTERTAINMENT	)	Case No. 19-23774 (RDD)
SERVICES GROUP INC., <i>et al.</i> , <sup>1</sup>	)	
	)	
Debtors.	)	(Jointly Administered)

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**ORDER (I) APPROVING THE DISCLOSURE  
STATEMENT FOR AND CONFIRMING THE JOINT  
PREPACKAGED PLAN OF REORGANIZATION OF  
DELUXE ENTERTAINMENT SERVICES GROUP INC.  
AND ITS DEBTOR AFFILIATES PURSUANT TO CHAPTER 11  
OF THE BANKRUPTCY CODE AND (II) GRANTING RELATED RELIEF**

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The above-captioned debtors and debtors in possession (collectively, the “Debtors”) having:

- a. distributed, on or about October 2, 2019, to Holders of Claims entitled to vote to accept or reject the Plan (as defined herein): (i) the *Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 15] (as the same may have been modified, supplemented, and amended, the “Plan”);<sup>2</sup> (ii) the *Disclosure Statement for the Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 14] (the “Disclosure Statement”); (iii) ballots for voting on the Plan (the “Ballots”); and (iv) the *Notice of Commencement of Chapter 11 Cases and Hearing on First Day Motions* (the “Combined Hearing Notice”), which provided a brief summary of the Plan;

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<sup>1</sup> The last four digits of Debtor Deluxe Entertainment Services Group Inc.’s tax identification number are 1725. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ Solicitation Agent at <https://cases.primeclerk.com/deluxe>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 50 Main Street, Suite 1014, White Plains, New York, 10606.

<sup>2</sup> Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Plan.

- b. solicited votes on the Plan, beginning on or about October 2, 2019 through October 21, 2019, by serving copies of the Plan, Disclosure Statement, and Ballots for voting to accept or reject the Plan to those Holders of Claims entitled to vote on the Plan in accordance with the terms of chapter 11 of the Bankruptcy Code, the Bankruptcy Rules, the *Amended Procedural Guidelines for Prepackaged Chapter 11 Cases in the United States Bankruptcy Court for the Southern District of New York*, as amended, effective June 27, 2013 (as adopted by General Order M-387) (the “Guidelines”), and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the Southern District of New York (the “Local Rules”);
- c. commenced, on October 3, 2019 (the “Petition Date”), the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code;
- d. filed,<sup>3</sup> on the Petition Date, the Plan and the Disclosure Statement;
- e. filed, on the Petition Date, the *Debtors’ Motion for Entry of an Order (I) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (II) Establishing a Plan and Disclosure Statement Objection Deadline and Related Procedures, (III) Approving the Solicitation Procedures, (IV) Approving the Combined Hearing Notice, (V) Directing that a Meeting of Creditors Not Be Convened, (VI) Shortening the Notice Requirements Related Thereto, and (VII) Granting Related Relief* [Docket No. 16] (the “Scheduling Motion”);
- f. filed, on the Petition Date, the *Declaration of John Eric “Eric” Cummins, Executive Vice President and Chief Financial Officer at Deluxe Entertainment Services Group Inc., (I) In Support of Chapter 11 Petitions and First Day Pleadings and (II) Pursuant to Local Bankruptcy Rule 1007-2* [Docket No. 12] (the “First Day Declaration”);
- g. filed, on the Petition Date, the *Affidavit of Service of Solicitation Materials* [Docket No. 24] (the “Solicitation Affidavit”);
- h. published, on October 9, 2019 in each of *The Wall Street Journal* and the *Financial Times, International Edition*, respectively, notice of the date and time set for the hearing to consider approval of the Disclosure Statement and confirmation of the Plan (the “Combined Hearing”), as evidenced by the *Affidavit of Publication*, filed on October 10, 2019 and the *Affidavit of Publication*, filed on October 11, 2019 [Docket Nos. 50, 51] (the “Publication Notices”);
- i. filed on October 16, 2019 the *Affidavit of Service of the Notice of Second Day and Confirmation Hearing to Be Held on October 24, 2019, at 10:00 a.m. (E.T.)* [Docket No. 57] (the “Combined Hearing Affidavit”);

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<sup>3</sup> Unless otherwise indicated, use of the term “filed” in this Confirmation Order refers also to the service of the applicable document filed on the docket for Case No. 19-23774.

- j. filed, on October 18, 2019, the *Notice of Filing Plan Supplement* [Docket No. 64] (as the same may have been modified, supplemented, and amended, and including any exhibits thereto the “Original Plan Supplement”);
- k. filed on October 23, 2019, an amended *Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 83]; and
- l. filed, on October 23, 2019, the *Notice of Filing First Amended Plan Supplement* [Docket No. 82] (as the same may have been modified, supplemented, and amended and including any exhibits thereto, the “Amended Plan Supplement” and together with the Original Plan Supplement, the “Plan Supplement”);
- m. filed, on October 23, 2019, the *Declaration of Christina Pullo of Prime Clerk LLC Regarding the Solicitation of Votes and Tabulation of Ballots Cast on the Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 77] (the “Voting Certification”), which details the results of the Plan voting process and, among other things, certifies that, as of the voting deadline, 100% in amount and 100% in number of holders of Claims in Class 6 entitled to vote on the Plan and 100% in amount and 100% in number of holders of Claims in Class 7 entitled to vote on the Plan voted to accept the Plan;
- n. filed, on October 23, 2019: (i) the *Debtors’ Memorandum of Law in Support of an Order Approving the Debtors’ Disclosure Statement for, and Confirming, the Debtors’ Joint Prepackaged Plan of Reorganization (as modified) of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 76] (the “Confirmation Brief”); (ii) the *Declaration of John Eric “Eric” Cummins in Support of Confirmation of the Joint Prepackaged Plan of Reorganization* [Docket No. 79] (the “Cummins Declaration”); and (iii) the *Declaration of Joshua Abramson in Support of Confirmation of the Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 78] (the “Abramson Declaration”);
- o. operated their businesses and managed their properties during the Chapter 11 Cases as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

The United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”) having:

- a. entered, on October 9, 2019, the *Order (I) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (II) Establishing Plan and Disclosure Statement Objection and Reply Deadlines* [Docket No. 38] (the “Scheduling Order”);

- b. reviewed the Plan, the Disclosure Statement, the Confirmation Brief, the Plan Supplement, the First Day Declaration, the Cummins Declaration, the Abramson Declaration, the Voting Certification, and all other pleadings, exhibits, statements, affidavits, declarations, and comments regarding Confirmation of the Plan that were filed with the Bankruptcy Court, including all objections, statements, and reservations of rights made with respect thereto;
- c. reviewed the discharge, compromises, settlements, releases, exculpations, and injunctions set forth in Article VIII of the Plan;
- d. held the Combined Hearing on October 24, 2019, at 10:00 a.m., prevailing Eastern Time, pursuant to Bankruptcy Rules 3017 and 3018 and sections 1126, 1128, and 1129 of the Bankruptcy Code;
- e. heard the statements, arguments, and objections made by counsel in respect of Confirmation of the Plan;
- f. overruled any and all objections to the Plan and Confirmation thereof and all statements and reservations of rights not consensually resolved or withdrawn unless otherwise indicated; and
- g. taken judicial notice of the papers and pleadings filed with the Bankruptcy Court and all orders entered in the Chapter 11 Cases.

**NOW, THEREFORE**, it appearing to the Bankruptcy Court that notice of the Combined Hearing and the opportunity for any party in interest to object to approval of the Disclosure Statement and Confirmation have been adequate and appropriate as to all Entities affected or to be affected by the Plan and the transactions contemplated thereby, and the legal and factual bases set forth in the documents filed in support of Confirmation and presented at the Combined Hearing establish just cause for the relief granted herein; and upon the record of the Combined Hearing; and after due deliberation thereon and good cause appearing therefor, the Bankruptcy Court hereby makes and issues the following findings of fact, conclusions of law, and orders:

**IT IS DETERMINED, FOUND, ADJUDGED, DECREED, AND ORDERED THAT:**

## **I. Findings and Conclusions.**

1. The findings and conclusions set forth herein and on the record at the Confirmation Hearing constitute the Bankruptcy Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. To the extent any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

## **II. Jurisdiction and Venue**

2. Venue in the Bankruptcy Court was proper as of the Petition Date pursuant to 28 U.S.C. §§ 1408 and 1409 and continues to be proper during these Chapter 11 Cases. Approval of the Disclosure Statement and Confirmation of the Plan are core proceedings within the meaning of 28 U.S.C. § 157(b) that, under the United States Constitution, the Bankruptcy Court may decide by final order. The Bankruptcy Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. §§ 157(a)-(b) and 1334(b). The Bankruptcy Court has exclusive jurisdiction to determine whether the Disclosure Statement contains adequate information for purposes of section 1125 of the Bankruptcy Code.

## **III. Burden of Proof & Satisfaction of Section 1129 Requirements**

3. The Debtors have met their burden of demonstrating that the Plan complies with each element of sections 1129(a) and, to the extent applicable, 1129(b) of the Bankruptcy Code by a preponderance of the evidence. Among other things:

- the Debtors have demonstrated that: (i) the Plan and the Restructuring Support Agreement were negotiated in good faith by and among the Debtors, the Requisite Consenting Creditors, and MAFCO; (ii) the Plan was proposed in good faith and not by any means forbidden by law and with the legitimate purpose of maximizing the value of the Debtors' Estates and to effectuate a successful restructuring of the Debtors, in satisfaction of section 1129(a)(3) of the Bankruptcy Code;

- the Debtors have demonstrated that each Holder of a Claim or Interest either has accepted the Plan (or has been deemed to have accepted the Plan), will receive or retain under the Plan, on account of such Claim or Interest, property of a value, as of the Effective Date, that is not less than the amount that such Holder would receive or retain if the Debtors were liquidated under chapter 7 of the Bankruptcy Code on such date, or has consented to such other treatment contemplated by the Plan, and the liquidation analysis attached as Exhibit C to the Disclosure Statement (which is reasonable, credible, and persuasive, and utilizes reasonable and appropriate methodologies and assumptions and has not been controverted by other evidence) establishes that Holders of Allowed Claims and Allowed Interests in every Class will recover (unless such Holder has agreed otherwise) as much or more under the Plan on account of such Claim or Interest, as of the Effective Date, than the amount such Holder would receive if the Debtors were liquidated under chapter 7 of the Bankruptcy Code, in satisfaction of the “best interest of creditors” test under section 1129(a)(7); and
- the Debtors have demonstrated that the Plan is feasible and that confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the Debtors, the Restructured Debtors, and Restructured DX Holding, except to the extent contemplated herein or by the Plan (pursuant to Section 4.2 thereof or otherwise), in satisfaction of section 1129(a)(11) of the Bankruptcy Code.

#### **IV. Notice of the Combined Hearing**

4. Notice of the Combined Hearing, the request for confirmation of the Plan, and the terms set forth therein was appropriate and satisfactory and is approved in all respects.

#### **V. Combined Hearing on the Disclosure Statement and Plan Confirmation**

5. The fact that the Plan provides for the unimpairment of all Allowed General Unsecured Claims, that there is overwhelming support from all voting Classes, and that the Debtors need to maintain their customer relationships and emerge from chapter 11 as expeditiously as possible, all provide a basis for holding, and it was appropriate to hold, a Combined Hearing on the Debtors’ request for approval of the Disclosure Statement and Confirmation of the Plan under sections 105(d)(2)(B)(vi) and 1125(g) of the Bankruptcy Code, Bankruptcy Rule 3018(b), and the Guidelines.

**VI. Approval of the Disclosure Statement**

6. The Disclosure Statement is approved in all respects. The Disclosure Statement contains adequate information under section 1125 of the Bankruptcy Code and complies with applicable nonbankruptcy law under section 1125(g) of the Bankruptcy Code. The solicitation of votes to accept or reject the Plan was proper and complied with applicable nonbankruptcy law.

**VII. Confirmation of the Plan**

7. The Plan, which is attached hereto as **Exhibit A**, is confirmed pursuant to section 1129 of the Bankruptcy Code. Any and all objections or reservations of rights with respect to the Plan that have not been withdrawn or resolved prior to the Combined Hearing are hereby overruled.

8. The terms of the Plan, the Plan Supplement, the Restructuring Documents and all exhibits and schedules thereto, any other Plan Document, and all other documents filed in connection with the Plan and/or executed (or to be executed) in connection with the transactions contemplated by the Plan and the Plan Supplement, including without limitation the Restructuring Transactions Memorandum, the Exit Facilities Documents, the Tax Indemnity Agreement, the New Organizational Documents, and the New DX Holding Organizational Documents, and all amendments and modifications of any of the foregoing made pursuant to the provisions of the Plan governing such amendments and modifications (collectively, the “Plan Documents”) are incorporated by reference herein, are an integral part of this Confirmation Order, and are hereby approved; *provided* that, subject to the Plan, the Restructuring Support Agreement, and the consents required therein, the Debtors may make non-material modifications (or modifications agreed to by the affected parties) to the Plan Documents prior to the Effective Date.

9. The Debtors, the Restructured Debtors, and Restructured DX Holding (as applicable) are each authorized to take any and all actions contemplated under the Plan, the Plan Supplement, or any other Plan Document or otherwise necessary or appropriate to implement the Plan, the Plan Supplement, any other Plan Document and the Restructuring Transactions.

10. The terms of the Plan, the Plan Supplement, and (unless otherwise expressly stated therein) each of the other Plan Documents shall be effective and binding as of the Effective Date. The failure to specifically include or refer to any particular article, section, or provision of the Plan, the Plan Supplement, or any other Plan Documents in this Confirmation Order does not diminish or impair the effectiveness or enforceability of such article, section, or provision.

11. The Debtors shall cause to be served a notice of the entry of this Confirmation Order and occurrence of the Effective Date, substantially in the form attached hereto as **Exhibit B** (the "Confirmation Notice"), upon (a) all parties listed in the creditor matrix maintained by Prime Clerk, LLC and (b) such additional persons and entities as deemed appropriate by the Debtors, no later than five (5) business days after the Effective Date. The Debtors shall cause the Confirmation Notice to be published in *The Wall Street Journal* and the *Financial Times, International Edition* within seven (7) business days after the Effective Date.

### **VIII. Solicitation**

12. The Solicitation (as defined in the Disclosure Statement) and the Solicitation Materials complied with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018, all other provisions of the Bankruptcy Code, and all other applicable nonbankruptcy rules, laws, and regulations.

**IX. Good Faith Solicitation**

13. Based on the record before the Bankruptcy Court, the Debtors have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code. Pursuant to section 1125(e) of the Bankruptcy Code, the Debtors, each of the Consenting Creditors, and each of their respective Affiliates, agents, representatives, members, principals, equity holders (regardless of whether such interests are held directly or indirectly), officers, directors, managers, employees, advisors, and attorneys have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under the Plan, and, therefore, are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

**X. Plan Supplement**

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

**XI. Modifications to the Plan**

15. Pursuant to section 1127 of the Bankruptcy Code, any modifications to the Plan in the Plan Supplement or in the Plan attached hereto (collectively, the “Plan Modifications”), as currently on-file with the Bankruptcy Court, constitute technical or non-material changes that do not materially and adversely affect or change the recovery levels with respect to any particular Class of Claims or Interests, or changes with respect to particular Claims or Interests made pursuant to the agreement of the Holders of such Claims or Interests. Pursuant to Bankruptcy Rule 3019, these Plan Modifications do not require additional disclosure under section 1125 of the Bankruptcy Code or the resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that the Holders of Claims or Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

16. This Confirmation Order may contain or result in modifications to the Plan that were made to address comments received from various parties in interest, including the Bankruptcy Court. The Plan Modifications are consistent with the provisions of the Bankruptcy Code. The disclosure of any modifications to the Plan prior to or on the record at the Confirmation Hearing constitutes due and sufficient notice of any and all Plan Modifications. The Plan, as modified, shall constitute the Plan submitted for Confirmation.

17. In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all Holders of Claims who voted to accept the Plan or who are conclusively presumed to have accepted the Plan are presumed to accept the Plan, notwithstanding the Plan Modifications. No Holder of a Claim or Interest shall be permitted to change its vote as a consequence of the Plan Modifications. All modifications to the Plan, Plan Supplement, or any other Plan Document made after the Voting Deadline, including the Plan Modifications, are hereby approved, pursuant to section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019.

## **XII. Immediate Binding Effect**

18. The terms of this Confirmation Order and the Plan, including the Plan Supplement and any other Plan Document, (i) shall be immediately effective and enforceable and the period in which an appeal must be filed shall commence upon the entry hereof, (ii) shall not be stayed pursuant to Bankruptcy Rules 3020(e), 6004(h), 6006(d), or 7062, and (iii) shall be deemed binding upon the Debtors, the Restructured Debtors, Restructured DX Holding, and any and all Holders of Claims or Interests (irrespective of whether Holders of such Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan or herein, each Entity

acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

### **XIII. Restructuring Transactions**

19. In accordance with section 1142 of the Bankruptcy Code and any provisions of the business corporation law of any applicable jurisdiction, including section 303 of the Delaware General Corporation Law, (and without further action by the Bankruptcy Court or the equity security holders, officers, members, managers, or directors of any Debtor, Restructured Debtor, or Restructured DX Holding), the Debtors, the Restructured Debtors, (solely with respect to the restructuring of DX Holding) Restructured DX Holding, as well as the officers of the appropriate Debtor, Restructured Debtor or Restructured DX Holding, and the New DESG Entities Agents, are authorized to take any and all actions as may be necessary or appropriate, with the consent of the Requisite Consenting Creditors (except regarding Restructured DX Holding) to effectuate the transactions described in, approved by, contemplated by, or necessary to effectuate the Plan and any other Plan Document as set forth in the Restructuring Transactions Memorandum, each of which shall be acceptable to the Requisite Consenting Creditors, including one or more of the following: (a) the execution and delivery of any appropriate agreements or other documents of merger, amalgamation, consolidation, contribution, restructuring, conversion, disposition, transfer, formation, organization, dissolution, or liquidation containing terms that are consistent with the terms of the Plan and the Plan Supplement; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable Entities agree; (c) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, amalgamation, consolidation, conversion, or dissolution

(including in respect of the dissolution of DESG) pursuant to applicable state law; (d) the execution, delivery, and filing, if applicable, of the Exit Facilities Documents and any necessary amendments to the Australia Term Loan Facility and the Canada Term Loan Facility that are acceptable to the Debtors and the Requisite Consenting Creditors; (e) such other transactions that are required to effectuate the Restructuring Transactions, including any mergers, consolidations, restructurings, conversions, dispositions, transfers, formations, organizations, dissolutions, or liquidations; and (f) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law. For the avoidance of doubt, the provisions of the Plan, Confirmation Order, and the Restructuring Documents related to DX Holding, MAFCO's retention of the Interests in DX Holding as set forth in the Plan, and the application of the Plan, Confirmation Order, and the Restructuring Documents to DX Holding and Restructured DX Holding shall in no way adversely affect the ability of the Debtors and the Restructured Debtors to implement the Restructuring Transactions in a tax-efficient manner or otherwise have any adverse impact or effect upon the Restructuring Transactions for each of the other Debtors and the Restructured Debtors.

20. Without limiting the foregoing, the Restructuring Transactions may include changes to the corporate and/or capital structure of DESG and/or any of its subsidiaries to be made on or prior to the Effective Date, in each case, as determined by the Debtors and the Requisite Consenting Creditors; *provided* that any such changes are consistent with the Plan, including the classification structure of the Plan and the treatment of Claims and Interests under the Plan. For the avoidance of doubt, such changes to the corporate and/or capital structure may include, but are not limited to: (a) the conversion of DESG and/or one or more of its subsidiaries into corporations, limited liability companies, or partnerships; (b) the creation or designation of one or more newly

formed or currently existing Entities and/or holdings companies, including Creative Intermediate Holdco and Distribution Intermediate Holdco to, among other things, bifurcate, in whole or in part, the “Creative” and “Distribution” businesses of the Debtors; (c) the merger of DESG into one or more existing or newly formed entities and/or holding companies (including one or more of the DESG Acquiring Entities); (d) the issuance or cancellation of intercompany liabilities and/or intercompany equity; (e) any “election” that may be made for United States federal income tax purposes; (f) the creation of one or more newly formed entities (including the DESG Acquiring Entities) and the transfer of the assets of DESG or any of its subsidiaries to one or more currently existing or newly formed entities; and/or (g) the restructuring or repositioning of any of the direct or indirect subsidiaries of DESG.

21. The Debtors, the Restructured Debtors, and the DESG Acquiring Entities (including the New DESG Entities Agents), as applicable, are authorized to finalize the Restructuring Documents, form the DESG Acquiring Entities (and, if such entities have already been formed, this Confirmation Order shall be deemed to be approval and ratification of such formation), and execute such documents, agreements, or filings that are contemplated by the Plan Documents and/or the Restructuring Transactions without any further order of the Bankruptcy Court or corporate action, and to take any actions necessary or advisable or appropriate to implement the documents, agreements, or filings that are contemplated by the Plan, the Plan Supplement, or any other Plan Document. The New DESG Entities Agents shall be exculpated with respect to any such action taken in connection therewith, and the Debtors (other than DX Holding) and the Restructured Debtors (other than Restructured DX Holding) shall indemnify and hold harmless each of the New DESG Entities Agents with respect to any such actions taken.

22. This Confirmation Order shall constitute (a) the approval by this Bankruptcy Court of the Restructuring Transactions, the New Organizational Documents, the New DX Holding Organizational Documents, the New Shareholders Agreement, and the Tax Indemnity Agreement and all transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Restructured Debtors and Restructured DX Holding in connection therewith, and (b) authorization by this Bankruptcy Court for the Restructured Debtors, Restructured DX Holding, the DESG Acquiring Entities, and the New DESG Entities Agents to enter into and execute, as applicable, the Restructuring Documents, the New Organizational Documents, New DX Holding Organizational Documents, the New Shareholders Agreement, and the Tax Indemnity Agreement, and such other documents as may be required to effectuate, if applicable, the Restructuring Transactions or the issuance and distribution of the Restructured DESG Equity Interests, provide guarantees and grant the security interests pursuant to the New Organizational Documents, New DX Holding Organizational Documents, and New Shareholders Agreement. Executed versions of the New Organizational Documents, New DX Holding Organizational Documents, and New Shareholders Agreement shall constitute legal, valid, binding, and authorized obligations of the Restructured Debtors or Restructured DX Holding, enforceable in accordance with their terms.

23. This Confirmation Order shall and shall be deemed, pursuant to sections 363, 365, and 1123 of the Bankruptcy Code, to authorize, among other things, all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan.

24. Each Governmental Unit is hereby authorized to accept any and all documents, mortgages, security agreements, financing statements, and instruments necessary or appropriate to

effectuate, implement, or consummate the transactions contemplated by the Plan, the Plan Documents, the Exit Facilities Documents, the New Organizational Documents, the New DX Holding Organizational Documents, and this Confirmation Order.

#### **XIV. Issuance and Distribution of the Restructured DESG Equity Interests**

25. All Existing Equity Interests in DESG shall be cancelled as of the Effective Date. Subject to the Restructuring Transactions, Restructured Holdings shall issue, and the DESG Acquiring Entities shall distribute or otherwise transfer, the Restructured DESG Equity Interests in accordance with the Restructuring Transactions Memorandum, the Plan and the other Plan Documents. The issuance of the Restructured DESG Equity Interests and any Securities on account of the Management Incentive Plan adopted by the New Board (to the extent applicable), shall be authorized without the need for any other or further corporate action and without any further action by the Debtors, Restructured Debtors, Restructured DESG, or any of their equity holders, members, directors, management, officers, or employees, as applicable. The issuance and distribution, or other transfer, on the Effective Date, of Restructured DESG Equity Interests to the Distribution Agent for the benefit of Holders of Allowed Claims in Class 6 and Class 7 in accordance with the terms of Article III of the Plan shall be authorized. All Restructured DESG Equity Interests issued under the Plan shall be duly authorized, validly issued, fully paid, and non-assessable (as applicable), and the holders of Restructured DESG Equity Interests shall be required to duly execute and deliver to Restructured DESG and counsel to the Ad Hoc Committee counter-signature pages to the New Shareholders Agreement as a condition to receipt of the Restructured DESG Equity Interests, *provided* that the New Shareholders Agreement, shall be effective as of the Effective Date and, as of such date, shall be deemed to be valid, binding, and enforceable in accordance with its terms, and each holder of Restructured DESG Equity Interests shall be bound

thereby (without any further action or signature) in all respects, whether or not such holder has executed the New Shareholders Agreement. For each Restructured Debtor, its respective New Organizational Documents shall provide for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to, the applicable Debtor's or Restructured Debtor's current and former directors, officers, equity holders, managers, members, employees, accountants, investment bankers, attorneys, other professionals, agents, and such current and former directors', officers', and managers' respective Affiliates (each of the foregoing solely in their capacity as such) to the fullest extent permitted by applicable law but in each case solely to the extent provided to such persons in the applicable Debtor's Indemnification Provisions, against any claims or causes of action whether direct or derivative, liquidated or unliquidated, fixed or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, and asserted or unasserted.

26. Each Holder of Restructured DESG Equity Interests, whether such Holder acquired such Restructured DESG Equity Interests on the Effective Date or any time or from time to time thereafter, shall be deemed to have actual knowledge of the terms, provisions, restrictions, and conditions set forth in the New Shareholders Agreement and the other Restructured Holdings' New Organizational Documents, the material terms of which are set forth in Exhibit D to the Plan Supplement (including, without limitation, the restrictions on the transfer of Restructured DESG Equity Interests set forth therein) for all purposes of the New Organizational Documents, the New Shareholders Agreement, and applicable law (including, without limitation, the Delaware General Corporation Law and the Uniform Commercial Code as adopted and in effect in any applicable jurisdiction), whether or not any such Holder received a separate notice of such terms, provisions, restrictions, and conditions. Without limiting the foregoing, this Confirmation Order and the Plan

(including any Plan Document) shall be deemed sufficient and adequate notice of such terms, provisions, restrictions, and conditions to all Holders of Restructured DESG Equity Interests, such that all such Holders shall be deemed to have actual knowledge thereof and shall be deemed to have acquired (whether on the Effective Date or from time to time thereafter) such Restructured DESG Equity Interests subject to all such terms, provisions, restrictions, and conditions.

27. All Restructured DESG Equity Interests issued under the Plan on account of Class 6 Priming Term Loan Claims and Class 7 Existing Term Loan Claims shall be exempt from registration requirements under the Securities Act or any similar federal, state, or local law in reliance on section 1145(a) of the Bankruptcy Code to the maximum extent permitted by law. Except as otherwise provided in the Plan or the governing certificates or instruments or Restructured Holdings' New Organizational Documents (including the New Shareholders Agreement), any and all Restructured DESG Equity Interests issued under the Plan (other than Securities issued on account of the Management Incentive Plan (to the extent applicable)) will be freely tradable under the Securities Act by the recipients thereof, subject to: (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, and compliance with any applicable state or foreign securities laws, if any, and any rules and regulations of the United States Securities and Exchange Commission, if any, applicable at the time of any future transfer of such Securities; (b) the restrictions, if any, on the transferability of such Securities set forth in the New Shareholders Agreement or other Restructured Holdings' New Organizational Documents; (c) the restrictions that may be applicable to any recipient of such Securities that is an "affiliate" of Restructured Holdings as determined in accordance with applicable U.S. securities laws and regulations; and (d) any applicable regulatory approval.

28. Each distribution and issuance of the Restructured DESG Equity Interests referred to in Article IV of the Plan shall be governed by the terms and conditions set forth in the Plan applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, which terms and conditions shall bind each Holder receiving such distribution or issuance. The Restructured DESG Equity Interests need not be issued through the facilities of DTC. The Debtors or the Restructured Debtors may elect to issue Restructured DESG Equity Interests through the facilities of DTC, whether on or after the Effective Date. The Restructured Debtors need not provide any further evidence (including, without limitation, any legal opinion) other than the Plan and this Confirmation Order to DTC, the Distribution Agent, any stock transfer agent, or any other person with respect to the treatment of the Restructured DESG Equity Interests under applicable securities laws. DTC (if applicable), the Distribution Agent, and any stock transfer agent shall be required to accept and conclusively rely upon the Plan or Confirmation Order in lieu of a legal opinion regarding whether the Restructured DESG Equity Interests are exempt from registration and/or, if applicable, eligible for DTC book-entry delivery, settlement, and depository services.

29. The New Board is authorized to establish and implement the Management Incentive Plan as set forth in Section 4.19 of the Plan and consistent with its rights under the New Organizational Documents; *provided* that this Order shall not be deemed an approval of any particular Management Incentive Plan or the specific terms thereof.

**XV. Treatment of Executory Contracts and Unexpired Leases**

30. Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumption or assumption and assignment of, as applicable, Executory Contracts or Unexpired Leases as set forth in the Plan, pursuant to sections 365(a) and 1123 of the Bankruptcy

Code; *provided* that entry of this Confirmation Order shall not constitute a determination by the Bankruptcy Court that any contract, instrument, release, indenture, or other agreement (other than the Restructuring Support Agreement) constitutes an Executory Contract or Unexpired Lease, as applicable, under applicable non-bankruptcy law, with the rights of all parties regarding such matter being fully reserved and preserved in all respects, and the Bankruptcy Court retains jurisdiction pursuant to Article XI of the Plan to resolve any matters related to Executory Contracts or Unexpired Leases.

31. To the extent any provision in any Executory Contract or Unexpired Lease assumed pursuant to the Plan restricts or prevents, purports to restrict or prevent, or is breached or deemed breached by, the assumption of such Executory Contract or Unexpired Lease (including any “change of control”, “anti-assignment”, “ipso facto”, or similar provisions contained therein), such provision shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-Debtor party thereto to terminate such Executory Contract or Unexpired Lease or to exercise any other default-related rights with respect thereto. Without limiting the foregoing, and for the avoidance of doubt, none of the Restructuring Transactions taken by the Debtors, the Restructured Debtors, or Restructured DX Holding, as applicable, to effectuate the Plan shall be deemed to trigger any “change of control”, “anti-assignment”, “ipso facto”, or similar provisions in any contract or agreement including any Executory Contract or Unexpired Lease; *provided* that, for a period of thirty (30) calendar days after entry of this Confirmation Order, non-Debtor contract counterparties may object to the assumption and assignment, to the extent applicable, of any such contract or lease, solely pursuant to section 365(c) of the Bankruptcy Code.

32. For the avoidance of doubt, the release, exculpation, and injunction provisions, set forth in Sections 8.3, 8.4, and 8.5 of the Plan respectively, shall not affect the Debtors’ obligations

(including *inter alia* any indemnification obligations) under any executory contracts with Netflix, Inc. or any of its affiliates that are assumed by the Debtors regardless of whether such obligations arose before or after the commencement of the Chapter 11 Cases.

#### **XVI. Discharge of Claims and Termination of Interests**

33. Except as otherwise specifically and expressly provided in the Plan, this Order, or in any contract, instrument, or other agreement or document created pursuant to the Plan (including the Exit ABL Facility Documents, the New Term Loan Facilities Documents, the New Shareholders Agreement, the New Organizational Documents, and (solely as to DX Holding and Restructured DX Holding) the New DX Holding Organizational Documents): (a) the distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of any and all Claims (including any Intercompany Claims resolved or compromised (consistent with the Restructuring Transactions) after the Effective Date by the Restructured Debtors or Restructured DX Holding), Interests (including any intercompany interests reinstated or cancelled and released (consistent with the Restructuring Transactions) after the Effective Date by the Restructured Debtors or Restructured DX Holding), and Causes of Action against the Debtors of any nature whatsoever including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such liability relates to services performed by employees of the Debtors prior to the Effective Date and that arises from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, any interest accrued on Claims or Interests from and after the Petition Date, and all other liabilities against, liens on, obligations of, rights against, and Interests in, the Debtors or

any of their assets or properties; (b) the Plan shall bind all Holders of Claims and Interests as of the Effective Date; (c) as of the Effective Date, all Claims and Interests shall be satisfied, discharged, and released in full, and the Debtors' liability with respect thereto shall be extinguished completely, including any liability of the kind specified under section 502(g) of the Bankruptcy Code; (d) all Entities shall be precluded from asserting against the Debtors, the Debtors' Estates, the Restructured Debtors, Restructured DX Holding, their successors and assigns, and their assets and properties any other Claims or Interests based upon any documents, instruments, or any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, in each case regardless of whether or not (i) a Proof of Claim based upon such debt or right is filed or deemed filed pursuant to section 501 of the Bankruptcy Code, (ii) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code, (iii) the Holder of such a Claim or Interest has accepted, rejected or failed to vote to accept or reject the Plan, or (iv) any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, and (e) all guarantees, mortgages, deeds of trust, Liens, pledges, or other security interests against any UK Guarantor held by any Holder of a Priming Term Loan Claim, an Existing Term Loan Claim, and an Existing ABL Facility Claim (whether held individually or by their Agent) relating to the Priming Term Loan Facility, the Existing Term Loan Facility and the Existing ABL Facility, as applicable, shall be deemed fully and automatically released and discharged on the Effective Date.

34. This Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the occurrence of the Effective Date. For the avoidance of doubt, the Plan shall not impact any Claim a Holder may have against a non-Debtor pursuant to a third-party guaranty except (a) as otherwise expressly set forth herein or in the Plan Documents

(including, without limitation, Section 4.3.1. of the Plan and Paragraph 34 above) or (b) to the extent that such third-party guaranty is otherwise amended, modified, released or terminated pursuant to the terms of such guaranty.

#### **XVII. Compromise, Settlement, Release, Exculpation, and Injunction Provisions**

35. The discharge, compromises, settlements, releases, exculpations, and injunctions set forth in Article VIII of the Plan constitute good-faith compromises and settlements and are hereby approved and will be effective immediately and binding on all parties in interest on the Effective Date. For the avoidance of doubt, nothing in the Plan shall limit the liability of attorneys to their respective clients pursuant to rule 1.8(h) of the New York Rules of Professional Conduct.

36. Such compromises and settlements are: (a) made in exchange for adequate consideration, including, without limitation, entry into the Restructuring Support Agreement, and the facilitation of the transactions contemplated by the Plan; (b) in the best interests of the Debtors' Estates, Holders of Claims, and other parties in interest; (c) fair, equitable, and reasonable; (d) integral elements of the restructuring and resolution of the Chapter 11 Cases in accordance with the Plan; and (e) in the cases of releases provided pursuant to Section 8.3 of the Plan, are consensual by Holders of Claims that did not elect to opt out of such releases, or are otherwise approved by the Bankruptcy Court as appropriate pursuant to applicable law. Each of the discharge, release, exculpation, and injunction provisions set forth in the Plan: (i) is within the jurisdiction of the Bankruptcy Court under 28 U.S.C. §§ 157(a) and (b) and 1334(a) and (b); (ii) is an essential means of implementing the Plan pursuant to section 1123(a)(5) of the Bankruptcy Code; (iii) is an integral element of the transactions incorporated into the Plan; (iv) confers a material benefit on, and is in the best interests of, the Debtors, their Estates, and their creditors; (v) is important to the overall objectives of the Plan to finally resolve all Claims or Causes of

Action among or against the parties in interest in these Chapter 11 Cases with respect to the Debtors, their organization, capitalization, operation, and reorganization; (vi) is appropriately tailored to the circumstances of these Chapter 11 Cases; and (vii) is consistent with sections 105, 1123, 1129, and other applicable provisions of the Bankruptcy Code.

**A. Debtor Release and Indemnification**

37. The releases set forth in Section 8.2 of the Plan, and the indemnification obligations set forth in Section 5.4 of the Plan, are incorporated in this Confirmation Order as if set forth in full herein and are hereby approved and authorized in their entirety and shall be, and hereby are, effective and binding, subject to the respective terms thereof, on all Persons and Entities who may have had standing to assert released Claims or Causes of Action, and no Person or Entity shall possess such standing to assert such Claims or Causes of Action after the Effective Date.

38. The releases of Claims and Causes of Action by the Debtors described in Section 8.2 of the Plan, in accordance with section 1123(b) of the Bankruptcy Code and the indemnification obligations set forth in Section 5.4 of the Plan, are incorporated in this Confirmation Order as if fully set forth herein (collectively, the “Debtor Release”), represent a valid exercise of the Debtors’ business judgment under Bankruptcy Rule 9019, and are hereby approved in their entirety. The Debtors’, the Restructured Debtors’, or Restructured DX Holding’s pursuit of any such claims against the Released Parties is not in the best interest of the Estates’ various constituencies because the costs involved would likely outweigh any potential benefit from pursuing such claims. The Debtor Release is fair and equitable and complies with the absolute priority rule.

39. The Debtor Release is furthermore an integral part of the Plan and is in the best interests of the Debtors’ Estates. The Plan, including the Debtor Release, was negotiated before

the Petition Date by sophisticated parties represented by able counsel and financial advisors. The Debtor Release is therefore the result of an arm's-length negotiation process.

40. The Debtor Release appropriately offers protection to parties that participated in the Debtors' restructuring process. Specifically, the Released Parties under the Plan made significant concessions and contributions to the Chapter 11 Cases, including, as applicable, providing prepetition emergency financing in the form of the Priming Term Loan Facility and the Senior Priming Term Loan Facility, providing postpetition financing and/or consenting to be primed by such postpetition financing, providing authority to use cash collateral, providing exit financing, agreeing to waive or contribute claims, agreeing to enter into the Tax Indemnity Agreement, and supporting the Plan and the Chapter 11 Cases. The Debtor Release for the Debtors' directors and officers is appropriate because the Debtors' directors and officers share an identity of interest with the Debtors, supported the Plan and the Chapter 11 Cases, actively participated in meetings, negotiations, and implementation during the Chapter 11 Cases, and have provided other valuable consideration to the Debtors to facilitate the Debtors' reorganization.

41. The scope of the Debtor Release is appropriately tailored to the facts and circumstances of the Chapter 11 Cases. In light of, among other things, the value provided by the Released Parties to the Debtors' Estates and the critical nature of the Debtor Release to the Plan, the Debtor Release is appropriate. Notwithstanding anything to the contrary in the foregoing, the Debtor Release does not release Claims or Causes of Action for any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, or gross negligence.

**B. Third-Party Release**

42. The release by the Releasing Parties set forth in Section 8.3 of the Plan (the "Third-Party Release") is an essential provision of the Plan and is incorporated in this Confirmation Order as if fully set forth herein and is hereby approved and authorized in its entirety and shall be and hereby is effective and binding, subject to its terms on all Persons and Entities who may have standing to assert released claims or Causes of Action, and no Person or Entity that is a Releasing Party shall possess such standing to assert such claims or Causes of Action after the Effective Date. The Third-Party Release is: (a) consensual; (b) essential to the Plan; (c) given in exchange for the good and valuable consideration provided by the Released Parties; (d) a good-faith settlement and compromise of the claims and Causes of Action released by the Third-Party Release; (e) materially beneficial to, and in the best interests of, the Debtors, their Estates, and their stakeholders, and important to the overall objectives of the Plan; (f) fair, equitable, and reasonable; (g) given and made after due notice and opportunity for a hearing, as well as a clear opportunity to opt-out of such Third-Party Release; (h) not the subject of any objection to the Plan, which Plan was overwhelmingly accepted by those entitled to vote to accept or reject the Plan; (i) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Third-Party Release against any of the Released Parties; and (j) consistent with sections 105, 524, 1123, 1129, and 1141 and other applicable provisions of the Bankruptcy Code.

43. The Third-Party Release is an integral part of the Plan. Like the Debtor Release, the Third-Party Release facilitated participation in both the Plan and the Debtors' chapter 11 process generally. The Third-Party Release was instrumental in developing a Plan that maximizes value for all of the Debtors' stakeholders, and was critical in incentivizing the parties to support

the Plan and preventing potentially significant and time-consuming litigation regarding the parties' respective rights and interests. As such, the Third-Party Release appropriately offers certain protections to parties who constructively participated in the Debtors' restructuring process by supporting the Plan. Furthermore, the Third-Party Release is consensual or is otherwise appropriate under controlling law.

44. The scope of the Third-Party Release is appropriately tailored to the facts and circumstances of these Chapter 11 Cases, and parties in interest received due and adequate notice of the Third-Party Release. Among other things, the Plan, Disclosure Statement, and Ballots provide appropriate and specific disclosure and notice with respect to the claims and Causes of Action that are subject to the Third-Party Release, as well as the opportunity to opt out of the Third-Party Release, and no other disclosure or notice is necessary. The Third-Party Release is specific in language, integral to the Plan, and given for adequate consideration. In light of, among other things, the value provided by the Released Parties to the Debtors' Estates and the critical nature of the Third-Party Release to the Plan, the Third-Party Release is appropriate. Notwithstanding anything to the contrary in the foregoing, the Third-Party Release does not release claims or Causes of Action for any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, or gross negligence.

**C. Exculpation**

45. Notwithstanding anything contained in the Plan to the contrary, no Exculpated Party shall have or incur liability for, and each Exculpated Party is released and exculpated from, any Claim or any Cause of Action related to any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement and related prepetition transactions, the DIP Term

Facility, the Disclosure Statement, the Plan, the Plan Supplement, any other Plan Document, or the Restructuring Transactions, contract, instrument, release, or other agreement or document created or entered into in connection with the Restructuring Support Agreement, the DIP Term Facility, the Disclosure Statement, the Plan, the Plan Supplement, any other Plan Document, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the Exit ABL Facility, the New Term Loan Facilities, the Restructuring Documents, the solicitation of votes on the Plan, the prepetition negotiation and settlement of Claims, the pursuit of confirmation, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of debt (including the Exit ABL Facility and the New Term Loan Facilities) and/or securities (including the Restructured DESG Equity Interests) pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, except for Claims or Causes of Action related to any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan.

46. The Exculpated Parties have, and upon confirmation of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes on, and distribution of consideration pursuant to, the Plan and therefore are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Notwithstanding anything to the contrary in the foregoing, the exculpation set forth above does not release or exculpate any Claim or Cause of

Action relating to any post-Effective Date obligations of any party or Entity under the Plan, the Restructuring Transactions, or any document, instrument, or agreement (including the Restructuring Documents, and other documents, instruments, and agreements set forth in the Plan Supplement) executed to implement the Plan.

**D. Injunction**

47. Except as otherwise provided in the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims, Interests, Causes of Action, or liabilities that: (a) are subject to compromise and settlement pursuant to the terms of the Plan; (b) have been released by the Debtors pursuant to the Plan; (c) have been released by third-parties pursuant to the Plan; (d) are subject to exculpation pursuant to the Plan; or (e) are otherwise discharged, satisfied, stayed, or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors, the Restructured Debtors, Restructured DX Holding, the Released Parties, or the Exculpated Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests or Causes of Action, (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests or Causes of Action, (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests or Causes of Action, (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such Claims or Interests or Causes of Action unless such

Entity has timely asserted such setoff right in a document filed with the Bankruptcy Court explicitly preserving such setoff, and notwithstanding an indication of a Claim or Interest or Cause of Action or otherwise that such Entity asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise, and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests or Causes of Action discharged, released, exculpated, or settled pursuant to the Plan.

48. The rights afforded in the Plan, and the treatment of all Claims and Interests therein, shall be in full and final satisfaction, compromise, settlement, release, and discharge of, and in exchange for, all Claims and Interests of any nature whatsoever, including any interest accrued on Claims from and after the Petition Date, against the Debtors or any of their assets, their property, their Estates, or the Released Parties. On the Effective Date, all such Claims or Causes of Action against the Released Parties shall be fully released and discharged.

#### **XVIII. Terms of Injunctions or Stays**

49. Unless otherwise provided in the Plan or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases (pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court) and existing on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

#### **XIX. Exit Facilities**

50. The Exit Facilities are hereby approved. The terms and conditions of the Exit Facilities have been negotiated in good faith and at arm's length, are fair and reasonable, and are

hereby approved. Each of the Debtors and/or the Restructured Debtors (as applicable) are hereby authorized, without the need for further notice or approval of the Bankruptcy Court, to negotiate, execute, and deliver (or cause to be negotiated, executed and delivered), each of the Exit Facilities Documents (provided that such Exit Facilities Documents are consistent with the term sheet summaries set forth in the Plan Supplement and are otherwise acceptable to the Requisite Consenting Creditors), and to take such actions as are necessary or desirable to perform under the Exit Facilities and the Exit Facilities Documents and all transactions contemplated thereby, including, without limitation, the incurrence of loans thereunder, the provision of guarantees, the payment or reimbursement of any fees, premiums, indemnities, costs, expenses, and/or other amounts that may be due under the Exit Facilities Documents, and the granting of liens and security interests in, and pledge of, assets of the Debtors and the Restructured Debtors (including entry into, and filing of any mortgages, security agreements, or other instruments in favor of the agents to secure the obligations thereunder), each of which is hereby fully and finally approved. The Exit Facilities shall be effective as of the Effective Date and, as of such date, shall be deemed to be valid, binding, and enforceable against each of the parties thereto and in accordance with their terms. As evidenced by this Order, as of the Effective Date, the agents and lenders under the Exit Facilities shall have valid, binding, fully and automatically perfected, and enforceable Liens on, and security interests in, all collateral specified in the respective Exit Facilities Documents, as applicable, with the priorities set forth in the applicable Exit Facilities Documents, intercreditor agreements (if any), and other documents related thereto, subject only to such Liens and security interests as may be expressly permitted under the Exit Facilities Documents, as applicable. Notwithstanding the foregoing, the Restructured Debtors and the agents and lenders under the Exit Facilities, are each hereby authorized to execute, file, or record (as each, in its sole

discretion, deems necessary), such financing statements, mortgages, notices of lien, and other similar documents to enable such parties to further validate, perfect, preserve, and enforce such Liens and security interests granted in connection with the Exit Facilities, perfect in accordance with applicable law, or to otherwise evidence such Liens and security interests, as applicable, and all such financing statements, mortgages, notices, and other documents shall be deemed to have been filed or recorded as of the Effective Date; *provided, however*, that the Debtors or the Restructured Debtors, as applicable, are hereby authorized and directed to execute and deliver promptly upon demand to the agents under the applicable Exit Facilities all such financing statements, mortgages, notices, and other documents as such agents may reasonably request. The obligations, guarantees, mortgages, pledges, Liens, and security interests granted pursuant to or in connection with the Exit Facilities are, in each case, granted in good faith, for good and valuable consideration, and for legitimate business purposes as an inducement to the lenders to extend credit thereunder and shall be, and hereby are, deemed not to constitute a fraudulent conveyance or fraudulent transfer under the Bankruptcy Code or any applicable non-bankruptcy law and shall not otherwise be subject to avoidance, equitable subordination, or recharacterization, and shall constitute legal, valid, binding, and authorized obligations of the Restructured Debtors, enforceable in accordance with their terms. Notwithstanding anything to the contrary set forth in the Plan, all accrued and unpaid interest and other amounts due under the DIP Term Facility (other than principal amounts due thereunder) may, at the option of the Requisite Consenting Creditors, be paid in cash on the Effective Date.

**XX. Exemption from Certain Transfer Taxes and Recording Fees**

51. To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfers (whether from a Debtor to a Restructured Debtor or Restructured DX Holding or to any

other Person) of property under the Plan (including the Restructuring Transactions) or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors, the Restructured Debtors, or Restructured DX Holding; (b) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, other security interest, or the securing of additional indebtedness by such or other means; (c) the making, assignment, or recording of any lease or sublease; (d) the grant of collateral as security for any or all of the Exit Facilities, as applicable; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan (including the Restructuring Transactions), shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales or use tax, or other similar tax or governmental assessment, and, upon entry of this Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment. All filing or recording officers (or any other Person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of section 1146(a) of the Bankruptcy Code, shall forego the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

**XXI. Termination of Challenge Period**

52. Notwithstanding anything to the contrary herein, the Challenge Period (as defined in paragraph 31(e) of the *Interim Order Pursuant to 11 U.S.C. §§ 105, 361, 362, 363, 364 and 507 (I) Authorizing Debtors to Obtain Senior Secured Priming Superpriority Postpetition Financing, (II) Authorizing Use of Cash Collateral, (III) Granting Liens and Providing Superpriority Administrative Expense Status, (III) Granting Adequate Protection, (IV) Modifying Automatic Stay, (V) Scheduling Final Hearing, and (VI) Granting Related Relief*, on October 7, 2019 [Docket No. 30]) was terminated as of October 22, 2019, and the stipulations, admissions, findings, and releases contained in the DIP Orders shall be binding on the Debtors' estates and all parties in interest.

**XXII. Waiver of Requirement to File Statements of Assets and Liabilities and to Hold a Section 341(a) Meeting**

53. As of the date of this Confirmation Order, the requirement that the U.S. Trustee convene a meeting of creditors pursuant to section 341(a) of the Bankruptcy Code is hereby waived.

**XXIII. Other Plan / Confirmation Issues**

54. The Court's finding of good faith provided for in Section 8.4 of the Plan shall not apply to any action taken by an Exculpated Party to the extent such action is determined in a Final Order to have constituted actual fraud, willful misconduct, or gross negligence.

55. Unless otherwise expressly set forth herein or in the Plan Documents or as otherwise agreed to by the Debtors or the Restructured Debtors or Restructured DX Holding (as applicable) and the Holder of a Claim that is deemed Unimpaired by the Plan, the injunction set forth in Section 8.5 of the Plan shall apply to such Holder, in its capacity as a Holder of an Unimpaired Claim, only in connection with enforcing the Debtor Release and the exculpation set

forth in Section 8.4 of the Plan (but not, for the avoidance of doubt, the Third-Party Release, to which such Holder, in its capacity as a Holder of an Unimpaired Claim, is not bound).

56. Unless otherwise expressly set forth herein or in the Plan Documents or as otherwise agreed to by the Debtors or the Restructured Debtors or Restructured DX Holding (as applicable) and the Holder of a Claim that is deemed Unimpaired by the Plan, after the Effective Date, the automatic stay provided under section 362 of the Bankruptcy Code shall no longer apply, and any such Holder of a Claim that is deemed Unimpaired by the Plan shall retain the rights such Holder held prior to the Petition Date with respect to setoff, subrogation or recoupment in connection with such Unimpaired Claim.

Dated: October 25, 2019  
White Plains, New York

/s/ Robert D. Drain  
THE HONORABLE ROBERT D. DRAIN  
UNITED STATES BANKRUPTCY JUDGE

**Exhibit A**

**Plan**

**Exhibit B**

**Confirmation Notice**

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

In re:	)	Chapter 11
DELUXE ENTERTAINMENT	)	Case No. 19-23774 (RDD)
SERVICES GROUP INC., <i>et al.</i> , <sup>1</sup>	)	
Debtors.	)	(Jointly Administered)

**NOTICE OF (I) ENTRY OF ORDER  
APPROVING THE DISCLOSURE STATEMENT FOR  
AND CONFIRMING THE JOINT PREPACKAGED PLAN  
OF REORGANIZATION OF DELUXE ENTERTAINMENT SERVICES  
GROUP INC. AND ITS DEBTOR AFFILIATES PURSUANT TO CHAPTER 11  
OF THE BANKRUPTCY CODE AND (II) OCCURRENCE OF EFFECTIVE DATE**

**TO ALL CREDITORS, INTEREST HOLDERS, AND OTHER PARTIES IN INTEREST:**

**PLEASE TAKE NOTICE** that on [\_\_\_], 2019, the United States Bankruptcy Court for the Southern District of New York (the “Bankruptcy Court”), entered an order [Docket No. [●]] (the “Confirmation Order”) approving the *Disclosure Statement for the Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 14] (as the same may have been modified, supplemented, and amended, the “Disclosure Statement”) and confirming the *Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and Its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 15] (as modified, amended, and including all supplements and exhibits thereto, the “Plan”)<sup>2</sup> (attached as Exhibit A to the Confirmation Order) of the above-captioned debtors and debtors in possession (collectively, the “Debtors”).

**PLEASE TAKE FURTHER NOTICE** that the Effective Date of the Plan occurred on [\_\_\_].

<sup>1</sup> The last four digits of Debtor Deluxe Entertainment Services Group Inc.’s tax identification number are 1725. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been requested, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors’ Solicitation Agent at <https://cases.primeclerk.com/deluxe>. The location of the Debtors’ service address for purposes of these chapter 11 cases is: 50 Main Street, Suite 1014, White Plains, New York, 10606.

<sup>2</sup> Capitalized terms not otherwise defined herein have the meanings ascribed to them in the Plan or the Confirmation Order, as applicable.

**PLEASE TAKE FURTHER NOTICE** that the Confirmation Order, the Plan, and copies of all documents filed in these chapter 11 cases are available free of charge by visiting <https://cases.primeclerk.com/deluxe> or by calling the Debtors' restructuring hotline at (877) 506-0268 (toll free) or (917) 947-2682 (international). You may also obtain copies of any pleadings filed in these chapter 11 cases for a fee via PACER at: <http://www.nysb.uscourts.gov>.

**PLEASE TAKE FURTHER NOTICE** that the Bankruptcy Court has approved certain discharge, release, exculpation, injunction, and related provisions in Article VIII of the Plan.

**PLEASE TAKE FURTHER NOTICE** that the Plan and its provisions are binding on the Debtors, the Restructured Debtors, Restructured DX Holding, and any Holder of a Claim or an Interest and such Holder's respective predecessors, successors, and assigns, whether or not the Claim or the Interest of such Holder is Impaired under the Plan, and whether or not such Holder voted to accept the Plan.

**PLEASE TAKE FURTHER NOTICE** that the Plan and the Confirmation Order contain other provisions that may affect your rights. You are encouraged to review the Plan and the Confirmation Order in their entirety.

Dated: [DATE], 2019  
New York, New York

*/s/ Draft*

---

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*Proposed Counsel to the Debtors and Debtors in Possession*

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

	)	
In re:	)	Chapter 11
	)	
DELUXE ENTERTAINMENT SERVICES GROUP INC., <i>et al.</i> , <sup>1</sup>	)	Case No. 19-23774 (RDD)
	)	
	)	
Debtors.	)	(Jointly Administered)
	)	

**JOINT PREPACKAGED PLAN OF REORGANIZATION OF  
DELUXE ENTERTAINMENT SERVICES GROUP INC. AND ITS DEBTOR  
AFFILIATES PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

**THIS CHAPTER 11 PLAN IS BEING SUBMITTED TO THE BANKRUPTCY COURT FOR APPROVAL FOLLOWING SOLICITATION.**

<sup>1</sup> The last four digits of Debtor Deluxe Entertainment Services Group Inc.'s tax identification number are 1725. Due to the large number of Debtors in these chapter 11 cases, for which joint administration has been granted, a complete list of the Debtor entities and the last four digits of their federal tax identification numbers is not provided herein. A complete list of such information may be obtained on the website of the Debtors' Solicitation Agent at <https://cases.primeclerk.com/deluxe>. The location of the Debtors' service address for purposes of these chapter 11 cases is: 50 Main Street, Suite 1014, White Plains, New York, 10606.

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## INTRODUCTION

Deluxe Entertainment Services Group Inc., and each of the other Debtors (as defined herein) jointly propose this prepackaged chapter 11 plan of reorganization pursuant to section 1121(a) of the Bankruptcy Code for the resolution of outstanding claims against, and interests in, the Debtors. Although proposed jointly for administrative purposes, the Plan constitutes a separate plan for each of the foregoing entities and each of the foregoing entities is a proponent of the Plan within the meaning of section 1129 of the Bankruptcy Code. The Plan does not contemplate substantive consolidation of any of the Debtors.

Capitalized terms used in the Plan and not otherwise defined have the meanings ascribed to such terms in Section 1.1 of this Plan.

Reference is made to the accompanying *Disclosure Statement for the Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code* for a discussion of the Debtors' history, businesses, properties and operations, projections, and risk factors as well as a summary and analysis of the Plan and the transactions contemplated thereby (including distributions to be made under the Plan), and certain related matters.

**ALL HOLDERS OF CLAIMS ENTITLED TO VOTE ON THE PLAN ARE ENCOURAGED TO READ THE PLAN AND THE DISCLOSURE STATEMENT IN THEIR ENTIRETY BEFORE VOTING TO ACCEPT OR REJECT THE PLAN.**

## ARTICLE I

### DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, GOVERNING LAW, AND OTHER REFERENCES

#### 1.1 Defined Terms

1. "ABL Loans" or "Existing ABL Facility" means the loans, accrued and unpaid interest, fees, indemnities, costs, expenses, reimbursement obligations in respect of letters of credit issued thereunder, and other amounts, liabilities and obligations due and payable under the Existing ABL Revolving Credit Agreement and the other "Loan Documents" (as defined in the Existing ABL Revolving Credit Agreement).
2. "Accrued Professional Compensation Claim" means a Claim for all accrued fees and reimbursable expenses (including success fees) for services rendered by all Professionals from and after the Petition Date, to the extent that such fees and expenses have not been previously paid and regardless of whether a fee application has been filed for such fees and expenses. To the extent that there is a Final Order denying some or all of a Professional's fees or expenses, such denied amounts shall no longer be considered an Accrued Professional Compensation Claim.
3. "Ad Hoc Committee" means the ad hoc committee of beneficial owners (or nominees, investment managers, advisors, or subadvisors for the beneficial owners) of the Senior Priming Term Loans, the Priming Term Loans and the Existing Term Loans represented by the Ad Hoc Committee Advisors, as may be reconstituted from time to time.
4. "Ad Hoc Committee Advisors" means, collectively, (a) Stroock, as counsel to the Ad Hoc Committee, (b) FTI, as financial advisor to the Ad Hoc Committee, and (c) such other professionals that may be retained by or on behalf of the Ad Hoc Committee.
5. "Ad Hoc Committee Expenses" means all fees and expenses of the Ad Hoc Committee, including, without limitation, the reasonable and documented fees and all out-of-pocket costs and expenses of each

of the Ad Hoc Committee Advisors, in each case, in connection with the negotiation, formulation, preparation, execution, delivery, implementation, consummation, and/or enforcement of the Restructuring Support Agreement, the Restructuring Term Sheet, the Plan, the Plan Supplement, and/or any of the other Restructuring Documents, the Restructuring Transactions, the Chapter 11 Cases, and/or any of the transactions contemplated by (and/or any amendments, waivers, consents, supplements or other modifications to) any of the foregoing.

6. “*Administrative Claim*” means a Claim, other than DIP Term Facility Claims, against any of the Debtors on or after the Petition Date and before the Effective Date for a cost or expense of administration of the Chapter 11 Cases entitled to priority under sections 503(b), 507(a)(2), or 507(b) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred on or after the Petition Date until and including the Effective Date of preserving the Estates and operating the Debtors’ businesses; (b) Allowed Professional Fee Claims; (c) Ad Hoc Committee Expenses; and (d) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of title 28 of the United States Code.
7. “*Affiliate*” means an affiliate as defined in section 101(2) of the Bankruptcy Code, or, when referring to an Affiliate of a non-Debtor, an affiliate as defined in section 101(2) of the Bankruptcy Code, as modified to refer to that non-Debtor rather than to a “debtor”; *provided, however*, that for purposes of the Plan, the Debtors shall not be deemed to be an affiliate of MAFCO.
8. “*Agents*” means, collectively, any administrative agent, collateral agent, or similar Entity under the Senior Priming Term Loan Credit Agreement, Priming Term Loan Credit Agreement, Existing Term Loan Credit Agreement, Existing ABL Revolving Credit Agreement and the DIP Term Facility Documents, including the Priming Term Loan Agent, the Senior Priming Term Loan Agent, the Existing Term Loan Agent, the Existing ABL Agents and the DIP Administrative Agents.
9. “*Allowed*” means, with respect to any Claim or Interest: (a) a Claim or Interest as to which no objection has been filed and that is evidenced by a Proof of Claim or Interest, as applicable, timely filed by the applicable bar date, if any, or that is not required to be evidenced by a filed Proof of Claim or Interest, as applicable, under the Plan, the Bankruptcy Code, or a Final Order; (b) a Claim or Interest that is scheduled by the Debtors as neither disputed, contingent, nor unliquidated, and as for which no Proof of Claim or Interest, as applicable, has been timely filed; or (c) a Claim or Interest that is allowed (i) pursuant to the Plan, (ii) in any stipulation that is entered into with the consent of the Requisite Consenting Creditors (such consent not to be unreasonably withheld) and approved by the Bankruptcy Court, or (iii) pursuant to any contract, instrument, indenture, or other agreement entered into or assumed in connection herewith. Except as otherwise specified in the Plan or any Final Order, the amount of an Allowed Claim shall not include interest or other charges on such Claim from and after the Petition Date. No Claim of any Entity subject to section 502(d) of the Bankruptcy Code shall be deemed Allowed unless and until such Entity pays in full the amount that it owes such Debtor, Restructured Debtor, or Restructured DX Holding, as applicable.
10. “*Australian Loans*” means the indebtedness outstanding under the Australian Term Loan Facility.
11. “*Australian Term Loan Facility*” means that certain A\$ Facilities Agreement, dated as of July 29, 2015 (as amended, amended and restated or otherwise modified from time to time), by and among, Deluxe Australia Pty Ltd., A.P. Facilities Pty Ltd, Deluxe Melbourne Pty Ltd., and Macquarie Bank Limited.
12. “*Avoidance Actions*” means any and all avoidance, recovery, subordination, or other Claims, actions, or remedies that may be brought by or on behalf of the Debtors or their Estates or other authorized parties in interest under the Bankruptcy Code or applicable non-bankruptcy law, including actions or remedies under sections 502, 510, 542, 544, 545, 547 through and including 553, and 724(a) of the Bankruptcy Code or under similar or related state or federal statutes and common law, including fraudulent transfer laws.

13. “*Ballot*” means the ballots accompanying the Disclosure Statement upon which certain Holders of Impaired Claims entitled to vote shall, among other things, indicate their acceptance or rejection of the Plan in accordance with the Plan and the procedures governing the solicitation process.
14. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§ 101–1532, as may be amended from time to time.
15. “*Bankruptcy Court*” means the United States Bankruptcy Court for the Southern District of New York, White Plains Division.
16. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, 28 U.S.C. § 2075, as applicable to the Chapter 11 Cases and the general, local, and chambers rules of the Bankruptcy Court.
17. “*Business Day*” means any day, other than a Saturday, Sunday, or a legal holiday in New York, as defined in Bankruptcy Rule 9006(a).
18. “*Canadian Loan Claims*” means any Claim derived from, based upon, or arising under the Canadian Term Loan Facility, including Claims for all principal amounts outstanding, interest, fees, premiums, expenses, costs, and other charges arising under or related to the Canadian Term Loan Facility.
19. “*Canadian Loans*” means the indebtedness due and payable under the Canadian Term Loan Facility.
20. “*Canadian Term Loan Facility*” means that certain Credit Agreement, dated as of December 7, 2017 (as amended, amended and restated or otherwise modified from time to time), by and among, Deluxe Toronto, Ltd., DESG, Deluxe (Delaware) Canada Holdings Corporation, the lenders from time to time party thereto, and Wilmington Trust, National Association, as administrative agent and collateral agent.
21. “*Cash*” means the legal tender of the United States of America or the equivalent thereof, including bank deposits and checks.
22. “*Causes of Action*” means any claims, interests, damages, remedies, causes of action, demands, rights, actions, suits, obligations, liabilities, accounts, defenses, offsets, powers, privileges, licenses, liens, indemnities, guaranties, and franchises of any kind or character whatsoever, whether known or unknown, choate or inchoate, foreseen or unforeseen, existing or hereinafter arising, contingent or non-contingent, liquidated or unliquidated, secured or unsecured, assertable, directly or derivatively, matured or unmatured, suspected or unsuspected, in contract, tort, law, equity, or otherwise. Causes of Action also include: (a) all rights of setoff, counterclaim, or recoupment and claims under contracts or for breaches of duties imposed by law; (b) any claim based on or relating to, or in any manner arising from, in whole or in part, breach of fiduciary duty, violation of local, state, federal, or foreign law, or breach of any duty imposed by law or in equity, including securities laws, negligence, and gross negligence; (c) the right to object to or otherwise contest Claims or Interests; (d) claims pursuant to sections 362, 510, 542, 543, 544 through 550, or 553 of the Bankruptcy Code; and (e) such claims and defenses as fraud, mistake, duress, and usury, and any other defenses set forth in section 558 of the Bankruptcy Code.
23. “*Certificate*” means any instrument evidencing a Claim or an Interest.
24. “*Chapter 11 Cases*” means (a) when used with reference to a particular Debtor, the chapter 11 case filed for that Debtor under chapter 11 of the Bankruptcy Code in the Bankruptcy Court and (b) when used with reference to all Debtors, the jointly administered chapter 11 cases for all of the Debtors.
25. “*Claim*” means any claim, as defined in section 101(5) of the Bankruptcy Code, against any of the Debtors.

26. “*Claims Bar Date*” means the deadline established pursuant to the Confirmation Order by which Holders of rejection damages claims must submit Proofs of Claim.
27. “*Class*” means a category of Holders of Claims or Interests under section 1122(a) of the Bankruptcy Code.
28. “*Compensation and Benefits Programs*” means all employment and severance agreements and policies, all indemnification agreements, and all compensation and benefit plans, policies, and programs of the Debtors, and all amendments and modifications thereto, applicable to the Debtors’ employees, former employees, retirees, and current and former non-employee directors and the employees, former employees, and retirees of their subsidiaries, including, but not limited to, all savings plans, retirement plans, health care plans, disability plans, severance benefit agreements, and plans, incentive plans, deferred compensation plans, and life, accidental death, and dismemberment insurance plans.
29. “*Confirmation*” means the entry of the Confirmation Order by the Bankruptcy Court on the docket of the Chapter 11 Cases.
30. “*Confirmation Date*” means the date on which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases.
31. “*Confirmation Hearing*” means the hearing(s) before the Bankruptcy Court under section 1128 of the Bankruptcy Code at which the Debtors seek entry of the Confirmation Order.
32. “*Confirmation Order*” means an order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code, which order shall be consistent in all respects with the Restructuring Support Agreement and the Restructuring Term Sheet and otherwise in form and substance acceptable to the Debtors, the Requisite Consenting Creditors, and (solely to the extent the provisions of such Confirmation Order adversely affect the MAFCO Parties) MAFCO.
33. “*Consenting Creditors*” means collectively, the beneficial owners (or nominees, investment managers, advisors, or subadvisors for the beneficial owners) of the Senior Priming Term Loans, the Priming Term Loans, and the Existing Term Loans that have executed and delivered counterpart signature pages to the Restructuring Support Agreement, whether before or after the effective date of the Restructuring Support Agreement.
34. “*Consummation*” means the occurrence of the Effective Date.
35. “*Creative Intermediate Holdco*” means one or more intermediate holding companies established to hold all subsidiaries of DESG or Restructured DESG, as applicable, engaged in the “Creative” business and any other entity that may exist now or in the future in connection with the “Creative” business, which shall be a direct subsidiary of Restructured DESG.
36. “*Cure*” means all amounts, including an amount of \$0.00, required to cure any monetary defaults under any Executory Contract or Unexpired Lease (or such lesser amount as may be agreed upon by the parties under an Executory Contract or Unexpired Lease) that is to be assumed by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.
37. “*Cure Claim*” means a Claim based on the Debtors’ defaults on an Executory Contract or Unexpired Lease at the time such Executory Contract or Unexpired Lease is assumed by the Debtors pursuant to sections 365 or 1123 of the Bankruptcy Code.
38. “*D&O Liability Insurance Policies*” means all unexpired directors’, managers’, and officers’ liability insurance policies (including any “tail policy” or “tail coverage” and all agreements, documents, or instruments related thereto), for which any of the Debtors or MAFCO is the policy holder, for current

and former directors, managers, officers, and/or employees of the Debtors that are insured under said policies.

39. “*Debtor Release*” means the releases set forth in Section 8.2 of the Plan.
40. “*Debtors*” means, collectively, DESG, DX Holding, Bobco Productions, LLC, Company 3 LLC, Deluxe 3D LLC, Deluxe Creative Services Inc., Deluxe (Delaware) Canada Holdings Corporation, Deluxe Digital Cinema Inc., Deluxe Digital Distribution Inc., Deluxe Encore Inc., Deluxe Government Solutions LLC, Deluxe India Holdings 1 LLC, Deluxe India Holdings 2 LLC, Deluxe Laboratories LLC, Deluxe Media Inc., Deluxe Media Management Inc., Deluxe Shared Services Inc., Deluxe One LLC, Global Digital Media Xchange LLC, Mediarecall LLC, SFERA Labs, LLC, SFERA Studios LLC, Softitler Net, Inc., TS Interest Holdco 1 LLC, TS Interest Holdco 2 LLC, TS GP 2 LLC, and TS US LLC.
41. “*DESG*” means Deluxe Entertainment Services Group Inc., a Delaware corporation.
42. “*DESG Acquiring Entities*” means one or more entities established by or on behalf of any parties entitled to receive Restructured DESG Equity Interests pursuant to the Plan (which entities may include Restructured Holdings), which entities shall acquire (by merger or in any other manner) all or a portion of the assets of DESG, and/or its direct and indirect subsidiaries, in a Taxable Transaction, as set forth in the Restructuring Transactions Memorandum, and any direct or indirect parent of any such entity.
43. “*DIP Administrative Agents*” means an Entity or Entities in its capacity as administrative agent and collateral agent under the DIP Term Facility.
44. “*DIP Orders*” means, collectively, the interim order and final order entered by the Bankruptcy Court authorizing the Debtors to enter into the DIP Term Facility Documents and access the DIP Term Facility, which orders shall be consistent in all material respects with the Restructuring Support Agreement, the DIP Term Facility Documents, and otherwise in form and substance acceptable to the Debtors, the Existing ABL Lenders and the Requisite Consenting Creditors.
45. “*DIP Term Facility*” means a senior secured debtor-in-possession, multiple-draw term loan facility to be provided either by (a) certain Priming Term Loan Lenders, and which shall refinance all amounts outstanding under the Senior Priming Term Loan Facility, or (b) third parties acceptable to the Debtors and the Requisite Consenting Creditors, and which shall refinance all amounts outstanding under the Senior Priming Term Loan Facility, in each case, upon such terms and conditions (and subject to definitive documentation) and in form and substance acceptable to the lenders under the DIP Term Facility, the Debtors, and the Requisite Consenting Creditors.
46. “*DIP Term Facility Claim*” means any Claim derived from, based upon, or arising under the DIP Term Facility Documents or the DIP Term Facility, including Claims for all principal amounts outstanding, interest, fees, expenses, costs, and other charges arising under or related to the DIP Term Facility.
47. “*DIP Term Facility Documents*” means the definitive documents governing the DIP Term Facility, which shall be acceptable to the Debtors and the Requisite Consenting Creditors.
48. “*DIP Term Facility Lenders*” means the lenders from time to time party to the DIP Term Facility Documents.
49. “*Disclosure Statement*” means the Disclosure Statement for the Joint Prepackaged Plan of Reorganization of Deluxe Entertainment Services Group Inc. and its Debtor Affiliates Pursuant to Chapter 11 of the Bankruptcy Code, as the same may be amended, supplemented or modified from time to time, and all exhibits, schedules, supplements, modifications, and amendments thereto, all of which shall be consistent with the Restructuring Support Agreement and otherwise in form and substance reasonably acceptable to the Debtors, the Requisite Consenting Creditors, and (solely to the extent the provisions of such adversely affect the MAFCO Parties) MAFCO.

50. “*Disclosure Statement Order*” means an order of the Bankruptcy Court approving the Disclosure Statement and the Solicitation Materials and all schedules related thereto, which order shall be consistent in all material respects with the Restructuring Support Agreement and the Restructuring Term Sheet and otherwise in form and substance reasonably acceptable to the Debtors, the Requisite Consenting Creditors, and (solely to the extent the provisions of such affect the MAFCO Parties) MAFCO.
51. “*Disputed*” means, with respect to a Claim or Interest (or portion thereof), (a) that an objection to such Claim or Interest (or portion thereof) has been filed on or before the Effective Date and not withdrawn or (b) for which a proof of such Claim or Interest is filed; *provided* that in no event shall a Claim or Interest (or portion thereof) that is deemed Allowed pursuant to the Plan be a Disputed Claim or Interest.
52. “*Distribution Agent*” means, as applicable, the Restructured Debtors or (solely with respect to Claims asserted against and Interests in DX Holding) Restructured DX Holding or any Entity the Restructured Debtors or (solely with respect to Claims asserted against and Interests in DX Holding) Restructured DX Holding select to make or to facilitate distributions in accordance with the Plan.
53. “*Distribution Date*” means, except as otherwise set forth herein, the date or dates determined by the Debtors, the Restructured Debtors, or (solely with respect to Claims asserted against and Interests in DX Holding) Restructured DX Holding, on or after the Effective Date, upon which the Distribution Agent shall make distributions to Holders of Allowed Claims entitled to receive distributions under the Plan. The first Distribution Date shall occur on the Effective Date or as soon as reasonably practicable thereafter, *provided, however*, that the Distribution Date with respect to the Existing ABL Facility Claims, the Senior Priming Term Loan Claims, the Priming Term Loan Claims and the Existing Term Loan Claims shall be the Effective Date.
54. “*Distribution Intermediate Holdco*” means one or more intermediate holding companies established to hold all subsidiaries of DESG or Restructured DESG, as applicable, engaged in the “Distribution” business and any other entity that may exist now or in the future in connection with the “Distribution” business, which shall be a direct subsidiary of Restructured DESG.
55. “*Distribution Record Date*” has the meaning set forth in Section 6.4(a).
56. “*DTC*” means The Depository Trust Company.
57. “*DX Holding*” means DX Holdings LLC, an indirect subsidiary of MacAndrews & Forbes Media Group, Inc.
58. “*Effective Date*” means the date on which: (a) no stay of the Confirmation Order is in effect; and (b) all conditions precedent to the occurrence of the Effective Date set forth in Section 9.1 of the Plan have been (i) satisfied or (ii) waived pursuant to Section 9.2 of the Plan; and (c) the Debtors declare the Plan effective. Any action to be taken on the Effective Date may be taken on or as soon as reasonably practicable thereafter; *provided* that the distributions to the Holders of the Existing Term Loan Claims and the Priming Term Loan Claims shall occur on the Effective Date.
59. “*Entity*” means an entity as defined in section 101(15) of the Bankruptcy Code.
60. “*Estate*” means the estate of any Debtor created under sections 301 and 541 of the Bankruptcy Code upon the commencement of the applicable Debtor’s Chapter 11 Case.
61. “*Exchange Act*” means the Securities Exchange Act of 1934, 15 U.S.C. § 78a, *et seq.*, as amended from time to time.
62. “*Exculpated Party*” means each of the following, solely in its capacity as such: (a) the Debtors, the Restructured Debtors, and Restructured DX Holding; (b) MAFCO and its current and former Affiliates and its and their current and former employees, directors, officers and direct and indirect shareholders;

(c) the DIP Term Facility Lenders; (d) the members of the Ad Hoc Committee; (e) the Senior Priming Term Loan Lenders; (f) the Priming Term Loan Lenders; (g) the Existing Term Loan Lenders; (h) the Existing ABL Lenders; (i) Consenting Creditors; (j) each Agent; and (k) with respect to the foregoing clauses (a) through (j), each such Entity's current and former Affiliates, and such Entities' and their current and former Affiliates' current and former directors, managers, officers, control persons, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, participants, managed accounts or funds, fund advisors, predecessors, successors, assigns, subsidiaries, principals, members, employees, agents, managed accounts or funds, management companies, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, investment managers, and other professionals, each in their capacity as such.

63. "*Executory Contract*" means a contract or lease to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 or 1123 of the Bankruptcy Code.
64. "*Existing ABL Agents*" means, collectively, Credit Suisse AG, as administrative agent under the Existing ABL Facility, and Bank of America, N.A., as collateral agent under the Existing ABL Facility.
65. "*Existing ABL Documents*" means the Existing ABL Revolving Credit Agreement together with all documents and agreements executed in connection therewith.
66. "*Existing ABL Facility Claim*" means any Claim derived from, based upon, or arising under the Existing ABL Documents or the Existing ABL Facility, including Claims for all principal amounts outstanding, interest, fees, indemnities, expenses, costs, reimbursement obligations and other amounts, liabilities, obligations, or charges arising under or related to the Existing ABL Facility or Existing ABL Documents.
67. "*Existing ABL Lenders*" means the lenders from time to time party to the Existing ABL Revolving Credit Agreement.
68. "*Existing ABL Revolving Credit Agreement*" means that certain Third Amended and Restated Asset-Based Revolving Credit Agreement, dated as of July 31, 2019 (as further amended, amended and restated or otherwise modified from time to time), by and among DESG, DX Holding, the Existing ABL Lenders, and the Existing ABL Agents.
69. "*Existing Credit Agreements*" means, collectively, the Existing ABL Revolving Credit Agreement, the Existing Term Loan Credit Agreement, the Priming Term Loan Credit Agreement and the Senior Priming Term Loan Credit Agreement.
70. "*Existing Equity Interests in DESG*" means 100% of the existing equity interests (including common and preferred stock) of DESG held by DX Holding.
71. "*Existing Equity Interests in DX Holding*" means 100% of the existing equity interests in DX Holding, held by MacAndrews Deluxe Holdings LLC (an indirect subsidiary of MacAndrews & Forbes Media Group, Inc.).
72. "*Existing Term Loan Agent*" means Credit Suisse AG, as administrative agent and collateral agent under the Existing Term Loan Facility.
73. "*Existing Term Loan Claim*" means any Claim derived from, based upon, or arising under the Existing Term Loan Documents or the Existing Term Loan Facility, including Claims for all principal amounts outstanding, interest, fees, indemnities, premiums, expenses, costs, and other amounts, liabilities, obligations, or charges arising under or related to the Existing Term Loan Facility or Existing Term Loan Documents.

74. “*Existing Term Loan Credit Agreement*” means that certain Fifth Amended and Restated Credit Agreement, dated as of July 31, 2019 (as further amended, amended and restated, supplemented or otherwise modified from time to time) by and among DESG, DX Holding, the Existing Term Loan Agent, and the Existing Term Loan Lenders.
75. “*Existing Term Loan Documents*” means the Existing Term Loan Credit Agreement together with all documents and agreements executed in connection therewith.
76. “*Existing Term Loan Lenders*” means the lenders from time to time party to the Existing Term Loan Credit Agreement.
77. “*Existing Term Loans*” or “*Existing Term Loan Facility*” means the secured term loans, plus accrued and unpaid interest, premiums, fees, indemnities, costs, expenses and other amounts, liabilities and obligations outstanding under the Existing Term Loan Credit Agreement and the other “*Loan Documents*” (as defined in the Existing Term Loan Credit Agreement).
78. “*Existing US Syndicated Facilities*” means, collectively, the Existing Term Loan Facility, the Priming Term Loan Facility, the Senior Priming Term Loan Facility, and the Existing ABL Facility.
79. “*Exit ABL Facility*” means the asset based loan facility to be entered into by the Restructured Debtors on the Effective Date and provided either by (a) the Existing ABL Lenders, in their sole discretion, or (b) third parties acceptable to the Debtors and the Requisite Consenting Creditors, in an amount necessary to refinance or exchange all amounts outstanding, and cash collateralize undrawn letters of credit issued, under the Existing ABL Facility, in each case, upon such terms and conditions acceptable to the Requisite Consenting Creditors and the Exit ABL Facility Parties.
80. “*Exit ABL Facility Documents*” means the definitive documents governing the Exit ABL Facility, which shall be in form and substance acceptable to the Debtors, the Exit ABL Facility Parties and the Requisite Consenting Creditors.
81. “*Exit ABL Facility Parties*” means the agents and lenders under the Exit ABL Facility.
82. “*Exit Facilities*” means the Exit ABL Facility and the New Term Loan Facilities.
83. “*Exit Facilities Documents*” means the Exit ABL Facility Documents and the New Term Loan Facilities Documents.
84. “*Federal Judgment Rate*” means the federal judgment rate in effect pursuant to 28 U.S.C. § 1961 as of the Petition Date, compounded annually.
85. “*File*,” “*Filed*,” or “*Filing*” means file, filed, or filing in the Chapter 11 Cases with the Bankruptcy Court or, with respect to the filing of a Proof of Claim, the Solicitation Agent.
86. “*Final Decree*” means the decree contemplated under Bankruptcy Rule 3022.
87. “*Final Order*” means an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter that has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be Filed has been resolved by the highest court to which the order or judgment could be appealed or from which certiorari could be sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice.
88. “*Foreign Debt*” means the Australian Loans and the Canadian Loans.

89. “*FTP*” means FTI Consulting Inc.
90. “*General Administrative Claim*” means any Administrative Claim, including Cure Claims, other than a Professional Fee Claim.
91. “*General Unsecured Claim*” means any Claim that is not a Secured Claim, a MAFCO Unsecured Claim, a MAFCO Secured Debt Claim, a Canadian Loan Claim, an Administrative Claim, DIP Term Facility Claim, a Professional Fee Claim, a Priority Tax Claim, a Secured Tax Claim, an Other Secured Claim, an Other Priority Claim, a Senior Priming Term Loan Claim, a Priming Term Loan Claim, an Existing Term Loan Claim, an Existing ABL Facility Claim, an Intercompany Claim, or a Section 510(b) Claim against one or more of the Debtors including (a) Claims arising from the rejection of Unexpired Leases and Executory Contracts to which a Debtor is a party, and (b) Claims arising from any litigation or other court, administrative or regulatory proceeding, including damages or judgments entered against, or settlement amounts owing by a Debtor related thereto.
92. “*Governmental Unit*” has the meaning set forth in section 101(27) of the Bankruptcy Code.
93. “*Holder*” means an Entity holding a Claim or an Interest in any Debtor.
94. “*Impaired*” means, with respect to any Class of Claims or Interests, a Class of Claims or Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.
95. “*Indemnification Provisions*” means each of the Debtors’ indemnification provisions in effect as of the Petition Date, whether in the Debtors’ bylaws, certificates of incorporation, other formation and constituent documents, board resolutions, management or indemnification agreements, employment contracts, or otherwise providing a basis for any obligation of a Debtor to indemnify, defend, reimburse, or limit the liability of, or to advances fees and expenses to, any of the Debtors’ current and former directors, officers, employees, and professionals of the Debtors, and such current and former directors’, officers’, and managers’ respective Affiliates, each of the foregoing solely in their capacity as such.
96. “*Intercompany Claim*” means any Claim held by a Debtor against another Debtor.
97. “*Intercompany Interest*” means an Interest in any Debtor, or a direct or indirect subsidiary of any Debtor, other than an Interest in DESG or DX Holding.
98. “*Interest*” means any equity security as such term is defined in section 101(16) of the Bankruptcy Code, including all issued, unissued, authorized, or outstanding shares of capital stock and any other common stock, preferred stock, limited liability company interests, and any other equity, ownership, or profit interests of an Entity, including all options, warrants, rights, stock appreciation rights, phantom stock rights, restricted stock units, redemption rights, repurchase rights, convertible, exercisable, or exchangeable securities, or other agreements, arrangements, or commitments of any character relating to, or whose value is related to, any such interest or other ownership interest in an Entity whether or not arising under or in connection with any employment agreement and whether or not certificated, transferable, preferred, common, voting, or denominated “stock” or a similar security.
99. “*LC Agreement*” means that certain Letter of Credit Reimbursement and Security Agreement, dated as of September 6, 2019 (as amended, amended and restated or otherwise modified from time to time), by and among DESG and the LC Issuer.
100. “*LC Issuer*” means Credit Suisse AG, Cayman Islands Branch, in its capacity as issuer under the LC Agreement.
101. “*Lien*” means a lien as defined in section 101(37) of the Bankruptcy Code.

102. “*MAFCO*” means, collectively, MacAndrews & Forbes Media Group, Inc., MAFCO Three LLC, and MacAndrews Deluxe Holdings LLC.
103. “*MAFCO April Debt*” means the indebtedness outstanding under that certain Amended and Restated Line of Credit Agreement, dated as of April 16, 2018 (as amended, amended and restated or otherwise modified from time to time).
104. “*MAFCO DBSL Debt*” means the indebtedness outstanding under that certain Loan Agreement, dated as of December 29, 2017 (as amended, amended and restated or otherwise modified from time to time).
105. “*MAFCO May Debt*” means the indebtedness outstanding under that certain Amended and Restated Line of Credit Agreement entered into as of June 20, 2018 and effective as of May 1, 2018 (as amended, amended and restated or otherwise modified from time to time).
106. “*MAFCO Parties*” means MAFCO or its current or former Affiliates or its or their current or former employees, directors, officers, and direct and indirect shareholders.
107. “*MAFCO Secured Debt*” means the indebtedness outstanding under that certain Senior Secured Promissory Note, dated as of July 18, 2019, by and among Deluxe One LLC and MacAndrews & Forbes Media Group, Inc., and any other Secured Claims held by MAFCO against any of the Debtors.
108. “*MAFCO Secured Debt Claims*” means, collectively, the Claims derived from, based upon, or arising under the MAFCO Secured Debt.
109. “*MAFCO Unsecured Claims*” means, collectively, the Claims derived from, based upon, or arising under the MAFCO Unsecured Debt and any and all other Claims held by MAFCO against any of the Debtors (other than the MAFCO Secured Debt).
110. “*MAFCO Unsecured Debt*” means the indebtedness outstanding under the MAFCO May Debt, MAFCO April Debt, and MAFCO DBSL Debt.
111. “*Management Incentive Plan*” means the post-Effective Date management incentive program that provides for the issuance of restricted stock units, stock options, stock appreciations rights, or other similar appreciation awards, exercisable for up to an aggregate amount equal to 10% of the Restructured DESG Equity Interests (on a fully diluted basis) to management, key employees, and directors of the Restructured Debtors, the terms of which shall be determined by the New Board.
112. “*New Board*” means Restructured DESG’s initial board of directors as of the Effective Date.
113. “*New DX Holding Organizational Documents*” means, collectively, the new organizational documents of Restructured DX Holding, including, but not limited to, the limited liability agreement, operating agreement, and other formation and constituent documents, as applicable, for Restructured DX Holding, each of which shall be in form and substance acceptable to DX Holding and MAFCO.
114. “*New First Lien Term Loan Facility*” means that certain term loan facility to be provided either by (a) the DIP Term Facility Lenders, and/or (b) third parties acceptable to the Debtors and the Requisite Consenting Creditors, in each case, upon terms and conditions consistent with those set forth in the Restructuring Support Agreement and otherwise acceptable to the Requisite Consenting Creditors.
115. “*New First Lien Term Loans*” means the loans issued under the New First Lien Term Loan Facility.
116. “*New Organizational Documents*” means, collectively, the new organizational documents of the Restructured Debtors, including, but not limited to, the New Shareholders Agreement, and the certificates of incorporation, bylaws, limited liability agreements, stockholders or similar agreements, operating agreements, charters, and other formation or constituent documents, as applicable, for

Restructured Holdings, Restructured DESG and each of its direct or indirect subsidiaries, including, Creative Intermediate Holdco and Distribution Intermediate Holdco, each of which shall be in form and substance acceptable to the Debtors and the Requisite Consenting Creditors.

117. “*New Shareholders Agreement*” means the stockholders agreement, partnership agreement, or limited liability company agreement, as applicable, with respect to Restructured Holdings and the Restructured DESG Equity Interests, which agreement shall be effective as of the Effective Date, and the terms of which shall be in form and substance acceptable to the Debtors and the Requisite Consenting Creditors.
118. “*New Second Lien Term Loan Facility*” means that certain term loan facility to be provided either by (a) the Priming Term Loan Lenders, and/or (b) third parties acceptable to the Debtors and the Requisite Consenting Creditors, in each case, upon terms and conditions consistent with those set forth in the Restructuring Support Agreement and otherwise acceptable to the Requisite Consenting Creditors.
119. “*New Second Lien Term Loans*” means the loans issued under the New Second Lien Term Loan Facility.
120. “*New Term Loan Facilities*” means the New First Lien Term Loan Facility and the New Second Lien Term Loan Facility.
121. “*New Term Loan Facilities Documents*” means the definitive documents governing the New Term Loan Facilities, which shall be in form and substance reasonably acceptable to the Debtors and the Requisite Consenting Creditors.
122. “*Other Priority Claim*” means any Claim other than an Administrative Claim or a Priority Tax Claim entitled to priority in right of payment under section 507(a) of the Bankruptcy Code.
123. “*Other Secured Claim*” means any Secured Claim against the Debtors other than the DIP Term Facility Claims, the Existing ABL Facility Claims, the MAFCO Secured Debt Claims, the Senior Priming Term Loan Claims, the Priming Term Loan Claims, the Existing Term Loan Claims, and the Canadian Loan Claims. For the avoidance of doubt, Other Secured Claims include Secured Tax Claims and all “Obligations” under (and as defined in) the LC Agreement.
124. “*Person*” means a person as defined in section 101(41) of the Bankruptcy Code.
125. “*Petition Date*” means the date on which each of the Debtors filed its respective petition for relief commencing its Chapter 11 Cases.
126. “*Plan*” means this joint prepackaged chapter 11 plan, including all appendices, exhibits, schedules and supplements hereto (including any appendices, exhibits, schedules, and supplements to the Plan that are contained in the Plan Supplement), as it may be altered, amended, modified, or supplemented from time to time in accordance with the terms hereof and the Restructuring Support Agreement, which shall be in form and substance reasonably acceptable to the Debtors, the Requisite Consenting Creditors, and MAFCO (as set forth in the Restructuring Support Agreement).
127. “*Plan Supplement*” means the supplement or supplements to the Plan containing certain schedules, documents, forms of documents, and/or term sheets relevant to the implementation of the Plan, to be filed with the Bankruptcy Court and served upon those parties entitled to vote under the Plan prior to the hearing held by the Bankruptcy Court to consider confirmation of the Plan, each of which shall contain terms and conditions consistent in all material respects with the Restructuring Support Agreement and (unless expressly set forth herein) shall otherwise be in form and substance reasonably acceptable to the Debtors, the Requisite Consenting Creditors, and (solely to the extent the provisions of such Plan Supplement adversely affect the MAFCO Parties) MAFCO.
128. “*Priming Term Loan Agent*” means Credit Suisse AG, as administrative agent and collateral agent under the Priming Term Loan Facility.

129. “*Priming Term Loan Claim*” means any Claim derived from, based upon, or arising under the Priming Term Loan Documents or the Priming Term Loan Facility, including Claims for all principal amounts outstanding, interest, fees, indemnities, premiums, expenses, costs, and other amounts, liabilities, obligations, or charges arising under or related to the Priming Term Loan Facility or Priming Term Loan Documents.
130. “*Priming Term Loan Credit Agreement*” means that certain Senior Secured Priming Delayed Draw Term Loan Credit Agreement, dated as of July 31, 2019 (as amended, amended and restated, supplemented or otherwise modified from time to time) by and among DESG, DX Holding, the Priming Term Loan Agent, and the Priming Term Loan Lenders.
131. “*Priming Term Loan Documents*” means the Priming Term Loan Credit Agreement together with all documents and agreements executed in connection therewith.
132. “*Priming Term Loan Lenders*” means the lenders from time to time party to the Priming Term Loan Credit Agreement.
133. “*Priming Term Loans*” or “*Priming Term Loan Facility*” means the senior secured term loans, accrued and unpaid interest, premiums, fees, indemnities, costs, expenses, and other amounts, liabilities and obligations, due and owing under the Priming Term Loan Credit Agreement and other “Loan Documents” (as defined in the Priming Term Loan Credit Agreement).
134. “*Priority Tax Claim*” means any Claim of a Governmental Unit of the kind specified in section 507(a)(8) of the Bankruptcy Code.
135. “*Pro Rata*” means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that respective Class.
136. “*Production Package Insurance Policy*” means the unexpired insurance policy (including all agreements, documents, or instruments related thereto) for which DESG or one or more of its subsidiaries is the policy holder, for “production package” insurance as that term is generally used in the movie and television production industry.
137. “*Professional*” means an Entity: (a) employed in the Chapter 11 Cases pursuant to a Final Order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered prior to or on the Effective Date pursuant to (i) sections 327, 328, 329, 330, or 331 of the Bankruptcy Code or (ii) an order entered by the Bankruptcy Court authorizing such retention, or (b) for which compensation and reimbursement has been Allowed by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.
138. “*Professional Fee Claim*” means any Administrative Claims for the compensation of Professionals and the reimbursement of expenses incurred by such Professionals through and including the Effective Date under sections 328, 330, 331, 503(b)(2), 503(b)(3), 503(b)(4), or 503(b)(5) of the Bankruptcy Code to the extent such fees and expenses have not been paid pursuant to an order of the Bankruptcy Court.
139. “*Professional Fee Escrow Account*” means an interest-bearing account funded by the Debtors or the Restructured Debtors (other than Restructured DX Holding), as applicable, with Cash on the Effective Date in an amount equal to the Professional Fee Reserve Amount as set forth in Section 2.1.2(c) of the Plan.
140. “*Professional Fee Reserve Amount*” means the aggregate amount of Professional Fee Claims and other unpaid fees and expenses that the Professionals estimate they have incurred or will incur in rendering services to the Debtors prior to and as of the Effective Date, which estimates Professionals shall deliver to the Debtors as set forth in Section 2.1.2(c) of the Plan.

141. “*Professional Liability/Errors & Omissions Insurance Policy*” means the unexpired insurance policy (including all agreements, documents, or instruments related thereto) for which DESG is the policy holder, for professional liability and errors and omissions.
142. “*Proof of Claim*” means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.
143. “*Reinstate*,” “*Reinstated*,” or “*Reinstatement*” means leaving a Claim or Interest Unimpaired under the Plan.
144. “*Released Party*” means each of the following, solely in its capacity as such: (a) the Debtors; (b) the Restructured Debtors and Restructured DX Holding; (c) the Estates; (d) MAFCO and its current and former Affiliates and its and their current and former employees, directors, officers, and direct and indirect shareholders; (e) the members of the Ad Hoc Committee; (f) the lenders under the Exit ABL Facility and New Term Loan Facilities; (g) the lenders under the Existing Term Loan, the Existing ABL Facility, the Priming Term Loan and the Senior Priming Term Loan; (h) the DIP Term Facility Lenders; (i) the Consenting Creditors; (j) each Agent; (k) the LC Issuer; and (l) with respect to the foregoing clauses (a) through (k), each such Entity’s current and former Affiliates, and such Entities’ and their current and former Affiliates’ current and former directors, managers, officers, control persons, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, participants, managed accounts or funds, fund advisors, predecessors, successors, assigns, subsidiaries, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, investment managers, and other professionals, each in their capacity as such; *provided* that any Holder of a Claim or Interest that opts out of the releases contained in the Plan shall not be a “Released Party.”
145. “*Releasing Party*” means each of the following, solely in its capacity as such: (a) the Debtors; (b) the Restructured Debtors and Restructured DX Holding; (c) the Estates; (d) MAFCO and its current and former Affiliates and its and their current and former employees, directors, officers and direct and indirect shareholders; (e) the Consenting Creditors; (f) the DIP Term Facility Lenders; (g) the members of the Ad Hoc Committee; (h) the Senior Priming Term Loan Lenders; (i) the Priming Term Loan Lenders; (j) the Existing Term Loan Lenders; (k) the Existing ABL Lenders (l) each Agent; (m) all holders of Claims who vote to accept the Plan; (n) all holders of Claims who are eligible to vote, but abstain from voting on the Plan and who do not opt out of the releases provided by the Plan; (o) all holders of Claims who vote to reject the Plan and who do not opt out of the releases provided by the Plan; (p) with respect to the foregoing clauses (a) through (o), each such Entity’s current and former Affiliates, and such Entities’ and their current and former Affiliates’ current and former directors, managers, officers, control persons, equity holders (regardless of whether such interests are held directly or indirectly), affiliated investment funds or investment vehicles, participants, managed accounts or funds, fund advisors, predecessors, successors, assigns, subsidiaries, principals, members, employees, agents, advisory board members, financial advisors, partners, attorneys, accountants, investment bankers, consultants, representatives, investment managers, and other professionals, each in their capacity as such; *provided* that any Holder of a Claim or Interest that validly opts out of, or validly objects to, the releases contained in the Plan shall not be a “Releasing Party.”
146. “*Requisite Consenting Creditors*” means, as of any date of determination, the Consenting Creditors who are members of the Ad Hoc Committee and own or control as of such date at least a majority of the aggregate principal amount of the Senior Priming Term Loans, Priming Term Loans, and the Existing Term Loans owned or controlled by all of the members of the Ad Hoc Committee in the aggregate as of such date.
147. “*Restructured Debtors*” means, collectively, the Debtors other than DX Holding, as reorganized pursuant to and under the Plan, or any successor thereto, by merger, amalgamation, consolidation, or otherwise, on or after the Effective Date in accordance with the Restructuring Transactions, including, without limitation, Restructured DESG, Creative Intermediate Holdco and Distribution Intermediate Holdco and each of their subsidiaries, and Restructured Holdings and the DESG Acquiring Entities.

148. “*Restructured DESG*” means the new parent entity of the Restructured Debtors, other than Restructured DX Holding and Restructured Holdings, which may be DESG as reorganized pursuant to and under the Plan, or any successor thereto, by merger, amalgamation, consolidation, or otherwise, on or after the Effective Date, or a new entity formed to acquire, directly or indirectly, substantially all of the assets of the Debtors, which may include the DESG Acquiring Entities (other than Restructured Holdings).
149. “*Restructured DESG Equity Interests*” means the equity interests in Restructured Holdings to be authorized, issued, distributed, or reserved on the Effective Date pursuant to the Plan.
150. “*Restructured DX Holding*” means DX Holding as reorganized pursuant to and under the Plan, or any successor thereto, by merger, amalgamation, consolidation, or otherwise, on or after the Effective Date.
151. “*Restructured Holdings*” means a new entity that is the direct or indirect parent of Restructured DESG and formed to be the issuer (directly or indirectly) of the Restructured DESG Equity Interests.
152. “*Restructuring Documents*” means the documents (including all exhibits, schedules, supplements, appendices, annexes, instructions, and attachments thereto) that are necessary or desirable to implement, or otherwise relate to, the Restructuring Transactions, the Restructuring Support Agreement, and the Restructuring Term Sheet, including, but not limited to, (a) the Disclosure Statement, (b) the DIP Term Facility Documents and the DIP Orders, (c) the Exit ABL Facility Documents and the New Term Loan Facilities Documents, (d) the Plan and the Plan Supplement, (e) the New Shareholders Agreement, (f) the Confirmation Order, (g) any “first day” pleadings and related orders, (h) any ballots, the motion to approve the form of the ballots, and the solicitation, and the order of the Bankruptcy Court approving the form of the ballots and the solicitation related to any Chapter 11 Cases, (i) the New Organizational Documents and New DX Holding Organizational Documents, (j) the Tax Indemnity Agreement, (k) the Restructuring Transactions Memorandum, and (l) the Schedule of Rejected Executory Contracts and Unexpired Leases, each of which documents referred to in this definition of “Restructuring Documents” shall contain terms and conditions that are consistent in all material respects with the Restructuring Support Agreement.
153. “*Restructuring Support Agreement*” means that certain Restructuring Support Agreement (as amended, amended and restated, supplemented, or otherwise modified from time to time and including all exhibits thereto) entered into on August 30, 2019 by and among DESG, and its subsidiaries listed on Schedule 1 thereto, DX Holding, the Consenting Creditors, and MAFCO, attached as Exhibit B to the Disclosure Statement.
154. “*Restructuring Term Sheet*” means that certain Restructuring Term Sheet attached as Exhibit A to the Restructuring Support Agreement, as amended.
155. “*Restructuring Transactions*” shall have the meaning set forth in Section 4.2 of the Plan.
156. “*Restructuring Transactions Memorandum*” means a document that includes a description of the Restructuring Transactions, including any changes to the corporate and/or capital structure of Restructured DESG or any of its subsidiaries (to the extent known) to be made on or prior to the Effective Date, in each case, as determined by the Debtors and the Requisite Consenting Creditors.
157. “*Schedule of Rejected Executory Contracts and Unexpired Leases*” means a schedule that will be Filed as part of the Plan Supplement and will include a list of all Executory Contracts and Unexpired Leases that the Debtors intend to reject as of the Effective Date, which shall be in form and substance acceptable to the Requisite Consenting Creditors.
158. “*Section 510(b) Claim*” means any Claim against any Debtor: (a) arising from the rescission of a purchase or sale of a Security of any Debtor or an affiliate of any Debtor; (b) for damages arising from the purchase or sale of such a Security; or (c) for reimbursement or contribution Allowed under section 502 of the Bankruptcy Code on account of such a Claim; *provided* that a Section 510(b) Claim

shall not include any Claims subject to subordination under section 510(b) of the Bankruptcy Code arising from or related to an Interest.

159. “*Secured Claim*” means, when referring to a Claim, a Claim: (a) secured by a Lien on property in which any of the Debtors has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in such Debtor’s interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code; or (b) Allowed pursuant to the Plan, or separate order of the Bankruptcy Court, as a Secured Claim.
160. “*Secured Tax Claim*” means any Secured Claim that, absent its secured status, would be entitled to priority in right of payment under section 507(a)(8) of the Bankruptcy Code (determined irrespective of time limitations), including any related Secured Claim for penalties.
161. “*Securities Act*” means the Securities Act of 1933, as amended, 15 U.S.C. §§ 77a–77aa, or any similar federal, state, or local law or regulation promulgated thereunder.
162. “*Security*” shall have the meaning set forth in section 101(49) of the Bankruptcy Code.
163. “*Senior Priming Term Loan Agent*” means Credit Suisse AG, as administrative agent and collateral agent under the Senior Priming Term Loan Facility.
164. “*Senior Priming Term Loans*” or “*Senior Priming Term Loan Facility*” means the senior secured term loans, accrued and unpaid interest, premiums, fees, indemnities, costs, expenses, and other amounts, liabilities and obligations, due and owing under the Senior Priming Term Loan Credit Agreement and other “*Loan Documents*” (as defined in the Senior Priming Term Loan Credit Agreement).
165. “*Senior Priming Term Loan Claim*” means any Claim derived from, based upon, or arising under the Senior Priming Term Loan Documents or the Senior Priming Term Loan Facility, including Claims for all principal amounts outstanding, interest, fees, indemnities, premiums, expenses, costs, and other amounts, liabilities, obligations, or charges arising under or related to the Senior Priming Term Loan Facility or Senior Priming Term Loan Documents.
166. “*Senior Priming Term Loan Credit Agreement*” means that certain Senior Secured Super Priming Term Loan Credit Agreement, dated as of September 19, 2019 (as amended, amended and restated, supplemented or otherwise modified from time to time) by and among DESG, DX Holding, the Senior Priming Term Loan Agent, and the Senior Priming Term Loan Lenders.
167. “*Senior Priming Term Loan Documents*” means the Senior Priming Term Loan Credit Agreement together with all documents and agreements executed in connection therewith.
168. “*Senior Priming Term Loan Lenders*” means the lenders from time to time party to the Senior Priming Term Loan Credit Agreement.
169. “*Servicer*” means an agent or other authorized representative of Holders of Claims or Interests.
170. “*Solicitation Agent*” means Prime Clerk, LLC, the notice, claims and solicitation agent retained by the Debtors in the Chapter 11 Cases pursuant to a Bankruptcy Court order.
171. “*Solicitation Materials*” means, collectively, the solicitation materials with respect to the Plan.
172. “*Stroock*” means Stroock & Stroock & Lavan LLP.

173. “*Tax Indemnity Agreement*” means that certain agreement relating to the allocation of responsibility for certain taxes to be entered into on the Effective Date by and among MAFCO and the Restructured Debtors, consistent with the terms described in Section 4.22 of the Plan, and otherwise in form and substance acceptable to the Debtors, the Restructured Debtors, MAFCO and the Requisite Consenting Creditors.
174. “*Taxable Transaction*” means a transaction deemed to be a disposition of some or all of the assets of DESG and/or its direct and indirect subsidiaries, which is intended to be treated as a taxable disposition for U.S. federal income tax purposes, and which transaction may be structured, for U.S. federal income tax purposes, as a sale of assets and/or a sale of the stock of certain of DESG’s direct and indirect subsidiaries.
175. “*Third-Party Release*” means the releases set forth in Section 8.3 of the Plan.
176. “*UK Guarantor*” means any guarantor of the Senior Priming Term Loan Facility, the Priming Term Loan Facility, the Existing Term Loan Facility, or the Existing ABL Facility that is incorporated in England or Wales.
177. “*Unclaimed Distribution*” means any distribution under the Plan on account of an Allowed Claim to a Holder that has not: (a) accepted a particular distribution; (b) given notice to the Restructured Debtors or Restructured DX Holding of an intent to accept a particular distribution; (c) responded to the Debtors’, Restructured Debtors’, or Restructured DX Holding requests for information necessary to facilitate a particular distribution; or (d) taken any other action necessary to facilitate such distribution.
178. “*Unexpired Lease*” means a lease of nonresidential real property to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.
179. “*Unimpaired*” means, with respect to a Class of Claims or Interests, a Class consisting of Claims or Interests that are not impaired within the meaning of section 1124 of the Bankruptcy Code.
180. “*U.S. Trustee*” means the Office of the United States Trustee for the Southern District of New York.

## **1.2 Rules of Interpretation**

For purposes of the Plan: (a) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (b) unless otherwise specified, any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) unless otherwise specified, any reference herein to an existing document, schedule, or exhibit, shall mean such document, schedule, or exhibit, as it may have been or may be amended, modified, or supplemented; (d) unless otherwise specified, all references herein to “Articles” and “Sections” are references to Articles and Sections, respectively, hereof or hereto; (e) the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to any 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) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (h) any term used in capitalized form herein that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable; (i) references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket numbers under the Bankruptcy Court’s CM/ECF system; (j) references to “Proofs of Claim,” “Holders of Claims,” “Disputed Claims,” and the like shall include “Proofs of Interest,” “Holders of Interests,” “Disputed Interests,” and the like as applicable; (k) references to “shareholders,” “directors,” and/or “officers” shall also include “members” and/or “managers,” as applicable, as such terms are defined under the applicable state limited liability company laws; (l) any references herein to the Effective Date shall mean the Effective Date or as soon as reasonably practicable thereafter; (m) all references herein to consent, acceptance, or approval shall (unless otherwise specified)

be deemed to include the requirement that such consent, acceptance, or approval be evidenced by a writing, which (unless otherwise specified) may be conveyed by counsel for the respective parties that have such consent, acceptance, or approval rights, including by electronic mail; (n) all references to an Entity's "subsidiaries" shall (unless otherwise specified) include all direct and indirect subsidiaries of such Entity; and (o) the words "include" and "including," and variations thereof, shall not be deemed to be terms of limitation, and shall be deemed to be followed by the words "without limitation."

### **1.3 Computation of Time**

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

### **1.4 Governing Law**

Except to the extent the Bankruptcy Code or Bankruptcy Rules apply, and subject to the provisions of any contract, lease, instrument, release, indenture, or other agreement or document entered into expressly 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 of New York, without giving effect to conflict of laws principles.

### **1.5 Reference to Monetary Figures**

All references in the Plan to monetary figures refer to currency of the United States of America, unless otherwise expressly provided.

### **1.6 Reference to the Debtors, the Restructured Debtors or Restructured DX Holding**

Except as otherwise specifically provided in the Plan to the contrary, references in the Plan to the Debtors, the Restructured Debtors, or to Restructured DX Holding mean the Debtors and the Restructured Debtors or Restructured DX Holding, as applicable, to the extent the context requires.

### **1.7 Controlling Document**

In the event of an inconsistency between the Plan and the Disclosure Statement, the terms of the Plan shall control. In the event of an inconsistency between the Plan and any definitive form of a Restructuring Document or other documents, schedules or exhibits contained in the Plan Supplement, such definitive form of a Restructuring Document or other document, schedule, or exhibit shall control. In the event of an inconsistency between the Plan or any definitive form of a Restructuring Document or other documents, schedules, or exhibits contained in the Plan Supplement, on the one hand, and the Confirmation Order, on the other hand, the Confirmation Order shall control.

## **ARTICLE II**

### **ADMINISTRATIVE CLAIMS, DIP TERM FACILITY CLAIMS, PRIORITY TAX CLAIMS, AND STATUTORY FEES**

In accordance with section 1123(a)(1) of the Bankruptcy Code, General Administrative Claims, Professional Fee Claims, DIP Term Facility Claims, and Priority Tax Claims have not been classified and thus are excluded from the Classes of Claims and Interests set forth in Article III of the Plan.

## **2.1 Administrative Claims**

### **2.1.1 General Administrative Claims**

Except to the extent that a Holder of an Allowed General Administrative Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed General Administrative Claim, each Holder of an Allowed General Administrative Claim, which, for the avoidance of doubt, excludes Holders of Professional Fee Claims and Claims for fees and expenses pursuant to section 1930 of chapter 123 of title 28 of the United States Code, will receive in full and final satisfaction of its General Administrative Claim an amount of Cash equal to the amount of such Allowed General Administrative Claim in accordance with the following: (a) if a General Administrative Claim is Allowed on or prior to the Effective Date, on the Effective Date or as soon as reasonably practicable thereafter (or, if not then due, when such Allowed General Administrative Claim is due or as soon as reasonably practicable thereafter); (b) if such General Administrative Claim is not Allowed as of the Effective Date, no later than 30 days after the date on which an order Allowing such General Administrative Claim becomes a Final Order, or as soon as reasonably practicable thereafter; (c) if such Allowed General Administrative Claim is based on liabilities incurred by the Debtors in the ordinary course of their business after the Petition Date in accordance with the terms and conditions of the particular transaction giving rise to such Allowed General Administrative Claim without any further action by the Holders of such Allowed General Administrative Claim; (d) at such time and upon such terms as may be agreed upon by such Holder and the Debtors, the Restructured Debtors, or (solely with respect to General Administrative Claims asserted against DX Holding) Restructured DX Holding, as applicable; or (e) at such time and upon such terms as set forth in an order of the Bankruptcy Court.

### **2.1.2 Professional Fee Claims**

#### **(a) Final Fee Applications**

All final requests for Professional Fee Claims shall be filed no later than 30 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Professional Fee Claims shall be determined by the Bankruptcy Court.

#### **(b) Professional Fee Escrow Account**

On the Effective Date, the Debtors or Restructured Debtors as applicable (excluding Restructured DX Holding), shall establish and fund the Professional Fee Escrow Account with Cash equal to the Professional Fee Reserve Amount. The Professional Fee Escrow Account shall be maintained in trust solely for the Professionals. Such funds shall not be considered property of the Estates of the Debtors or the Restructured Debtors. The amount of Professional Fee Claims owing to the Professionals shall be paid in Cash to such Professionals by the Restructured Debtors from the Professional Fee Escrow Account as soon as reasonably practicable after such Professional Fee Claims are Allowed by a Final Order. When all such Allowed amounts owing to Professionals have been paid in full, any remaining amount in the Professional Fee Escrow Account shall promptly be paid to the Restructured Debtors (excluding Restructured DX Holding) without any further action or order of the Bankruptcy Court. To the extent that funds held in the Professional Fee Escrow Account are unable to satisfy the amount of Professional Fee Claims owed to the Professionals, such Professionals shall have an Allowed Administrative Claim for any such deficiency, which shall be satisfied in accordance with Section 2.1 hereof.

#### **(c) Professional Fee Reserve Amount**

To receive payment for unbilled fees and expenses incurred through the Effective Date, the Professionals shall deliver to the Debtors and the Ad Hoc Committee Advisors a reasonable and good-faith estimate of their Accrued Professional Compensation Claim prior to and as of the Effective Date no later than five (5) days before the Effective Date. If a Professional does not provide such estimate, the Restructured Debtors may estimate the unbilled fees and expenses of such Professional; *provided* that such estimate shall not be considered an admission or limitation with respect to the fees and expenses of such Professional. The total amount so estimated as of the Effective Date shall comprise the Professional Fee Reserve Amount.

**(d) Payment of Certain Fees and Expenses**

Except as otherwise specifically provided in the Plan, from and after the Effective Date, each Debtor and Restructured Debtor (as applicable) shall pay in Cash the reasonable legal fees and expenses incurred by such Debtor or Restructured Debtor (as applicable) after the Effective Date in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court. The Debtors and Restructured Debtors (as applicable) (excluding Restructured DX Holding) shall pay all reasonable and documented fees and expenses of the Ad Hoc Committee Advisors and the Agents (including the reasonable and documented fees and expenses of Cravath, Swaine & Moore LLP and Norton Rose Fulbright, as counsel to the Agents) in accordance with the terms and conditions of any applicable agreement with the Debtors, the DIP Orders, and the Restructuring Support Agreement, and if any such fee and/or expense is unpaid as of the Effective Date such fee and/or expense shall be paid on the Effective Date. If the Debtors or Restructured Debtors (as applicable) dispute the reasonableness of any such invoice, the Debtors or Restructured Debtors (as applicable) or the affected professional may submit such dispute to the Bankruptcy Court for a determination of the reasonableness of any such invoice, and the disputed portion of such invoice shall not be paid until the dispute is resolved. The undisputed portion of such reasonable fees and expenses shall be paid as provided herein. Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and each Debtor, Restructured Debtor, or Restructured DX Holding (as applicable) may employ and pay any Professional in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

**(e) Substantial Contribution Compensation and Expenses**

Any Entity that requests compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code must file an application and serve such application on counsel for the Debtors or Restructured Debtors, as applicable, the Consenting Creditors, and as otherwise required by the Bankruptcy Court, the Bankruptcy Code, and the Bankruptcy Rules on or before three (3) Business Days after the Confirmation Date; *provided* that neither the Ad Hoc Committee Advisors nor the Requisite Consenting Creditors shall be required to file such application, and the Ad Hoc Committee Expenses shall be deemed Allowed General Administrative Claims and paid on the Effective Date.

**2.2 DIP Term Facility Claims**

Except to the extent that a Holder of an Allowed DIP Term Facility Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of all DIP Term Facility Claims, either (a) all amounts outstanding under the DIP Term Facility as of the Effective Date shall be paid in full in Cash from the proceeds of the New First Lien Term Loans provided by third parties, to the extent available, or (b) all amounts outstanding under the DIP Term Facility as of the Effective Date shall roll into New First Lien Term Loans (with DX Holding released as a guarantor) as set forth in the Restructuring Term Sheet.

**2.3 Priority Tax Claims**

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

**2.4 Statutory Fees**

All fees due and payable pursuant to section 1930 of title 28 of the U.S. Code prior to the Effective Date shall be paid by the Debtors plus any interest due and payable under 31 U.S.C. § 3717 on all disbursements, including Plan

payments and disbursements in and outside the ordinary course of the Debtors’ or Restructured Debtors’ business (or such amount agreed to with the U.S. Trustee), for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first.

**ARTICLE III**

**CLASSIFICATION, TREATMENT, AND VOTING OF CLAIMS AND INTERESTS**

**3.1 Classification of Claims and Interests**

The Plan constitutes a separate plan proposed by each Debtor within the meaning of section 1121 of the Bankruptcy Code. Except for the Claims addressed in Article II of the Plan, all Claims and Interests are classified in the Classes set forth below in accordance with section 1122 of the Bankruptcy Code. In accordance with section 1123(a)(1) of the Bankruptcy Code, the Debtors have not classified Administrative Claims, DIP Term Facility Claims, Professional Fee Claims, and Priority Tax Claims, as described in Article II.

A Claim or an Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim or an Interest also is classified in a particular Class for the purpose of receiving distributions under the Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and has not been paid, released, or otherwise satisfied or disallowed by Final Order prior to the Effective Date. For all purposes under the Plan, each Class will contain sub-Classes for each of the Debtors (*i.e.*, there will be fifteen (15) Classes for each Debtor other than, for the avoidance of doubt, Class 8, which shall exist solely at DESG and Deluxe (Delaware) Canada Holdings Corporation, Class 14, which shall exist solely at DX Holding, and Class 15, which shall exist solely at DESG); *provided* that any Class that does not contain any Allowed Claims or Allowed Interests with respect to a particular Debtor will be treated in accordance with Section 3.5 below.

Below is a chart assigning each Class a number for purposes of identifying each separate Class:

**Summary of Classification and Treatment of Claims and Interests**

<b><u>Class</u></b>	<b><u>Claim or Interest</u></b>	<b><u>Status</u></b>	<b><u>Voting Rights</u></b>
1	Other Secured Claims	Unimpaired	Presumed to Accept
2	Other Priority Claims	Unimpaired	Presumed to Accept
3	Existing ABL Facility Claims	Unimpaired	Presumed to Accept
4	MAFCO Secured Debt Claims	Impaired	Deemed to Reject <sup>2</sup>
5	Senior Priming Term Loan Claims	Unimpaired	Presumed to Accept
6	Priming Term Loan Claims	Impaired	Entitled to Vote
7	Existing Term Loan Claims	Impaired	Entitled to Vote
8	Canadian Loan Claims	Unimpaired	Presumed to Accept

<sup>2</sup> The Restructuring Support Agreement contemplates that the MAFCO Secured Debt will be cancelled, released, and extinguished but that MAFCO will consent to such treatment and support confirmation of the Plan.

<u>Class</u>	<u>Claim or Interest</u>	<u>Status</u>	<u>Voting Rights</u>
9	MAFCO Unsecured Claims	Impaired	Deemed to Reject <sup>3</sup>
10	General Unsecured Claims	Unimpaired	Presumed to Accept
11	Section 510(b) Claims	Impaired	Deemed to Reject
12	Intercompany Claims	Unimpaired / Impaired	Presumed to Accept / Deemed to Reject
13	Intercompany Interests	Unimpaired / Impaired	Presumed to Accept / Deemed to Reject
14	Existing Equity Interests in DX Holding	Unimpaired	Presumed to Accept <sup>4</sup>
15	Existing Equity Interests in DESG	Impaired	Deemed to Reject

### 3.2 Treatment of Classes of Claims and Interests<sup>5</sup>

Except to the extent that the Debtors and a Holder of an Allowed Claim agrees to less favorable treatment, such Holder shall receive under the Plan the treatment described below in full and final satisfaction, settlement, release, and discharge of, and in exchange for, such Holder’s Allowed Claim. Unless otherwise indicated, the Holder of an Allowed Claim or Allowed Interest, as applicable, shall receive such treatment on the Effective Date or as soon as reasonably practicable thereafter.

#### (a) **Class 1 — Other Secured Claims**

- (1) *Classification:* Class 1 consists of all Other Secured Claims.
- (2) *Treatment:* Except to the extent that a Holder of an Allowed Other Secured Claim agrees to less favorable treatment, on the Effective Date, or as soon as reasonably practicable thereafter, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed Other Secured Claim, each Holder thereof shall receive, at the option of the applicable Debtor(s), Restructured Debtor(s) or (solely with respect to Other Secured Claims asserted against DX Holding) Restructured DX Holding, as applicable: (a) payment in full in Cash; (b) the collateral securing its Allowed Other Secured Claim; (c) Reinstatement of its Allowed Other Secured Claim; or (d) such other treatment rendering its Allowed Other Secured Claim Unimpaired in accordance with section 1124 of the Bankruptcy Code.
- (3) *Voting:* Class 1 is Unimpaired and Holders of Allowed Other Secured Claims in Class 1 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the

<sup>3</sup> The Restructuring Support Agreement contemplates that the MAFCO Unsecured Debt will be cancelled, released, and extinguished but that MAFCO will consent to such treatment and support confirmation of the Plan.

<sup>4</sup> These Interests are being Reinstated for implementation purposes only, and the Holders of Class 14 Claims will not receive any actual economic recovery on account of this classification.

<sup>5</sup> Allowed Claim amounts referenced in this section are subject to adjustment to reflect any changes to the outstanding principal amounts prior to the Effective Date.

Bankruptcy Code. Therefore, Holders of Allowed Other Secured Claims in Class 1 are not entitled to vote to accept or reject the Plan.

**(b) Class 2 — Other Priority Claims**

- (1) *Classification:* Class 2 consists of all Other Priority Claims.
- (2) *Treatment:* Except to the extent that a Holder of an Allowed Other Priority Claim agrees to less favorable treatment, on the Effective Date, or as soon as reasonably practicable thereafter, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for such Allowed Other Priority Claim, each Holder thereof shall receive payment in full in Cash.
- (3) *Voting:* Class 2 is Unimpaired and Holders of Allowed Other Priority Claims in Class 2 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Allowed Other Priority Claims in Class 2 are not entitled to vote to accept or reject the Plan.

**(c) Class 3 — Existing ABL Facility Claims**

- (1) *Classification:* Class 3 consists of all Existing ABL Facility Claims.
- (2) *Allowance:* On the Effective Date, the Existing ABL Facility Claims shall be deemed Allowed in the aggregate amount of \$56.35 million in principal, plus (i) reimbursement obligations, fees, indemnities, costs, expenses, and other amounts, liabilities and obligations, and (ii) accrued and unpaid interest, including postpetition interest, at the contract rate through the Effective Date.
- (3) *Treatment:* Except to the extent that a Holder of an Allowed Existing ABL Facility Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each Allowed Existing ABL Facility Claim, each Allowed Existing ABL Facility Claim shall (a) only with the consent of each Existing ABL Lender (which may be withheld in their discretion), be converted into a claim under the Exit ABL Facility and continue in full force and effect on and after the Effective Date, as amended and restated by and in accordance with the Exit ABL Facility Documents, and nothing in the Plan shall, or shall be construed to release, discharge, relieve, limit, or impair in any way the rights of any Holder of an Existing ABL Facility Claim or any Lien securing such Claim, all of which shall be amended and restated by the Exit ABL Facility Documents, or (b) be indefeasibly paid in full, in Cash, by the Debtors on the Effective Date (or, in the case of contingent Claims, when such Claims become due and owing in accordance with the terms of the Existing ABL Revolving Credit Agreement and the other Existing ABL Documents). For avoidance of doubt, Restructured DX Holding is not and shall not be a party under the Exit Facilities. Letters of credit outstanding under the Existing ABL Facility shall be addressed in a manner satisfactory to the Existing ABL Agent, the applicable issuing bank and the Requisite Consenting Creditors on or prior to the Effective Date.
- (4) *Voting:* Class 3 is Unimpaired and Holders of Allowed Existing ABL Facility Claims in Class 3 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Existing ABL Facility Claims in Class 3 are not entitled to vote to accept or reject the Plan.

**(d) Class 4 — MAFCO Secured Debt Claims**

- (1) *Classification:* Class 4 consists of all MAFCO Secured Debt Claims.

- (2) *Treatment:* In accordance with the Restructuring Support Agreement, on the Effective Date, MAFCO Secured Debt Claims shall be cancelled, released, and extinguished, and the Holders of such Claims shall receive no recovery or distribution on account thereof; *provided, however*, that MAFCO (or any of its Affiliates) shall be entitled to contribute, on or before the Effective Date, any or all of such MAFCO Secured Debt to the Debtors in extinguishment thereof.
  - (3) *Voting:* Class 4 is Impaired and Holders of Allowed MAFCO Secured Debt Claims in Class 4 are conclusively presumed to have rejected the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Allowed MAFCO Secured Debt Claims in Class 4 are not entitled to vote to accept or reject the Plan.
- (e) **Class 5 — Senior Priming Term Loan Claims (if not satisfied with the proceeds of the DIP Term Facility)**
- (1) *Classification:* Class 5 consists of all Senior Priming Term Loan Claims to the extent such Claims are not satisfied with the proceeds of the DIP Term Facility.
  - (2) *Allowance:* If the Senior Priming Term Loan Claims are not satisfied with the proceeds of the DIP Term Facility, on the Effective Date, the Senior Priming Term Loan Claims shall be deemed Allowed in the aggregate amount of \$10 million<sup>6</sup> in principal, plus accrued and unpaid interest (including postpetition interest at the contract rate), premiums, fees and costs, and other amounts that may be due and payable under the Senior Priming Term Loan Credit Agreement.
  - (3) *Treatment:* Except to the extent that a Holder of an Allowed Senior Priming Term Loan Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each Allowed Senior Priming Term Loan Claim, each Holder thereof shall be paid in full in Cash.
  - (4) *Voting:* Class 5 is Unimpaired and Holders of Allowed Senior Priming Term Loan Claims in Class 5 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Senior Priming Term Loan Claims in Class 5 are not entitled to vote to accept or reject the Plan.
- (f) **Class 6 — Priming Term Loan Claims**
- (1) *Classification:* Class 6 consists of all Priming Term Loan Claims.
  - (2) *Allowance:* On the Effective Date, the Priming Term Loan Claims shall be deemed Allowed in the aggregate amount of \$73 million in principal, plus accrued and unpaid interest (including postpetition interest at the contract rate), premiums, fees and costs, and other amounts that may be due and payable under the Priming Term Loan Credit Agreement.
  - (3) *Treatment:* Except to the extent that a Holder of an Allowed Priming Term Loan Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each Allowed Priming Term Loan Claim, each Holder thereof shall receive its Pro Rata share of and interest in: (a) either (i) the New Second Lien Term Loans, or, to the extent available, (ii) Cash proceeds from the New Second Lien Term Loans that may be issued by third

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<sup>6</sup> Amount does not include \$4.022 million holdback for potential cash collateralization of letters of credit, which may be drawn prior to the Petition Date, and, as such, the allowed amount may increase to approximately \$14 million.

parties; and (b) 35% of the Restructured DESG Equity Interests, in each case, subject to dilution by the Management Incentive Plan.

- (4) *Voting:* Class 6 is Impaired. Therefore, Holders of Class 6 Priming Term Loan Claims are entitled to vote to accept or reject the Plan.

**(g) Class 7 — Existing Term Loan Claims**

- (1) *Classification:* Class 7 consists of all Existing Term Loan Claims.
- (2) *Allowance:* On the Effective Date, the Existing Term Loan Claims shall be deemed Allowed in the aggregate amount of \$783.5 million in principal, plus accrued and unpaid interest (including postpetition interest at the contract rate), premiums, fees and costs, and other amounts that may be due and payable under the Existing Term Loan Credit Agreement.
- (3) *Treatment:* Except to the extent that a Holder of an Allowed Existing Term Loan Claim agrees to less favorable treatment, on the Effective Date, in full and final satisfaction, compromise, settlement, release, and discharge of and in exchange for each Allowed Existing Term Loan Claim, each Holder thereof shall receive its Pro Rata share of and interest in 65% of the Restructured DESG Equity Interests, subject to dilution by the Management Incentive Plan.
- (4) *Voting:* Class 7 is Impaired. Therefore, Holders of Class 7 Existing Term Loan Claims are entitled to vote to accept or reject the Plan.

**(h) Class 8 — Canadian Loan Claims**

- (1) *Classification:* Class 8 consists of all Claims arising from the Canadian Loans solely against Debtors DESG and Deluxe (Delaware) Canada Holdings Corporation.
- (2) *Allowance:* On the Effective Date, the Canadian Loan Claims shall be deemed Allowed in the aggregate amount of \$49.2 million as of the Petition Date solely against Debtors DESG and Deluxe (Delaware) Canada Holdings Corporation.
- (3) *Treatment:* On the Effective Date, the Canadian Term Loan Facility shall be amended and restated on such terms and conditions that are mutually acceptable to the lenders under the Canadian Term Loan Facility, the Debtors and the Requisite Consenting Creditors.
- (4) *Voting:* Class 8 is Unimpaired and Holders of Allowed Canadian Loan Claims in Class 8 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Canadian Loan Claims in Class 8 are not entitled to vote to accept or reject the Plan.

**(i) Class 9 — MAFCO Unsecured Claims**

- (1) *Classification:* Class 9 consists of all MAFCO Unsecured Claims.
- (2) *Treatment:* On the Effective Date, the MAFCO Unsecured Claims shall be cancelled, released, and extinguished, and the Holders of such Claims shall receive no recovery or distribution on account thereof; *provided, however*, that MAFCO (or any of its Affiliates) shall be entitled to contribute, on or before the Effective Date, any or all of such MAFCO Unsecured Claims to the Debtors in extinguishment thereof.

- (3) *Voting:* Class 9 is Impaired and Holders of Allowed MAFCO Unsecured Claims in Class 9 are conclusively presumed to have rejected the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Allowed MAFCO Unsecured Claims in Class 9 are not entitled to vote to accept or reject the Plan.

**(j) Class 10 — General Unsecured Claims**

- (1) *Classification:* Class 10 consists of all General Unsecured Claims.
- (2) *Treatment:* On the Effective Date, unless otherwise set forth herein, General Unsecured Claims shall be Reinstated.
- (3) *Voting:* Class 10 is Unimpaired and Holders of Allowed General Unsecured Claims in Class 10 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Allowed General Unsecured Claims in Class 10 are not entitled to vote to accept or reject the Plan.

**(k) Class 11 — Section 510(b) Claims**

- (1) *Classification:* Class 11 consists of all Section 510(b) Claims.
- (2) *Treatment:* Section 510(b) Claims will be cancelled, released, discharged, and extinguished as of the Effective Date, and will be of no further force or effect, and Holders of Section 510(b) Claims will not receive any distribution on account of such Section 510(b) Claims.
- (3) *Voting:* Class 11 is Impaired under the Plan. Holders of Allowed Section 510(b) Claims in Class 11, if any, are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Allowed Section 510(b) Claims in Class 11 are not entitled to vote to accept or reject the Plan.

**(l) Class 12 — Intercompany Claims**

- (1) *Classification:* Class 12 consists of all Intercompany Claims.
- (2) *Treatment:* Subject to the Restructuring Transactions, on the Effective Date, each Intercompany Claim shall be, at the option of the Debtors or the Restructured Debtors, as applicable, and the Requisite Consenting Creditors, either Reinstated or cancelled and released without any distribution. Notwithstanding anything to the contrary herein, as of the Effective Date, any Intercompany Claims between DX Holding and any other Debtor are cancelled.
- (3) *Voting:* Holders of Allowed Intercompany Claims in Class 12 are either Unimpaired, and such Holders are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, or Impaired, and such Holders are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Allowed Intercompany Claims in Class 12 are not entitled to vote to accept or reject the Plan.

**(m) Class 13 — Intercompany Interests**

- (1) *Classification:* Class 13 consists of all Intercompany Interests other than DESG or DX Holding interests.
- (2) *Treatment:* Subject to the Restructuring Transactions, on the Effective Date, Intercompany Interests shall be, at the option of the Debtors or the Restructured Debtors, as applicable, and the Requisite Consenting Creditors, either Reinstated or cancelled and released without any distribution. Notwithstanding anything to the contrary herein, as of the Effective Date, any Intercompany Interests between DX Holding and any other Debtor are cancelled.
- (3) *Voting:* Holders of Allowed Intercompany Interests in Class 13 are either Unimpaired, and such Holders are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code, or Impaired, and such Holders are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Allowed Intercompany Interests in Class 13 are not entitled to vote to accept or reject the Plan.

**(n) Class 14 — Existing Equity Interests in DX Holding**

- (1) *Classification:* Class 14 consists of all Existing Equity Interests in DX Holding.
- (2) *Treatment:* On the Effective Date, all Interests in DX Holding shall remain in place and shall not be cancelled, released, or extinguished.
- (3) *Voting:* Class 14 is Unimpaired under the Plan. Holders of Existing Equity Interests in DX Holding in Class 14 are conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Existing Equity Interests in DX Holding in Class 14 are not entitled to vote to accept or reject the Plan.

**(o) Class 15 — Existing Equity Interests in DESG**

- (1) *Classification:* Class 15 consists of all Existing Equity Interests in DESG.
- (2) *Treatment:* On the Effective Date, all Interests in DESG will be cancelled, released, and extinguished, and will be of no further force or effect, and the Holders of such equity Interests will receive no distribution on account thereof.
- (3) *Voting:* Class 15 is Impaired under the Plan. Holders of Existing Equity Interests in DESG in Class 15 are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Existing Equity Interests in DESG in Class 15 are not entitled to vote to accept or reject the Plan.

**3.3 Special Provision Governing Unimpaired Claims**

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors', the Restructured Debtors' or Restructured DX Holding's rights regarding any Unimpaired Claim, including all rights regarding legal and equitable defenses to, or setoffs or recoupments against, any such Unimpaired Claim. Unless otherwise Allowed, Claims that are Unimpaired shall remain Disputed Claims under the Plan.

Notwithstanding anything to the contrary herein, the \$9,160,569.60 in total fees and expenses (representing a negotiated fee amount that is only effective in connection with payment on the terms and timing set forth herein) owed to DESG's primary outside counsel related to the failed "Creative" transaction (i) is an Allowed General Unsecured Claim, (ii) is not subject to the first part of this Section 3.3, and (iii) shall be paid by the Debtors (or by the

Restructured Debtors) (in either case, excluding DX Holding), 50% on or prior to the Effective Date and 50% on or prior to December 31, 2019.

### **3.4 Controversy Concerning Impairment**

If a controversy arises as to whether any Claims or Interests, or any Class thereof, is Impaired, the Bankruptcy Court shall, after notice and a hearing, determine such controversy on or before the Confirmation Date.

### **3.5 Elimination of Vacant Classes**

Any Class of Claims or Interests that does not have a Holder of an Allowed Claim or Allowed Interest, or a Claim or Interest temporarily Allowed by the Bankruptcy Court in an amount greater than zero as of the date of the Confirmation Hearing, shall be considered vacant and deemed eliminated from the Plan for purposes of voting to accept or reject the Plan and for purposes of determining acceptance or rejection of the Plan by such Class pursuant to section 1129(a)(8) of the Bankruptcy Code.

### **3.6 Voting Classes; Presumed Acceptance by Non-Voting Classes**

If a Class contains Claims or Interests eligible to vote and no Holder of Claims or Interests eligible to vote in such Class votes to accept or reject the Plan, the Plan shall be presumed accepted by the Holders of such Claims or Interests in such Class.

### **3.7 Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code**

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

### **3.8 Subordinated Claims**

Except as expressly provided herein, the allowance, classification, and treatment of all Allowed Claims against and Allowed Interests in the Debtors and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and 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. Pursuant to section 510 of the Bankruptcy Code, the Debtors, the Restructured Debtors, and (solely with respect to Claims asserted against and Interests in DX Holding) Restructured DX Holding reserve the right to reclassify any Allowed Claim or Allowed Interest in accordance with any contractual, legal, or equitable subordination relating thereto.

### **3.9 Intercompany Interests**

To the extent Reinstated under the Plan, the Intercompany Interests shall be Reinstated for the ultimate benefit of the Holders of the Restructured DESG Equity Interests. Distributions on account of the Intercompany Interests are not being received by Holders of such Intercompany Interests on account of their Intercompany Interests but solely for the purposes of administrative convenience in establishing the corporate structure of the Restructured Debtors.

In addition, the Existing Equity Interests in DX Holding are being Reinstated for implementation purposes only and the Holders of Existing Equity Interests in DX Holding will not receive any actual economic recovery or other disbursements under the Plan on account of this classification.

## ARTICLE IV

### PROVISIONS FOR IMPLEMENTATION OF THE PLAN

#### 4.1 General Settlement of Claims and Interests

Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, upon the Effective Date, the provisions of the Plan shall constitute a good faith compromise and settlement of all Claims and Interests and controversies resolved pursuant to the Plan. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and is within the range of reasonableness. Subject to Article VI of the Plan, all distributions made to Holders of Allowed Claims and Allowed Interests in any Class are intended to be and shall be final.

#### 4.2 Restructuring Transactions

Following the Confirmation Date, the Debtors, the Restructured Debtors, and (solely with respect to the restructuring of DX Holding) Restructured DX Holding may take all actions as may be necessary or appropriate, with the consent of the Requisite Consenting Creditors (except regarding Restructured DX Holding), to effectuate the transactions described in, approved by, contemplated by, or necessary to effectuate the Restructuring Support Agreement and the Plan as set forth in the Restructuring Transactions Memorandum, including a Taxable Transaction, a tax-free transaction, or otherwise, each of which shall be acceptable to the Requisite Consenting Creditors (collectively, the "Restructuring Transactions"). The Restructuring Transactions may include one or more of the following: (a) the execution and delivery of any appropriate agreements or other documents of merger, amalgamation, consolidation, restructuring, conversion, disposition, transfer, formation, organization, dissolution, or liquidation containing terms that are consistent with the terms of the Plan, and that satisfy the requirements of applicable law and any other terms to which the applicable Entities may agree, including the documents comprising the Plan Supplement; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt, or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable Entities agree; (c) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, amalgamation, consolidation, conversion, or dissolution (including in respect of the dissolution of DESG) pursuant to applicable state law; (d) such other transactions that are required to effectuate the Restructuring Transactions including any mergers, consolidations, restructurings, conversions, dispositions, transfers, formations, organizations, dissolutions, or liquidations; (e) the execution, delivery, and filing, if applicable, of the Exit Facilities Documents; and (f) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

Without limiting the foregoing, the Restructuring Transactions may include changes to the corporate and/or capital structure of DESG and/or any of its subsidiaries to be made on or prior to the Effective Date, in each case, as determined by the Debtors and the Requisite Consenting Creditors. For the avoidance of doubt, such changes to the corporate and/or capital structure may include, but are not limited to, (i) the conversion of DESG and/or one or more of its subsidiaries into corporations, limited liability companies or partnerships, (ii) the creation of one or more newly formed Entities and/or holdings companies, including Creative Intermediate Holdco and Distribution Intermediate Holdco to, among other things, bifurcate the "Creative" and "Distribution" businesses of the Debtors, (iii) the merger of one or more existing or newly formed entities and/or holding companies, (iv) the issuance of intercompany liabilities and/or intercompany equity, and (v) any "election" that may be made for United States federal income tax purposes, (vi) the creation of one or more newly formed entities (including the DESG Acquiring Entities) and the transfer of the assets of DESG or any of its subsidiaries to one or more newly formed entities, and/or (vii) the restructuring or repositioning of any of the direct or indirect subsidiaries of DESG.

The Confirmation Order shall and shall be deemed, pursuant to both section 1123 and section 363 of the Bankruptcy Code, to authorize, among other things, all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan.

#### 4.3 **Foreign Debt**

##### 4.3.1 *Release of UK Guarantees and Liens*

On the Effective Date and concurrently with the applicable distributions made pursuant to the Plan to Holders of Senior Priming Term Loan Claims, Priming Term Loan Claims, Existing Term Loan Claims, and Existing ABL Facility Claims, all guarantees, mortgages, deeds of trust, Liens, pledges, or other security interests against any UK Guarantor held by any Holder of a Senior Priming Term Loan Claim, a Priming Term Loan Claim, an Existing Term Loan Claim, and an Existing ABL Facility Claim (whether held individually or by their Agent) relating to the Senior Priming Term Loan Facility, the Priming Term Loan Facility, the Existing Term Loan Facility and the Existing ABL Facility, as applicable, shall be fully and automatically released and discharged. In addition, at the sole expense of the Debtors or the Restructured Debtors, as applicable, the Agents shall execute and deliver all documents reasonably requested by the Requisite Consenting Creditors or the Restructured Debtors to evidence the release of such guarantees, mortgages, deeds of trust, Liens, pledges, and other security interests and shall authorize the Restructured Debtors and Restructured DX Holding and their designees to file UCC-3 termination statements and other release documentation (to the extent applicable) with respect thereto.

##### 4.3.2 *Modifications to the Canadian Term Loan Facility and Australian Term Loan Facility*

On or prior to the Effective Date, the Canadian Term Loan Facility and the Australian Term Loan Facility may be amended, amended and restated, or otherwise modified (provided that any such amendment, amendment and restatement, or modification is acceptable to the Requisite Consenting Creditors and the Debtors), which, among other things, may extend the maturity under the Canadian Term Loan Facility and the Australian Term Loan Facility and may provide the necessary amendments, waivers, grants of liens or guarantees, or consents (if necessary) to implement the Restructuring Transactions.

#### 4.4 **Restructured DESG Equity Interests**

All Existing Equity Interests in DESG (including, without limitation, all common stock, preferred stock, preferred share purchase rights, warrants, options, or otherwise) shall be cancelled, released, and extinguished as of the Effective Date, and the Holders of such Interests will receive no distribution on account thereof. Subject in all respects to the Restructuring Transactions Memorandum, on the Effective Date, Restructured Holdings shall issue and distribute, or otherwise transfer (directly or indirectly) the Restructured DESG Equity Interests to Restructured DESG and Restructured DESG shall transfer and distribute such interests pursuant to the Plan.

Upon the Effective Date, (a) the Restructured DESG Equity Interests shall not be registered under the Securities Act, and shall not be listed for public trading on any securities exchange, and (b) the Restructured Debtors will not be a reporting company under the Exchange Act; *provided, however*, that Restructured DESG shall provide customary financial reporting to Holders of the New Term Loan Facilities and the Exit ABL Facility, as set forth in the New Term Loan Facilities Documents, the Exit ABL Facility Documents, the New Organizational Documents, and the New Shareholders Agreement, as applicable, and agreed to by the Requisite Consenting Creditors.

The issuance of the Restructured DESG Equity Interests shall be authorized without the need for any further corporate action and without any further action by the Debtors, Restructured Debtors, Restructured DESG, or any of their equity holders, members, directors, management, officers, or employees, as applicable. The issuance and distribution, or other transfer, on the Effective Date of Restructured DESG Equity Interests to the Distribution Agent for the benefit of Holders of Allowed Claims in Class 6 and Class 7 in accordance with the terms of Article III of the Plan shall be authorized. All Restructured DESG Equity Interests issued and distributed under the Plan shall be duly authorized, validly issued, fully paid, and non-assessable (as applicable), and the Holders of Restructured DESG Equity Interests shall be deemed as a result of having received distributions of Restructured DESG Equity Interests pursuant to the Plan to have accepted the terms of the New Shareholders Agreement and the New Organizational Documents (solely in their capacity as members of Restructured DESG) and to be parties thereto without further action or signature. The New Shareholders Agreement and the New Organizational Documents shall be effective as of the Effective Date and, as of such date, shall be deemed to be valid, binding, and enforceable in accordance with their terms, and each Holder of Restructured DESG Equity Interests shall be bound thereby (without any further action or

signature) in all respects, whether or not such Holder has executed the New Shareholders Agreement or the applicable New Organizational Documents.

#### **4.5 Exit Facilities**

On the Effective Date, Restructured Holdings, Restructured DESG and/or their applicable direct and indirect wholly-owned subsidiaries shall enter into the Exit Facilities, the terms of which will be set forth in the Exit Facilities Documents. For the avoidance of doubt, Restructured DX Holding shall not be a party to the Exit Facilities.

Confirmation of the Plan shall be deemed approval of the Exit Facilities and the Exit Facilities Documents, as applicable, and all transactions contemplated thereby, and all actions to be taken, undertakings to be made, and obligations to be incurred by the Restructured Debtors (in all cases, for the avoidance of doubt, excluding Restructured DX Holding) in connection therewith, including the payment of all fees, indemnities, expenses, and other payments provided for therein and authorization of the Restructured Debtors (in all cases, for the avoidance of doubt, excluding Restructured DX Holding) to enter into and execute the Exit Facilities Documents and such other documents as may be required to effectuate the treatment afforded by the Exit Facilities.

On the Effective Date, all of the Liens and security interests to be granted in accordance with the Exit Facilities Documents (a) shall be deemed to be granted, (b) shall be legal, binding, and enforceable Liens on, and security interests in, the collateral granted thereunder in accordance with the terms of the Exit Facilities Documents, (c) shall be deemed automatically perfected on the Effective Date, subject only to such Liens and security interests as may be permitted under the Exit Facilities Documents, and (d) shall not be subject to recharacterization or equitable subordination for any purposes whatsoever and shall not constitute preferential transfers or fraudulent conveyances under the Bankruptcy Code or any applicable non-bankruptcy law. The Restructured Debtors (in all cases, for the avoidance of doubt, excluding Restructured DX Holding) and the persons and Entities granted such Liens and security interests shall be authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary to establish and perfect such Liens and security interests under the provisions of the applicable state, federal, or other law that would be applicable in the absence of the Plan and the Confirmation Order (it being understood that perfection shall occur automatically by virtue of the entry of the Confirmation Order and any such filings, recordings, approvals, and consents shall not be required), and will thereafter cooperate to make all other filings and recordings that otherwise would be necessary under applicable law to give notice of such Liens and security interests to third parties.

#### **4.6 Exemption from Registration Requirements**

The offering, issuance, and distribution of any Securities, including the Restructured DESG Equity Interests, pursuant to the Plan, shall be exempt from, among other things, the registration requirements of section 5 of the Securities Act or any similar federal, state, or local law pursuant to section 1145 of the Bankruptcy Code. Except as otherwise provided in the Plan or the governing certificates or instruments for such Securities, any and all Restructured DESG Equity Interests issued and distributed under the Plan will be freely tradable under the Securities Act by the recipients thereof, subject to: (a) the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, and compliance with any applicable state or foreign securities laws, if any, and any rules and regulations of the United States Securities and Exchange Commission, if any, applicable at the time of any future transfer of such Securities or instruments; (b) the restrictions, if any, on the transferability of such Securities including any such restrictions in the New Shareholders Agreement, if any, or the New Organizational Documents; and (c) any other applicable regulatory approval. The Restructured DESG Equity Interests issued pursuant to section 1145 of the Bankruptcy Code: (a) are not “restricted securities” as defined in Rule 144(a)(3) under the Securities Act, and (b) are freely tradable and transferable by any holder thereof that (1) is not an “affiliate” of the Restructured Debtors as defined in Rule 144(a)(1) under the Securities Act, (2) has not been such an “affiliate” within ninety (90) days of such transfer, (3) has not acquired the Restructured DESG Equity Interests from an “affiliate” within one year of such transfer, and (4) is not an entity that is an “underwriter” as defined in subsection (b) of section 1145 of the Bankruptcy Code.

Should the Restructured Debtors elect, on or after the Effective Date, to reflect all or any portion of the ownership of the Restructured DESG Equity Interests through the facilities of DTC, the Restructured Debtors shall not be required to provide any further evidence other than the Plan or Confirmation Order with respect to the treatment

of such applicable portion of the Restructured DESG Equity Interests, and such Plan or Confirmation Order shall be deemed to be legal and binding obligations of the Restructured Debtors in all respects. Notwithstanding any policies, practices, or procedures of DTC or any other applicable clearing system, DTC and all other applicable clearing systems shall cooperate with and take all actions reasonably requested by a Distribution Agent or agent to facilitate distributions to Holders of Allowed Claims without requiring that such distributions be characterized as repayments of principal or interest. No Distribution Agent or agent shall be required to provide indemnification or other security to DTC in connection with any distributions to Holders of Allowed Claims through the facilities of DTC.

DTC and any stock transfer agent retained by the Restructured Debtors shall be required to accept and conclusively rely upon the Plan and Confirmation Order in lieu of a legal opinion regarding whether the Restructured DESG Equity Interests are exempt from registration and/or eligible for DTC book-entry delivery, settlement, and depository services.

Notwithstanding anything to the contrary in the Plan, no Entity (including, for the avoidance of doubt, DTC, but excluding the lenders or agents under the Exit Facilities) may require a legal opinion regarding the validity of any transaction contemplated by the Plan, including, for the avoidance of doubt, whether the Restructured DESG Equity Interests are exempt from registration and/or eligible for DTC book-entry delivery, settlement, and depository services.

#### **4.7 Vesting of Assets in the Restructured Debtors and Restructured DX Holding**

Except as otherwise provided herein, or in any agreement, instrument, or other document incorporated in the Plan (including with respect to the Restructuring Transactions and the Exit Facilities Documents), on the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, all property in each Restructured Debtor's Estate or in Restructured DX Holding's Estate, all Causes of Action, and any property acquired by any of the Debtors under the Plan shall vest in each respective Restructured Debtor or in Restructured DX Holding, as applicable, free and clear of all Liens, Claims, charges, or other encumbrances. On and after the Effective Date, except as otherwise provided herein, each Restructured Debtor or Restructured DX Holding may operate its business and may use, acquire, or dispose of property and pursue, compromise, or settle any Claims, Interests, or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

#### **4.8 Cancellation of Instruments, Certificates, and Other Documents**

On the Effective Date, except with respect to the Exit ABL Facility, the New Term Loan Facilities, and the Restructured DESG Equity Interests or as otherwise provided in the Plan, the Plan Supplement, or the Restructuring Transactions Memorandum: (a) the obligations of the Debtors or any Interests in DESG under the DIP Term Facility, the Senior Priming Term Loan Facility, the Priming Term Loan Facility, the Existing ABL Facility, the Existing Term Loan Facility, and any Interest in DESG, certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or obligation of, or ownership interest in, the Debtors giving rise to any Claim or Interest, including, for the avoidance of doubt, any and all shareholder or similar agreements related to Interests in DESG, shall automatically be cancelled or terminated, as applicable, and the Debtors and the Restructured Debtors and Restructured DX Holding shall not have any continuing obligations thereunder; and (b) the obligations of the Debtors or any Interests in DESG pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation, or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors shall be released and discharged; *provided* that, notwithstanding Confirmation or the occurrence of the Effective Date, any such agreement that governs the rights of the Holder of an Allowed Claim shall continue in effect solely for purposes of enabling such Holder to receive distributions under the Plan on account of such Allowed Claim as provided herein; *provided, further*, that the preceding proviso shall not affect the discharge of Claims or Interests pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan or result in any expense or liability to the Restructured Debtors or Restructured DX Holding, except to the extent set forth in or provided for under the Plan; *provided, further*, that nothing in this section shall effect a cancellation of any Restructured DESG Equity Interests, Intercompany Interests, Intercompany Claims, or Interests in DX Holding.

Notwithstanding Confirmation, the occurrence of the Effective Date or anything to the contrary herein, such matters that, by their express terms, survive the termination of the Existing Credit Agreements shall survive the occurrence of the Effective Date, including the rights of the Agents to expense reimbursement, indemnification, and similar amounts.

#### **4.9 Sources for Plan Distributions and Transfers of Funds Among Debtors**

The Debtors shall fund distributions under the Plan with: (a) Cash on hand, including cash from operations and the proceeds of the DIP Term Facility, as applicable (b) the proceeds of the Exit Facilities and the loans thereunder, and (c) the Restructured DESG Equity Interests. Cash payments to be made pursuant to the Plan will be made by the Debtors or Restructured Debtors, as applicable. Except as set forth herein, and to the extent consistent with any applicable limitations set forth in any applicable post-Effective Date agreement (including the Exit Facilities Documents and New Organizational Documents), any changes in intercompany account balances resulting from such transfers will be accounted for and settled in accordance with the Debtors' historical intercompany account settlement practices and will not violate the terms of the Plan.

#### **4.10 Corporate Action**

Subject to the Restructuring Support Agreement, upon the Effective Date, all actions contemplated by the Plan, the Plan Supplement, and the Restructuring Transactions Memorandum shall be deemed authorized, approved, and, to the extent taken prior to the Effective Date, ratified by the Bankruptcy Court, in each case, without any requirement for further action by any Holders of Claims or Interests, equity holders, directors, managers, or officers of the Debtors, the Restructured Debtors, Restructured DX Holding, or any other Entity, including: (a) rejection or assumption, as applicable, of Executory Contracts and Unexpired Leases; (b) selection of the directors, managers, and officers for the Restructured Debtors and Restructured DX Holding, including the appointment of the New Board; (c) the entry into the Exit Facilities and the execution, entry into, delivery, and filing of the Exit Facilities Documents, as applicable; (d) the adoption and/or filing of the New Organizational Documents and the New Shareholders Agreement and the New DX Holding Organizational Documents; (e) the issuance and distribution, or other transfer, of the Restructured DESG Equity Interests as provided herein; (f) implementation of the Restructuring Transactions, including the mergers, incurrence of debt and liens, and transactions set forth therein; and (g) all other acts or actions contemplated, or reasonably necessary or appropriate to promptly consummate the transactions contemplated by the Plan (whether to occur before, on, or after the Effective Date). Upon the Effective Date, all matters provided for in the Plan involving the corporate structure of the Debtors, the Restructured Debtors, Restructured DX Holding, or the DESG Acquiring Entities and any corporate action required by the Debtors, the Restructured Debtors, Restructured DX Holding, or the DESG Acquiring Entities in connection therewith, shall be deemed to have occurred on, and shall be in effect as of, the Effective Date, without any requirement of further action by the security holders, directors, managers, authorized persons, or officers of the Debtors, the Restructured Debtors or Restructured DX Holding. On or (as applicable) before the Effective Date, the appropriate officers of the Debtors, Restructured DESG, the other Restructured Debtors, or Restructured DX Holding, as applicable, shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effectuate the Restructuring Transactions) in the name of and on behalf of Restructured DESG and the other Restructured Debtors, or Restructured DX Holding, as applicable, including the Exit Facilities Documents and any and all other agreements, documents, Securities, and instruments relating to the foregoing, to the extent not previously authorized by the Bankruptcy Court. The authorizations and approvals contemplated by this Section 4.10 shall be effective notwithstanding any requirements under non-bankruptcy law.

During the period from entry of the Confirmation Order through the Effective Date, the Debtors, the Restructured Debtors and the DESG Acquiring Entities (including, in each case, each director and each officer thereof, and any incorporator, authorized person or agent acting on their behalf, (collectively, the "New DESG Entities Agents")), as applicable, are authorized to finalize the Restructuring Documents, form the DESG Acquiring Entities, and execute such documents, agreements, or filings that are contemplated by the Plan Supplement or the Restructuring Transactions without any further order of the Court or corporate action, and to take any actions necessary or advisable or appropriate to implement the documents, agreements, or filings that are contemplated by the Plan, the Plan Supplement or the Restructuring Transactions. The New DESG Entities Agents shall be exculpated with respect to any such action taken during such period, and the Debtors (other than DX Holding) and the Restructured Debtors

(other than Restructured DX Holding) shall indemnify and hold harmless each of the New DESG Entities Agents with respect to any such actions taken during such period.

#### **4.11 Corporate Existence**

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement (including, without limitation, the Restructuring Transactions Memorandum, the New Organizational Documents, the New DX Holding Organizational Documents, and the Exit Facilities Documents), each Debtor shall continue to exist after the Effective Date as a separate corporation, limited liability company, partnership, or other form of entity, as the case may be, with all the powers of a corporation, limited liability company, partnership, or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective Debtor's certificate of incorporation and bylaws (or other analogous formation and constituent documents, as applicable) in effect before the Effective Date, except to the extent such documents are amended by the Plan or otherwise, and to the extent any such document is amended, such document is deemed to be amended pursuant to the Plan and requires no further action or approval (other than any requisite filings required under applicable state or federal law).

#### **4.12 New Organizational Documents**

On the Effective Date, or as soon thereafter as is reasonably practicable, the Restructured Debtors' and Restructured DX Holding's respective certificates of incorporation and bylaws (and other formation and constituent documents, as applicable) shall be amended as may be required to be consistent with the provisions of the Plan, the Plan Supplement, the Exit Facilities Documents, as applicable, and the Bankruptcy Code. The New Organizational Documents and New DX Holding Organizational Documents shall, among other things: (a) if applicable, authorize the issuance and/or distribution of the Restructured DESG Equity Interests; and (b) pursuant to and only to the extent required by section 1123(a)(6) of the Bankruptcy Code, include a provision prohibiting the issuance of non-voting equity Securities. Subject to Section 4.15, each Restructured Debtor and Restructured DX Holding, as applicable, may amend and restate its certificate of incorporation and other formation and constituent documents as permitted by the laws of its respective jurisdiction of formation and the terms of the New Organizational Documents, the New DX Holding Organizational Documents, and the Plan.

#### **4.13 New Shareholders Agreement**

On the Effective Date, any Existing Term Loan Lender or Priming Term Loan Lender that is entitled to receive Restructured DESG Equity Interests pursuant to the Restructuring Transactions shall be required to duly execute and deliver to Restructured DESG, as an express condition precedent to such Holder's receipt of Restructured DESG Equity Interests, a counterpart to a New Shareholders Agreement (or any such similar agreement), that shall be in form and substance acceptable to the Requisite Consenting Creditors.

#### **4.14 [Reserved]**

#### **4.15 Effectuating Documents; Further Transactions**

On and after the Effective Date, the Restructured Debtors and/or DESG Acquiring Entities, as applicable, and Restructured DX Holding, and the officers and members of the boards of directors and managers of any thereof, shall be authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan, Plan Supplement, the Restructuring Transactions Memorandum, and the Exit Facilities Documents, as applicable, and the Securities issued pursuant to the Plan in the name of and on behalf of the Restructured Debtors or the DESG Acquiring Entities, as applicable, or Restructured DX Holding, without the need for any approvals, authorizations, or consents except for those expressly required under the Plan.

**4.16 Section 1146(a) Exemption**

To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfers (whether from a Debtor to a Restructured Debtor, to Restructured DX Holding, or to any other Person) of property under the Plan (including the Restructuring Transactions) or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors, the Restructured Debtors, or Restructured DX Holding; (b) the creation, modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust, or other security interest, or the securing of additional indebtedness by such or other means; (c) the making, assignment, or recording of any lease or sublease; (d) the grant of collateral as security for any or all of the Exit Facilities, as applicable; or (e) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan (including the Restructuring Transactions), shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, sales or use tax, or other similar tax or governmental assessment, and upon entry of the Confirmation Order, the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax, recordation fee, or governmental assessment. All filing or recording officers (or any other Person with authority over any of the foregoing), wherever located and by whomever appointed, shall comply with the requirements of section 1146(c) of the Bankruptcy Code, shall forego the collection of any such tax or governmental assessment, and shall accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

**4.17 Directors and Officers of the Restructured Debtors and Restructured DX Holding**

**(a) The New Board**

As of the Effective Date and subject to the Restructuring Support Agreement, the terms of the current members of the board of directors of DESG shall expire, and, without further order of the Bankruptcy Court, the New Board shall be appointed. The New Board will initially consist of five (5) directors. Each of Sound Point Capital Management, LP, CION Investments Corporation, CIFC Asset Management, LLC, and INVESCO, Ltd. shall have the right to appoint one (1) initial director of the New Board, and the remaining Holders of the Existing Term Loans, Priming Term Loans, and the New First Lien Term Loans shall collectively have the right to appoint one (1) initial director of the New Board. To the extent known, the identity of the members of the New Board will be disclosed in the Plan Supplement prior to the commencement of the Confirmation Hearing. Following the Effective Date, the New Board may appoint a board of directors for each of Creative Intermediate Holdco and Distribution Intermediate Holdco.

From and after the Effective Date, each director (or director equivalent) of the Restructured Debtors and Restructured DX Holding shall serve pursuant to the terms of the respective Restructured Debtor's or Restructured DX Holding's certificate of incorporation and bylaws or other formation and constituent documents, and applicable laws of the respective Restructured Debtor's or Restructured DX Holding's jurisdiction of formation.

**(b) Senior Management**

Effective as of the Effective Date, the Restructured Debtors will either assume the existing agreements with the current members of the senior management team or will enter into new employment agreements on the Effective Date with such individuals (to the extent any applicable member of the senior management team agrees), which agreements shall be acceptable to the applicable employee, Restructured DESG, and the Requisite Consenting Creditors.

From and after the Effective Date, each officer or manager of the Restructured Debtors or of Restructured DX Holding shall serve pursuant to the terms of the respective Restructured Debtor's or Restructured DX Holding's certificate of incorporation and bylaws or other formation and constituent documents, and applicable laws of the respective Restructured Debtor's or Restructured DX Holding's jurisdiction of formation.

Any assumption of existing agreements with any officer or employee pursuant to the terms herein and any of the Restructuring Transactions taken by the Debtors, the Restructured Debtors, or Restructured DX Holding, as applicable, to effectuate the Plan shall not be deemed to trigger any applicable change of control, immediate vesting, termination, or similar provisions therein (unless such officer or employee timely objects to the assumption contemplated by the Plan in which case any such agreement shall be deemed rejected as of immediately prior to the Petition Date).

#### **4.18 Employee Arrangements of the Restructured Debtors**

Effective as of the Effective Date, the Restructured Debtors shall either: (a) assume all Compensation and Benefits Programs; or (b) if such person subject to a Compensation and Benefits Program agrees: (i) amend such Compensation and Benefits Program or (ii) enter into new agreements with such person on terms and conditions acceptable to the Restructured Debtors, based on approval by the New Board (or the new board of the applicable Restructured Debtor), and such person. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, from and after the Effective Date, all retiree benefits (as such term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law. For the avoidance of doubt, any D&O Liability Insurance Policies to which MAFCO or DX Holding or any of their non-Debtor Affiliates are contract counterparties will not be assumed, and will not provide any coverage to the Restructured Debtors, other than tail coverage as set forth in Section 5.5.

Any assumption of Compensation and Benefits Programs pursuant to the terms herein and any of the Restructuring Transactions taken by the Debtors or the Restructured Debtors, as applicable, to effectuate the Plan shall not be deemed to trigger any applicable change of control, immediate vesting, termination, or similar provisions therein (unless a Compensation and Benefits Program counterparty timely objects to the assumption contemplated by the Plan in which case any such Compensation and Benefits Program shall be deemed rejected as of immediately prior to the Petition Date). No counterparty shall have rights under a Compensation and Benefits Program assumed pursuant to the Plan other than those applicable immediately prior to such assumption.

#### **4.19 Management Incentive Plan**

Following the Effective Date, the New Board shall adopt a post-emergence Management Incentive Plan that provides for the issuance of restricted stock units, stock options, stock appreciations rights, or other similar appreciation awards, exercisable for up to ten percent of the Restructured DESG Equity Interests (on a fully diluted basis) to management, key employees, and directors of the Restructured Debtors.

The participants in the Management Incentive Plan, the timing and allocations of the awards to participants, and the other terms and conditions of such awards (including, but not limited to, vesting exercise prices, base values, hurdles, forfeiture, repurchase rights, and transferability) shall be determined by the New Board.

#### **4.20 Preservation of Causes of Action**

Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, including pursuant to Article VIII of the Plan, the DIP Orders, or a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Restructured Debtors and (solely with respect to Causes of Action of DX Holding) Restructured DX Holding shall retain and may enforce all rights to commence and pursue any and all Causes of Action, whether arising before or after the Petition Date, including any actions specifically enumerated in the Plan Supplement, and the Restructured Debtors' and (solely with respect to Causes of Action of DX Holding) Restructured DX Holding's rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors, the Restructured Debtors, or Restructured DX Holding will not pursue any and all available Causes of Action against them. The Debtors, the Restructured Debtors, and Restructured DX Holding expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided herein.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan, including pursuant to Article VIII of the Plan, the DIP Orders, or a Bankruptcy Court order, the Restructured Debtors and (solely with respect to Causes of Action

of DX Holding) Restructured DX Holding expressly reserve all Causes of Action, for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or Consummation. For the avoidance of doubt, in no instance will any Cause of Action preserved pursuant to this Section 4.20 include any claim or Cause of Action with respect to, or against, a Released Party.

In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action preserved pursuant to the first paragraph of this Section 4.20 that a Debtor may hold against any Entity shall vest in the Restructured Debtors or Restructured DX Holding. The applicable Restructured Debtor or Restructured DX Holding, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Restructured Debtor and Restructured DX Holding, as applicable, shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third party or any further notice to or action, order, or approval of the Bankruptcy Court.

#### **4.21 Release of Avoidance Actions**

On the Effective Date, the Debtors, on behalf of themselves and their Estates, shall release any and all Avoidance Actions and the Debtors, the Restructured Debtors, and Restructured DX Holding and any of their successors or assigns, and any Entity acting on behalf of the Debtors, the Restructured Debtors, or Restructured DX Holding shall be deemed to have waived the right to pursue any and all Avoidance Actions, except for Avoidance Actions brought as counterclaims or defenses to Claims asserted against the Debtors.

#### **4.22 Tax Indemnity Agreement**

On the Effective Date, MAFCO and the Restructured Debtors shall enter into the Tax Indemnity Agreement, pursuant to which MAFCO shall fully indemnify and hold harmless, and shall not seek subrogation or reimbursement from, the Restructured Debtors from and against any and all income taxes (including interest and penalties) and reasonable, out-of-pocket expenses (including, without limitation, reasonable attorneys' fees) that (i) are assessed by the United States Internal Revenue Service, the State of Florida and the City and State of New York, for any tax period ending on or before, or including, the Effective Date, arising from the Restructured Debtors' individual or joint and several liability for the taxes (including, for the avoidance of doubt, taxes on income or gain arising in connection with the Restructuring Transactions and attributable to transactions undertaken or elections effective on the Effective Date) of any consolidated, combined or unitary group in such jurisdiction the common parent of which is MAFCO or any of its Affiliates (other than DESG or any of its subsidiaries) for such time that DESG or any of its subsidiaries was a member of such group under Treasury Regulation section 1.1502-6 or any similar provision of state or local law, and (ii) to the extent not described in (i) above, are assessed by the State of Florida and the City and State of New York that are imposed directly on the Restructured Debtors on income or gain arising in connection with the Restructuring Transactions and attributable to transactions undertaken or elections effective on the Effective Date, and, solely with respect to any income or gain of DESG or any of its subsidiaries, to the extent any tax attribute would have otherwise been available to offset such income, gain, or tax had such tax attribute not been utilized by another member of such group (other than DESG or any of its subsidiaries).

Pursuant to the Tax Indemnity Agreement, the Restructured Debtors shall be responsible for paying, and shall fully indemnify and hold harmless each of MAFCO and any Affiliate of MAFCO that is part of the same consolidated, combined, or unitary group as MAFCO (or disregarded as separate from a member of such group) (other than DESG and its subsidiaries) from and against any and all (i) income taxes and reasonable, out-of-pocket expenses (including, without limitation, reasonable attorneys' fees) of DESG or its subsidiaries imposed on MAFCO or any Affiliate of MAFCO that is part of the same consolidated, combined, or unitary group as MAFCO (or disregarded as separate from a member of such group) (other than DESG and its subsidiaries) by any jurisdiction other than the United States, the State of Florida, and the City and State of New York, and (ii) any non-income taxes of DESG and its subsidiaries.

With respect to any taxing authority other than the United States, the State of Florida and the City and State of New York, if such taxing authority successfully asserts that DESG or any its subsidiaries should have been included in a consolidated, combined or unitary group that included MAFCO or any of its Affiliates (other than DESG or any of its subsidiaries), MAFCO shall be responsible for paying, and shall fully indemnify and hold harmless the Restructured Debtors from and against any and all income taxes and reasonable, out-of-pocket expenses (including, without limitation, reasonable attorneys' fees) imposed directly on the Restructured Debtors on income or gain arising in connection with the Restructuring Transactions and attributable to transactions undertaken or elections made on the Effective Date to the extent any tax attribute would have otherwise been available to offset such income, gain, or tax had such taxing authority not attributed such tax attribute to another member of such group (other than DESG or any of its subsidiaries).

Pursuant to the Tax Indemnity Agreement, MAFCO and its Affiliates (other than DESG and any of its subsidiaries) shall be responsible for paying, and shall fully indemnify and hold harmless the Restructured Debtors from and against any and all taxes and reasonable, out-of-pocket expenses (including, without limitation, reasonable attorneys' fees) of DESG and its subsidiaries to the extent (i) not otherwise addressed specifically in the Tax Indemnity Agreement, and (ii) not relating to DESG, its subsidiaries, the Restructured Debtors, or any of their businesses in each case imposed on the Restructured Debtors.

The Tax Indemnity Agreement will provide that MAFCO will control any audit that relates to taxes pursuant to which MAFCO may have an indemnity obligation pursuant to the Tax Indemnity Agreement. The Restructured Debtors shall have reasonable notification rights with respect to the progress of such audits and shall be allowed to participate in any audit discussions that could reasonably be expected to impact the amount of taxes payable by the Restructured Debtors.

The Tax Indemnity Agreement will provide that the Restructured Debtors will control any audit that relates to taxes pursuant to which the Restructured Debtors may have an indemnity obligation pursuant to the Tax Indemnity Agreement. MAFCO shall have reasonable notification rights with respect to the progress of such audits and shall be allowed to participate in any audit discussions that could reasonably be expected to impact the amount of taxes payable by MAFCO or any of its Affiliates.

The Tax Indemnity Agreement will provide that MAFCO will jointly make any election under section 338(h)(10) or 336(e) of the Internal Revenue Code of 1986, as amended, and any similar election for state or local tax purposes if requested by Restructured DESG.

The Tax Indemnity Agreement will provide that, following the Restructuring Transactions, MAFCO and the Restructured Debtors shall each provide each other such tax-related information as the other may reasonably request as may be reasonably necessary for MAFCO or any of its Affiliates, or the Restructured Debtors or any of their Affiliates, as the case may be, to complete and file any tax return (or other similar or related filing); provided, that (i) with respect to any consolidated, combined, affiliated, unitary, or similar tax return, neither party shall be obligated to provide any such tax return and shall instead provide such information on a pro forma basis, and (ii) MAFCO shall not be required to provide any information to the Restructured Debtors or any of their Affiliates that is unrelated to the Debtors or the Restructured Debtors or any of their Affiliates.

The Tax Indemnity Agreement will provide that, for a period of one year following the Effective Date, MAFCO shall provide the Restructured Debtors with reasonable information, records or documents related to the Restructured Debtors' business and operations, which the Restructured Debtors reasonably determine, in good faith, cannot otherwise be obtained; provided, however, MAFCO shall not be required to provide information that is unrelated to the Debtors or the Restructured Debtors.

#### **4.23 Tax Sharing Agreement**

On the Effective Date, that certain tax sharing agreement dated January 3, 2012 shall be deemed rejected and terminated, pursuant to the Plan, and the non-Debtor parties thereto shall not have any Allowed Claim as a result of such rejection.

#### **4.24 Restructuring of DX Holding**

The provisions of the Plan, Confirmation Order, and the Restructuring Documents related to DX Holding, MAFCO's retention of the Interests in DX Holding as set forth herein, and the application of the Plan, Confirmation Order, and the Restructuring Documents to DX Holding and Restructured DX Holding shall in no way adversely affect the ability of the Debtors and the Restructured Debtors to implement the Restructuring Transactions in a tax-efficient manner or otherwise have any adverse impact or effect upon the Restructuring Transactions for each of the other Debtors and the Restructured Debtors.

### **ARTICLE V**

#### **TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

##### **5.1 Assumption and Rejection of Executory Contracts and Unexpired Leases**

Except as otherwise provided herein and as determined by the Debtors and Requisite Consenting Creditors, each Executory Contract and Unexpired Lease shall be deemed assumed, without the need for any further notice to or action, order, or approval of the Bankruptcy Court, as of the Effective Date, pursuant to section 365 of the Bankruptcy Code, unless such Executory Contract or Unexpired Lease: (a) was previously assumed or rejected; (b) was previously expired or terminated pursuant to its own terms; (c) is the subject of a motion to assume or assume and assign Filed on or before the Confirmation Date; or (d) is designated specifically, or by category, as an Executory Contract or Unexpired Lease on the Schedule of Rejected Executory Contracts and Unexpired Leases. The assumption of Executory Contracts and Unexpired Leases hereunder may include the assignment of certain of such contracts to Affiliates. The Confirmation Order will constitute an order of the Bankruptcy Court approving the above-described assumptions and assignments, all pursuant to sections 365(a) and 1123 of the Bankruptcy Code and effective on the occurrence of the Effective Date.

Except as otherwise provided herein or agreed to by the Debtors and the applicable counterparty, each assumed Executory Contract or Unexpired Lease shall include all modifications, amendments, supplements, restatements, or other agreements related thereto, and all rights related thereto, if any, including all easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests. To the maximum extent permitted by law, to the extent any provision in any Executory Contract or Unexpired Lease assumed pursuant to the Plan restricts or prevents, or purports to restrict or prevent, or is breached or deemed breached by, the assumption of such Executory Contract or Unexpired Lease (including any "change of control" provision), then such provision shall be deemed modified such that the transactions contemplated by the Plan shall not entitle the non-Debtor party thereto to terminate such Executory Contract or Unexpired Lease or to exercise any other default-related rights with respect thereto. Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease or the validity, priority, or amount of any Claims that may arise in connection therewith. The Debtors shall serve rejection notices in respect of each rejected Executory Contract or Unexpired Lease on the applicable counterparties in accordance with the milestones contained in the Restructuring Support Agreement.

##### **5.2 Cure of Defaults for Assumed Executory Contracts and Unexpired Leases**

The Debtors or the Restructured Debtors (excluding Restructured DX Holding), as applicable, shall pay Cures, if any, as such amounts come due in the ordinary course of business, with the amount and timing of payment of any such Cure dictated by the Debtors' ordinary course of business. Unless otherwise agreed upon in writing by the parties to the applicable Executory Contract or Unexpired Lease, all requests for payment of Cures that differ from the ordinary course amounts paid or proposed to be paid by the Debtors or the Restructured Debtors to a counterparty must be Filed with the Solicitation Agent on or before 30 days after the Effective Date. Any such request that is not timely Filed shall be disallowed and forever barred, estopped, and enjoined from assertion, and shall not be enforceable against any Restructured Debtor, without the need for any objection by the Restructured Debtors or any other party in interest or any further notice to or action, order, or approval of the Bankruptcy Court. Any Cure shall be deemed fully satisfied, released, and discharged upon payment by the Debtors or the Restructured Debtors of the Cure in the Debtors ordinary course of business; *provided, however*, that nothing herein shall prevent the Restructured Debtors from

paying any Cure Claim despite the failure of the relevant counterparty to File such request for payment of such Cure. The Restructured Debtors also may settle any Cure Claim without any further notice to or action, order, or approval of the Bankruptcy Court. In addition, any objection to the assumption of an Executory Contract or Unexpired Lease under the Plan must be Filed with the Bankruptcy Court on or before 30 days after the Effective Date. Any such objection will be scheduled to be heard by the Bankruptcy Court at the Debtors' or Restructured Debtors', as applicable, first scheduled omnibus hearing for which such objection is timely Filed. Any counterparty to an Executory Contract or Unexpired Lease that fails to timely object to the proposed assumption of any Executory Contract or Unexpired Lease will be deemed to have consented to such assumption.

If there is any dispute regarding any Cure, the ability of the Restructured Debtors or any assignee to provide "adequate assurance of future performance" within the meaning of section 365 of the Bankruptcy Code, or any other matter pertaining to assumption, then payment of Cure shall occur as soon as reasonably practicable after entry of a Final Order resolving such dispute, approving such assumption (and, if applicable, assignment), or as may be agreed upon by the Debtors (with the reasonable consent of the Requisite Consenting Creditors) or the Restructured Debtors, as applicable, and the counterparty to the Executory Contract or Unexpired Lease.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan or otherwise and full payment of any applicable Cure pursuant to this Section 5.2, in the amount and at the time dictated by the Debtors ordinary course of business, shall result in the full release and satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time prior to the effective date of assumption. **Any and all Proofs of Claim based upon Executory Contracts or Unexpired Leases that have been assumed in the Chapter 11 Cases, including pursuant to the Confirmation Order, and for which any Cure has been fully paid pursuant to this Section 5.2, in the amount and at the time dictated by the Debtors ordinary course of business, shall be deemed disallowed and expunged as of the Effective Date without the need for any objection thereto or any further notice to or action, order, or approval of the Bankruptcy Court.**

### **5.3 Rejection Damages Claims**

In the event that the rejection of an Executory Contract or Unexpired Lease by any of the Debtors results in damages to the other party or parties to such contract or lease, a Claim for such damages shall be forever barred and shall not be enforceable against the Debtors or the Restructured Debtors or Restructured DX Holding or their respective properties or interests in property as agents, successors, or assigns, unless a Proof of Claim is Filed with the Solicitation Agent and served upon counsel for the Debtors or the Restructured Debtors and Restructured DX Holding, as applicable, no later than thirty (30) days after the later of (a) the Effective Date or (b) the date of entry of an order of the Bankruptcy Court (including the Confirmation Order) approving such rejection of such Executory Contract or Unexpired Lease. Any such Claims, to the extent Allowed, shall be classified as General Unsecured Claims and shall be treated in accordance with Article III of this Plan.

### **5.4 Indemnification**

On and as of the Effective Date, the Indemnification Provisions will be assumed by the applicable Debtors or Restructured Debtors and Restructured DX Holding (as applicable) and will be irrevocable and will survive the effectiveness of the Plan, and for each Restructured Debtor or Restructured DX Holding its respective New Organizational Documents or New DX Holding Organizational Document will provide for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to, the applicable Debtor's or Restructured Debtor's or Restructured DX Holding's current and former directors, officers, managers, employees, accountants, investment bankers, attorneys, other professionals, agents, and such current and former directors', officers', and managers' respective Affiliates (each of the foregoing solely in their capacity as such), against any Claims or Causes of Action, in each case to at least the same extent provided to such persons in the applicable Debtor's Indemnification Provisions, to the extent permitted by applicable law. None of the Restructured Debtors or Restructured DX Holding will amend and/or restate its respective New Organizational Documents or New DX Holding Organizational Documents after the Effective Date to terminate or adversely affect any of the Indemnification Provisions in a manner that is materially inconsistent with this paragraph. For the avoidance of doubt this paragraph shall not require any Debtor, Restructured Debtor, or Restructured DX Holding to provide any

indemnification, defense, reimbursement, exculpation, limitation of liability or advancement of fees or expenses to any person, or with respect to any Claim, Cause of Action or other matter, that exceeds what it would be required to provide under its respective Indemnification Provisions. On and as of the Effective Date, Restructured DESG shall assume the Indemnification Provisions of DESG and such assumption shall be irrevocable.

### **5.5 Insurance Policies**

Notwithstanding anything to the contrary herein, for the avoidance of doubt, no insurance policies will be assumed, including any D&O Liability Insurance Policies, including any to which MAFCO or DX Holding or any of their non-Debtor Affiliates are contract counterparties, with the exceptions of the Professional Liability/Errors & Omissions Insurance Policy, *provided* that the required Consenting Creditors shall have consented to such assumption, or such policy shall remain in full force and effect from and after the Effective Date with respect to Restructured DESG as the “named entity” thereunder and the Production Package Insurance Policy.

The Restructured Debtors (other than Restructured DX Holding) will procure new policies on or prior to the Effective Date to provide directors’ and officers’ liability insurance for their directors and officers.

Any current and former directors, officers, managers, and employees of the Debtors who served in such capacity at any time before the Effective Date shall continue to receive tail coverage for at least six years from the Effective Date to the extent provided in any D&O Liability Insurance Policy of the Debtors or of MAFCO.

The Debtors or the Restructured Debtors (other than DX Holding or Restructured DX Holding), as applicable, shall continue to satisfy the Professional Liability/Errors & Omissions Insurance Policy and the Production Package Insurance Policy in full and continue them in the ordinary course of business and such policies shall be treated as Executory Contracts under the Plan; on the Effective Date: (a) the Debtors shall be deemed to have assumed such policies; and (b) such policies shall revert in the applicable Restructured Debtor(s).

Entry of the Confirmation Order will constitute the Bankruptcy Court’s approval of the Restructured Debtors’ assumption of the Professional Liability/Errors & Omissions Insurance Policy and the Production Package Insurance Policy. Notwithstanding anything to the contrary contained in the Plan, Confirmation of the Plan shall not discharge, impair, or otherwise modify any indemnity obligations assumed by the foregoing assumption of the Professional Liability/Errors & Omissions Insurance Policy and the Production Package Insurance Policy and each such indemnity obligation will be deemed and treated as an Executory Contract that has been assumed by the Restructured Debtors under the Plan as to which no Proof of Claim need be filed, and shall survive the Effective Date.

### **5.6 Contracts and Leases After the Petition Date**

For the avoidance of doubt, contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed under section 365 of the Bankruptcy Code, will be performed by the applicable Debtor or Restructured Debtor liable thereunder in the ordinary course of its business. Such contracts and leases that are not rejected under the Plan shall survive and remain unaffected by entry of the Confirmation Order.

### **5.7 Reservation of Rights**

Nothing contained in the Plan or the Plan Supplement shall constitute an admission by the Debtors or any other party that any contract or lease is in fact an Executory Contract or Unexpired Lease or that any Restructured Debtor or Restructured DX Holding has any liability thereunder. If there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption, the Debtors, the Restructured Debtors, or Restructured DX Holding, as applicable, shall have 45 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

**5.8 Nonoccurrence of Effective Date**

In the event that the Effective Date does not occur, the Bankruptcy Court shall retain jurisdiction with respect to any request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code, unless such deadline(s) have expired.

**ARTICLE VI**

**PROVISIONS GOVERNING DISTRIBUTIONS**

**6.1 Distributions on Account of Claims Allowed as of the Effective Date**

Except as otherwise provided herein, by a Final Order, or as otherwise agreed to by the Debtors, the Restructured Debtors, or (solely with respect to Claims asserted against and Interests in DX Holding) Restructured DX Holding, as the case may be, and the Holder of the applicable Claim, on the first Distribution Date, the Distribution Agent shall make initial distributions under the Plan on account of Claims Allowed on or before the Effective Date or as soon as reasonably practical thereafter; *provided, however*, that (a) Allowed Administrative Claims with respect to liabilities incurred by the Debtors in the ordinary course of business shall be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business, or industry practice, and (b) Allowed Priority Tax Claims shall be paid in accordance with Section 2.3. To the extent any Allowed Priority Tax Claim is not due and owing on the Effective Date, such Claim shall be paid in full in Cash in accordance with the terms of any agreement between the Debtors and the Holder of such Claim or as may be due and payable under applicable non-bankruptcy law or in the ordinary course of business. A Distribution Date shall occur no more frequently than once in every 90 day period after the Effective Date, as necessary, in Restructured DESG's sole discretion, except to the extent dates for payment are otherwise set forth herein.

**6.2 Rights and Powers of the Distribution Agent**

**(a) Powers of Distribution Agent**

The Distribution Agent shall be empowered to: (a) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (b) make all distributions contemplated hereby; (c) employ professionals to represent it with respect to its responsibilities; and (d) exercise such other powers as may be vested in the Distribution Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Distribution Agent to be necessary and proper to implement the provisions hereof, *provided, however*, that such Distribution Agent shall waive any right or ability to setoff, deduct from or assert any lien or encumbrance against the distributions required under the Plan to be distributed by such Distribution Agent.

**(b) Expenses Incurred On or After the Effective Date**

The Debtors or the Restructured Debtors, as applicable, shall pay to the Distribution Agents all reasonable and documented fees and expenses of the Distribution Agents without the need for any approvals, authorizations, actions, or consents, except as otherwise ordered by the Bankruptcy Court. The Distribution Agents shall submit detailed invoices to the Debtors or the Restructured Debtors (excluding DX Holding or Restructured DX Holding), as applicable, for all fees and expenses for which the Distribution Agent seeks reimbursement, and the Debtors or the Restructured Debtors (excluding DX Holding or Restructured DX Holding), as applicable, shall pay those amounts that they deem reasonable, and shall object in writing to those fees and expenses, if any, that the Debtors or the Restructured Debtors, as applicable, deem to be unreasonable. In the event that the Debtors or the Restructured Debtors, as applicable, object to all or any portion of the amounts requested to be reimbursed in a Distribution Agent's invoice, the Debtors or the Restructured Debtors, as applicable, and such Distribution Agent shall endeavor, in good faith, to reach mutual agreement on the amount of the appropriate payment of such disputed fees and/or expenses. In the event that the Debtors or the Restructured Debtors, as applicable, and a Distribution Agent are unable to resolve any differences regarding disputed fees or expenses, either party shall be authorized to move to have such dispute heard by the Bankruptcy Court.

### **6.3 Special Rules for Distributions to Holders of Disputed Claims**

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed by the relevant parties: (a) no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order; and (b) any Entity that holds both an Allowed Claim and a Disputed Claim shall not receive any distribution on the Allowed Claim unless and until all objections to the Disputed Claim or Interest have been resolved by settlement or Final Order or the Claims have been Allowed or expunged.

### **6.4 Delivery of Distributions**

#### **(a) Record Date for Distributions**

On the Effective Date, the various transfer registers for each Class of Claims or Interests as maintained by the Debtors or their respective agents shall be deemed closed, and there shall be no further changes in the record Holders of any Claims or Interests (the “Distribution Record Date”). The Distribution Agent shall have no obligation to recognize any transfer of Claims or Interests occurring on or after the Distribution Record Date. In addition, with respect to payment of any Cure amounts or disputes over any Cure amounts, neither the Debtors nor the Distribution Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the applicable Executory Contract or Unexpired Lease as of the Effective Date, even if such non-Debtor party has sold, assigned, or otherwise transferred its Claim for a Cure amount.

#### **(b) Distribution Process**

Except as otherwise provided in the Plan, the Distribution Agent shall make distributions to Holders of Allowed Claims at the address for each such Holder as indicated on the applicable register or in the Debtors’ records as of the date of any such distribution (as applicable), including the address set forth in any Proof of Claim filed by that Holder; *provided* that the manner of such distributions shall be determined at the discretion of Restructured DESG.

#### **(c) Delivery of Distributions on Priming Term Loan Claims and Existing Term Loan Claims**

The Distribution Agent shall be deemed to be the Holder of all Allowed Class 6 Claims and Allowed Class 7 Claims for purposes of distributions to be made hereunder, and all distributions on account of such Allowed Claims shall be made to the Distribution Agent. As soon as practicable following compliance with the requirements set forth in Article VI of this Plan, the Distribution Agent shall arrange to deliver or direct the delivery of such distributions to or on behalf of the Holders of Allowed Class 6 Claims and Allowed Class 7 Claims, in accordance with the terms of the Plan. Notwithstanding anything in the Plan to the contrary, and without limiting the exculpation and release provisions of the Plan, the Distribution Agent shall not have any liability to any Entity with respect to distributions made or directed to be made by the Distribution Agent.

#### **(d) Delivery of Distributions on DIP Term Facility Claims**

The Distribution Agent shall be deemed to be the Holder of all DIP Term Facility Claims for purposes of distributions to be made hereunder, and all distributions on account of such DIP Term Facility Claims shall be made to the Distribution Agent. As soon as practicable following compliance with the requirements set forth in Article VI of the Plan, the Distribution Agent shall arrange to deliver or direct the delivery of such distributions to or on behalf of the Holders of DIP Term Facility Claims in accordance with the terms of the DIP Term Facility, subject to any modifications to such distributions in accordance with the terms of the Plan. Notwithstanding anything in the Plan to the contrary, and without limiting the exculpation and release provisions of the Plan, the Distribution Agent shall not have any liability to any Entity with respect to distributions made or directed to be made by the Distribution Agent.

#### **(e) Compliance Matters**

In connection with the Plan, to the extent applicable, the Debtors, the Restructured Debtors and the Distribution Agent shall comply with all tax withholding and reporting requirements imposed on them by any

Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Debtors, the Restructured Debtors and the Distribution Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes and withholding distributions pending receipt of information necessary to facilitate such distributions; *provided* that the Debtors, the Restructured Debtors and the Distribution Agent, as applicable, shall request appropriate documentation from the applicable distributees and allow such distributees a reasonable amount of time to respond. The Debtors and the Restructured Debtors reserve the right to allocate all distributions made under the Plan in compliance with all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances. Any amounts withheld or reallocated pursuant to this Section 6.4(e) shall be treated as if distributed to the Holder of the Allowed Claim.

**(f) Foreign Currency Exchange Rate**

Except as otherwise provided in a Bankruptcy Court order, as of the Effective Date, any Claim asserted in currency other than U.S. dollars shall be automatically deemed converted to the equivalent U.S. dollar value using the exchange rate for the applicable currency as published in *The Wall Street Journal* (national edition), on the Effective Date.

**(g) Fractional, Undeliverable, and Unclaimed Distributions**

- (1) *Fractional Distributions.* Whenever any distribution of fractional shares of Restructured DESG Equity Interests would otherwise be required pursuant to the Plan, the actual distribution shall reflect a rounding of such fraction to the nearest share or whole dollar (up or down), with half shares or half dollars or less being rounded down.
- (2) *Undeliverable Distributions.* If any distribution to a Holder of an Allowed Claim is returned to the Distribution Agent as undeliverable, no further distributions shall be made to such Holder unless and until the Distribution Agent is notified in writing of such Holder's then-current address or other necessary information for delivery, at which time all currently due missed distributions shall be made to such Holder on the next Distribution Date. Undeliverable distributions shall remain in the possession of the Restructured Debtors until such time as a distribution becomes deliverable, such distribution reverts to the Restructured Debtors, or is cancelled pursuant to Section 6.4(g)(4) below, and shall not be supplemented with any interest, dividends, or other accruals of any kind.
- (3) *Failure to Present Checks.* Checks issued by the Restructured Debtors (or their Distribution Agent) on account of Allowed Claims shall be null and void if not negotiated within 90 days after the issuance of such check. Requests for reissuance of any check shall be made directly to the Distribution Agent by the Holder of the relevant Allowed Claim with respect to which such check originally was issued.

Any Holder of an Allowed Claim holding an un-negotiated check that does not request reissuance of such un-negotiated check within 180 days after the date of mailing or other delivery of such check shall have its Claim for such un-negotiated check discharged and be discharged and forever barred, estopped, and enjoined from asserting any such Claim against the Restructured Debtors or their property.

Within 90 days after the mailing or other delivery of any such distribution checks, notwithstanding applicable escheatment laws, all such distributions shall revert to the Restructured Debtors. Nothing contained herein shall require the Restructured Debtors to attempt to locate any Holder of an Allowed Claim.

- (4) *Reversion.* Any distribution under the Plan that is an Unclaimed Distribution for a period of six months after distribution shall be deemed unclaimed property under section 347(b)

of the Bankruptcy Code, and such Unclaimed Distribution shall revert in the applicable Restructured Debtor and, to the extent such Unclaimed Distribution is Restructured DESG Equity Interests, shall be deemed cancelled. Upon such reversion, the Claim of the Holder or its successors with respect to such property shall be cancelled, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws, or any provisions in any document governing the distribution that is an Unclaimed Distribution, to the contrary.

**(h) Surrender of Cancelled Instruments or Securities**

On the Effective Date, each Holder of a Certificate shall be deemed to have surrendered such Certificate to the Distribution Agent or a Servicer (to the extent the relevant Claim is governed by an agreement and administered by a Servicer). Such Certificate shall be cancelled solely with respect to the Debtors, and such cancellation shall not alter the obligations or rights of any non-Debtor third parties vis-à-vis one another with respect to such Certificate. Notwithstanding the foregoing paragraph, this Section 6.4(h) shall not apply to any Claims and Interests Reinstated pursuant to the terms of the Plan.

**(i) Minimum Distributions**

Notwithstanding anything herein to the contrary, the Restructured Debtors and the Distribution Agents shall not be required to make distributions or payments of less than \$50 (whether Cash or otherwise).

**6.5 Claims Paid or Payable by Third Parties**

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

A Claim shall be correspondingly reduced, and the applicable portion of such Claim shall be disallowed without an objection to such Claim having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court, to the extent that the Holder of such Claim receives a payment on account of such Claim from a party that is not a Debtor, a Restructured Debtor, or Restructured DX Holding. To the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor, a Restructured Debtor, or Restructured DX Holding on account of such Claim, such Holder shall, within fourteen (14) days of receipt thereof, repay or return the distribution to the Restructured Debtors or Restructured DX Holding to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the Restructured Debtors or Restructured DX Holding annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the fourteen-day grace period specified above until the amount is repaid.

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

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

**(c) Applicability of Insurance Policies**

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Notwithstanding anything to the contrary herein (including Article VIII), nothing contained in the Plan shall constitute or be deemed a release, settlement, satisfaction, compromise, or waiver of any Cause of Action that the Debtors or any other Entity may hold against any other Entity,

including insurers, under any policies of insurance or applicable indemnity, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

#### **6.6 Setoffs**

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

#### **6.7 Allocation Between Principal and Accrued Interest**

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

### **ARTICLE VII**

#### **PROCEDURES FOR RESOLVING DISPUTED CLAIMS AND INTERESTS**

This Article VII shall not apply to DIP Term Facility Claims, Senior Priming Term Loan Claims, Priming Term Loan Claims, the Existing Term Loan Claims or the Existing ABL Facilities Claims, which Claims shall be Allowed in full, without the need to file any Proofs of Claims against the Debtors, and will not be subject to any avoidance, reductions, set off, offset, recharacterization, subordination (whether equitable, contractual or otherwise), counterclaims, cross-claims, defenses, disallowance, impairment, objection, or any other challenges under any applicable law or regulation by any Person or Entity.

#### **7.1 Proofs of Claim / Disputed Claims Process**

Notwithstanding section 502(a) of the Bankruptcy Code, and in light of the Unimpaired status of all General Unsecured Claims under the Plan, except as required by Section 2.1, Section 5.2, and any other Sections of the Plan that require filing Proofs of Claims, Holders of Claims need not file Proofs of Claim, and the Restructured Debtors, (solely with respect to Claims asserted against DX Holding) Restructured DX Holding, and the Holders of Claims shall determine, adjudicate, and resolve any disputes over the validity and amounts of such Claims in the ordinary course of business as if the Chapter 11 Cases had not been commenced except that (unless expressly waived pursuant to the Plan) the Allowed amount of such Claims shall be subject to the limitations or maximum amounts permitted by the Bankruptcy Code, including sections 502 and 503 of the Bankruptcy Code, to the extent applicable. All Proofs of Claim filed in these Chapter 11 Cases, except those permitted by Section 2.1, shall be considered objected to and Disputed without further action by the Debtors.

Upon the Effective Date, all Proofs of Claim filed against the Debtors, regardless of the time of filing, and including Claims filed after the Effective Date, shall be deemed withdrawn, other than as provided below, and such creditor that Files a Proof of Claim with the Bankruptcy Court retains any right it may have to pursue remedies in a forum other than the Bankruptcy Court in accordance with applicable law. Notwithstanding anything in this

Section 7.1, (a) all Claims against the Debtors that result from the Debtors' rejection of an Executory Contract or Unexpired Lease, (b) disputes regarding the amount of any Cure pursuant to section 365 of the Bankruptcy Code, and (c) Claims that the Debtors seek to have determined by the Bankruptcy Court, shall in all cases be determined by the Bankruptcy Court. From and after the Effective Date, the Restructured Debtors and (solely with respect to Claims asserted against DX Holding) Restructured DX Holding may satisfy, dispute, settle, or otherwise compromise any Claim without approval of the Bankruptcy Court.

## **7.2 Objections to Claims**

Except insofar as a Claim is Allowed under the Plan, the Debtors, the Restructured Debtors or Restructured DX Holding, as applicable, shall be entitled to object to Claims. Any objections to Claims, other than Administrative Claims, shall be served and Filed (a) on or before the ninetieth (90th) day following the later of (i) the Effective Date and (ii) the date that a Proof of Claim is filed or amended or a Claim is otherwise asserted or amended in writing by or on behalf of a Holder of such Claim, or (b) such later date as ordered by the Bankruptcy Court upon motion Filed by the Debtors, Restructured Debtors or Restructured DX Holding. For the avoidance of doubt, except as otherwise provided herein, from and after the Effective Date, each Restructured Debtor and Restructured DX Holding shall have and retain any and all rights and defenses such Debtor had immediately prior to the Effective Date with respect to any Disputed Claim or Interest, including the Causes of Action retained pursuant to Section 4.20 of the Plan.

## **7.3 Estimation of Claims**

Before or after the Effective Date, the Debtors, Restructured Debtors or Restructured DX Holding, as applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim, including during the litigation of any objection to any Claim or during the appeal relating to such objection; *provided* that if the Bankruptcy Court resolves the Allowed amount of a Claim, the Debtors and Restructured Debtors or Restructured DX Holding, as applicable, shall not be permitted to seek an estimation of such Claim. Notwithstanding any provision otherwise in the Plan, a Claim that has been expunged from the Claims register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, that estimated amount shall constitute a maximum limitation on such Claim for all purposes under the Plan (including for purposes of distributions), and the relevant Restructured Debtor or Restructured DX Holding may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim.

## **7.4 No Distribution Pending Allowance**

If an objection to a Claim is deemed, as set forth in Section 7.1, or Filed, as set forth in Section 7.2, no payment or distribution provided under the Plan shall be made on account of such Claim unless and until such Disputed Claim becomes an Allowed Claim.

## **7.5 Distribution After Allowance**

To the extent that a Disputed Claim ultimately becomes an Allowed Claim, distributions (if any) shall be made to the Holder of such Allowed Claim in accordance with the provisions of the Plan. As soon as practicable after the date that the order or judgment of the Bankruptcy Court allowing any Disputed Claim becomes a Final Order, the Distribution Agent shall provide to the Holder of such Claim the distribution (if any) to which such Holder is entitled under the Plan as of the Effective Date, without any interest to be paid on account of the such Claim unless required under applicable bankruptcy law.

## **7.6 No Interest**

Unless otherwise specifically provided for herein or by order of the Bankruptcy Court, postpetition interest shall not accrue or be paid on Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the

Petition Date on any Claim or right. Additionally, and without limiting the foregoing, interest shall not accrue or be paid on any Disputed Claim with respect to the period from the Effective Date to the date a final distribution is made on account of such Disputed Claim, if and when such Disputed Claim becomes an Allowed Claim.

#### **7.7 Adjustment to Claims Without Objection**

Any Claim that has been paid or satisfied, or any Claim that has been amended or superseded, may be adjusted on the Claims register by the Restructured Debtors or (solely with respect to Claims asserted against DX Holding) Restructured DX Holding without a claims objection having to be filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

#### **7.8 Disallowance of Claims**

All Claims of any Entity from which property is sought by the Debtors under sections 542, 543, 550, or 553 of the Bankruptcy Code or that the Debtors, the Restructured Debtors, or Restructured DX Holding, as applicable, allege is a transferee of a transfer that is avoidable under sections 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code shall be disallowed if: (a) the Entity, on the one hand, and the Debtors, the Restructured Debtors, or Restructured DX Holding, as applicable, on the other hand, agree or the Bankruptcy Court has determined by Final Order that such Entity or transferee is liable to turn over any property or monies under any of the aforementioned sections of the Bankruptcy Code; and (b) such Entity or transferee has failed to turn over such property by the date set forth in such agreement or Final Order. All Claims filed on account of an indemnification obligation to a director, officer, or employee shall be deemed satisfied and expunged from the Claims register as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order or approval of the Bankruptcy Court. All Claims filed on account of an employee benefit shall be deemed satisfied and expunged from the Claims register as of the Effective Date to the extent the Restructured Debtors or Restructured DX Holding, as applicable, elect to honor such employee benefit, without any further notice to or action, order or approval of the Bankruptcy Court.

**Except as provided herein or otherwise agreed, any and all Proofs of Claim Filed after the Claims Bar Date shall be deemed disallowed and expunged as of the Effective Date without any further notice to or action, order, or approval of the Bankruptcy Court, and Holders of such Claims shall not receive any distributions on account of such Claims, unless on or before the Confirmation Hearing such late Claim has been deemed timely filed by a Final Order.**

### **ARTICLE VIII**

#### **EFFECT OF CONFIRMATION OF THE PLAN**

#### **8.1 Discharge of Claims and Termination of Interests; Compromise and Settlement of Claims, Interests, and Controversies**

**Except as otherwise specifically provided in the Plan or in any contract, instrument, or other agreement or document created pursuant to the Plan (including documents related to the Exit ABL Facility, the New Term Loan Facilities, and the New Organizational Documents and New DX Holding Organizational Documents): (a) the distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of any and all Claims (including any Intercompany Claims resolved or compromised (consistent with the Restructuring Transactions) after the Effective Date by the Restructured Debtors or Restructured DX Holding), Interests (including any intercompany interests reinstated or cancelled and released (consistent with the Restructuring Transactions) after the Effective Date by the Restructured Debtors or Restructured DX Holding), and Causes of Action against the Debtors of any nature whatsoever including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such liability relates to services performed by employees of the Debtors prior to the Effective Date and that arises from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, any interest accrued on Claims or Interests from and after the Petition Date, and all other**

liabilities against, liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, (b) the Plan shall bind all Holders of Claims and Interests, (c) all Claims and Interests shall be satisfied, discharged, and released in full, and the Debtors' liability with respect thereto shall be extinguished completely, including any liability of the kind specified under section 502(g) of the Bankruptcy Code, and (d) all Entities shall be precluded from asserting against the Debtors, the Debtors' Estates, the Restructured Debtors, Restructured DX Holding, their successors and assigns, and their assets and properties any other Claims or Interests based upon any documents, instruments, or any act or omission, transaction, or other activity of any kind or nature that occurred prior to the Effective Date, in each case regardless of whether or not: (i) a Proof of Claim based upon such debt or right is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (ii) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; (iii) the Holder of such a Claim or Interest has accepted, rejected or failed to vote to accept or reject the Plan; or (iv) any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the occurrence of the Effective Date.

Pursuant to Bankruptcy Rule 9019 and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of all Claims, Interests, and controversies relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest, or any distribution to be made on account of such Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders of Claims and Interests and is fair, equitable, and reasonable. In accordance with the provisions of the Plan, pursuant to Bankruptcy Rule 9019, without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Restructured Debtors and (solely with respect to Claims asserted against and Interests in DX Holding) Restructured DX Holding may compromise and settle Claims against the Debtors and their Estates and Causes of Action against other Entities.

## **8.2 Releases by the Debtors**

Notwithstanding anything contained in the Plan to the contrary, pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, on and after the Effective Date, each Released Party is deemed released and discharged by the Debtors, the Restructured Debtors, Restructured DX Holding, and their Estates from any and all Claims and Causes of Action, whether known or unknown, liquidated or unliquidated, fixed or contingent, matured or unmatured, foreseen or unforeseen, existing or hereinafter arising, in law, equity, or otherwise, including any derivative Claims asserted or assertable on behalf of the Debtors or their Estates, that the Debtors, the Restructured Debtors, Restructured DX Holding, or their Estates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Holder of any Claim against, or Interest in the Debtors based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the management, ownership, or operation thereof), any securities issued by the Debtors and the ownership thereof, the Debtors' in- or out-of-court restructuring efforts, the Existing US Syndicated Facilities, any avoidance actions (but excluding avoidance actions brought as counterclaims or defenses to claims asserted against the Debtors), any intercompany transaction, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, the Disclosure Statement, the DIP Term Facility, the Plan, the Plan Supplement or the Restructuring Transactions, contract, instrument, release, or other agreement or document created or entered into in connection with the Restructuring Support Agreement, the Disclosure Statement, the DIP Term Facility, the Plan, the Plan Supplement, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the Exit ABL Facility, the New Term Loan Facilities, the Restructuring Documents, the solicitation of votes on the Plan, the prepetition negotiation and settlement of Claims, the pursuit of confirmation, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of debt (including the Exit ABL Facility and the New Term Loan Facilities) and/or securities (including the Restructured DESG Equity Interests) pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, except for Claims for any act or omission that is determined in a Final Order to have constituted actual fraud, but in all respects such Entities shall be entitled to reasonably rely upon

the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release any post-Effective Date obligations of any party or Entity under the Plan, the Restructuring Transactions, or any document, instrument, or agreement (including the Restructuring Documents, and other documents, instruments and agreements set forth in the Plan Supplement) executed to implement the Plan and shall not result in a release, waiver, or discharge of any of the Debtors', the Restructured Debtors', or Restructured DX Holding's assumed indemnification provisions as set forth in the Plan.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Debtors' release, which includes by reference each of the related provisions and definitions contained in the Plan, and further, shall constitute the Bankruptcy Court's finding that the Debtors' release is: (a) in exchange for the good and valuable consideration provided by the Released Parties, including, without limitation, the Released Parties' contributions to facilitating the restructuring and implementing the Plan; (b) a good faith settlement and compromise of the Claims released by the Debtors' release; (c) in the best interests of the Debtors and all Holders of Claims and Interests; (d) fair, equitable, and reasonable; (e) given and made after due notice and opportunity for hearing; and (f) a bar to any of the Debtors, the Restructured Debtors, Restructured DX Holding, or the Debtors' Estates asserting any Claim or Cause of Action released pursuant to the Debtors' release.

### 8.3 Releases by Holders of Claims and Interests

Notwithstanding anything contained in the Plan to the contrary, as of the Effective Date, and to the fullest extent allowed by applicable law, each Releasing Party is deemed to have released and discharged each of the Debtors, Restructured Debtors, Restructured DX Holding, and Released Parties from any and all Claims and Causes of Action, whether known or unknown, including any derivative Claims asserted or assertable on behalf of the Debtors or their Estates, that such Entity would have been legally entitled to assert (whether individually or collectively), based on or relating to, or in any manner arising from, in whole or in part, the Debtors (including the management, ownership or operation thereof), any securities issued by the Debtors and the ownership thereof, the Debtors' in- or out-of-court restructuring efforts, the Existing US Syndicated Facilities, any avoidance actions (but excluding avoidance actions brought as counterclaims or defenses to Claims asserted against the Debtors), any intercompany transaction, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement, the Disclosure Statement, the DIP Term Facility, the Plan, the Plan Supplement, or the Restructuring Transactions, contract, instrument, release, or other agreement or document created or entered into in connection with the Restructuring Support Agreement, the Disclosure Statement, the DIP Term Facility, the Plan, the Plan Supplement, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the Exit ABL Facility, the New Term Loan Facilities, the Restructuring Documents, the solicitation of votes on the Plan, the prepetition negotiation and settlement of Claims, the pursuit of confirmation, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of debt (including the Exit ABL Facility, the New Term Loan Facilities) and/or securities (including the Restructured DESG Equity Interests) pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, except for Claims for any act or omission that is determined in a Final Order to have constituted actual fraud, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan. Notwithstanding anything to the contrary in the foregoing, the releases set forth above do not release (A) any post-Effective Date obligations of any party or Entity under the Plan, the Restructuring Transactions, or any document, instrument, or agreement (including the Restructuring Documents, and other documents, instruments, and agreements set forth in the Plan Supplement) executed to implement the Plan and shall not result in a release, waiver, or discharge of any of the Debtors' or the Restructured Debtors' or Restructured DX Holding's assumed indemnification provisions as set forth in the Plan, or (B) obligations under the Existing Credit Agreements that, by their express terms, survive the termination of the Existing Credit Agreements, including the rights of the Agents to expense reimbursement, indemnification and similar amounts; *provided* that, for the avoidance of doubt, DX Holding and Restructured DX Holding are released from any and all obligations under the Existing Credit Agreements.

Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the third-party release, which includes by reference each of the related provisions and definitions contained in the Plan, and, further, shall constitute the Bankruptcy Court's finding that the third-party release is: (a) consensual; (b) essential to the confirmation of the Plan; (c) given in exchange for the good and valuable consideration provided by the Released Parties, including, without limitation, the Released Parties' contributions to facilitating the restructuring and implementing the Plan; (d) a good faith settlement and compromise of the Claims released by the third-party release; (e) in the best interests of the Debtors and their Estates; (f) fair, equitable, and reasonable; (g) given and made after due notice and opportunity for hearing; and (h) a bar to any of the Releasing Parties asserting any Claim or Cause of Action released pursuant to the third-party release.

#### 8.4 Exculpation

Notwithstanding anything contained in the Plan to the contrary, no Exculpated Party shall have or incur liability for, and each Exculpated Party is released and exculpated from, any Cause of Action or any Claim related to any act or omission in connection with, relating to, or arising out of, the Chapter 11 Cases, the formulation, preparation, dissemination, negotiation, or filing of the Restructuring Support Agreement and related prepetition transactions, the DIP Term Facility, the Disclosure Statement, the Plan, the Plan Supplement, or the Restructuring Transactions, contract, instrument, release, or other agreement or document created or entered into in connection with the Restructuring Support Agreement, the DIP Term Facility, the Disclosure Statement, the Plan, the Plan Supplement, the Chapter 11 Cases, the filing of the Chapter 11 Cases, the Exit ABL Facility, the New Term Loan Facilities, the Restructuring Documents, the solicitation of votes on the Plan, the prepetition negotiation and settlement of Claims, the pursuit of confirmation, the pursuit of consummation, the administration and implementation of the Plan, including the issuance or distribution of debt (including the Exit ABL Facility and the New Term Loan Facilities) and/or securities (including the Restructured DESG Equity Interests) pursuant to the Plan, or the distribution of property under the Plan or any other related agreement, or upon any other related act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, except for Claims for any act or omission that is determined in a Final Order to have constituted actual fraud, willful misconduct, or gross negligence, but in all respects such Entities shall be entitled to reasonably rely upon the advice of counsel with respect to their duties and responsibilities pursuant to the Plan.

The Exculpated Parties have, and upon confirmation of the Plan shall be deemed to have, participated in good faith and in compliance with the applicable laws with regard to the solicitation of votes on, and distribution of consideration pursuant to, the Plan and, therefore, are not, and on account of such distributions shall not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or such distributions made pursuant to the Plan. Notwithstanding anything to the contrary in the foregoing, the exculpation set forth above does not release or exculpate any Claim relating to any post-Effective Date obligations of any party or Entity under the Plan, the Restructuring Transactions, or any document, instrument, or agreement (including the Restructuring Documents, and other documents, instruments and agreements set forth in the Plan Supplement) executed to implement the Plan.

#### 8.5 Injunction

Except as otherwise provided in the Plan or the Confirmation Order, all Entities who have held, hold, or may hold Claims, Interests, Causes of Action, or liabilities that: (a) are subject to compromise and settlement pursuant to the terms of the Plan; (b) have been released by the Debtors pursuant to the Plan; (c) have been released by third parties pursuant to the Plan; (d) are subject to exculpation pursuant to the Plan; or (e) are otherwise discharged, satisfied, stayed or terminated pursuant to the terms of the Plan, are permanently enjoined and precluded, from and after the Effective Date, from taking any of the following actions against, as applicable, the Debtors, the Restructured Debtors, Restructured DX Holding, the Released Parties, or the Exculpated Parties: (1) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests or Causes of Action; (2) enforcing, attaching, collecting, or recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests

or Causes of Action; (3) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or Estates of such Entities on account of or in connection with or with respect to any such Claims or Interests or Causes of Action; (4) asserting any right of setoff, subrogation, or recoupment of any kind against any obligation due from such Entities or against the property of such Entities on account of or in connection with or with respect to any such Claims or Interests or Causes of Action unless such Entity has timely asserted such setoff right in a document filed with the Bankruptcy Court explicitly preserving such setoff, and notwithstanding an indication of a Claim or Interest or Cause of Action or otherwise that such Entity asserts, has, or intends to preserve any right of setoff pursuant to applicable law or otherwise; and (5) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests or Causes of Action discharged, released, exculpated, or settled pursuant to the Plan.

#### **8.6 Protection Against Discriminatory Treatment**

In accordance with section 525 of the Bankruptcy Code, and consistent with paragraph 2 of Article VI of the United States Constitution, no Governmental Unit shall discriminate against any Restructured Debtor or Restructured DX Holding, or any Entity with which a Restructured Debtor or Restructured DX Holding has been or is associated, solely because such Restructured Debtor or Restructured DX Holding was a debtor under chapter 11, may have been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before such Debtor was granted or denied a discharge), or has not paid a debt that is dischargeable in the Chapter 11 Cases.

#### **8.7 Release of Liens**

Except as otherwise specifically provided in the Plan, the Exit Facilities Documents (including in connection with any express written amendment of any mortgage, deed of trust, Lien, pledge, or other security interest under the Exit Facilities Documents), or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the Restructured Debtors or Restructured DX Holding, as applicable, and their successors and assigns, in each case, without any further approval or order of the Bankruptcy Court and without any action or Filing being required to be made by the Debtors, the DIP Administrative Agents, the Agents, or any other Holder of a Secured Claim. In addition, at the sole expense of the Debtors or the Restructured Debtors, the DIP Administrative Agents and the Agents shall execute and deliver all documents reasonably requested by the Debtors, Restructured Debtors or administrative agent(s) for the Exit Facilities to evidence the release of such mortgages, deeds of trust, Liens, pledges, and other security interests and shall authorize the Restructured Debtors and their designees to file UCC-3 termination statements and other release documentation (to the extent applicable) with respect thereto.

#### **8.8 Reimbursement or Contribution**

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

#### **8.9 Recoupment**

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

## **8.10 Subordination Rights**

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

## **ARTICLE IX**

### **CONDITIONS PRECEDENT TO THE EFFECTIVE DATE**

#### **9.1 Conditions Precedent to the Effective Date**

It shall be a condition to the Effective Date that the following conditions shall have been satisfied or waived pursuant to Section 9.2 of the Plan:

9.1.1 The Bankruptcy Court shall have approved the Disclosure Statement as containing adequate information with respect to the Plan within the meaning of section 1125 of the Bankruptcy Code.

9.1.2 The Bankruptcy Court shall have entered an order (in form and substance acceptable to the Requisite Consenting Creditors and the Debtors and (solely to the extent the provisions of such adversely affect the MAFCO Parties) MAFCO) confirming the Plan, and such Confirmation Order shall not have been reversed, stayed, modified, or vacated on appeal, and shall, among other things:

- (1) authorize the Debtors, the Restructured Debtors, and Restructured DX Holding to take all actions necessary to enter into, implement, and consummate the contracts, instruments, releases, leases, and other agreements or documents created in connection with the Plan;
- (2) authorize the Debtors, the Restructured Debtors, and Restructured DX Holding, as applicable or necessary, to: (a) implement the Restructuring Transactions; (b) distribute the Restructured DESG Equity Interests pursuant to the exemption from registration under the Securities Act provided by section 1145 of the Bankruptcy Code or, with the consent of the Requisite Consenting Creditors, other exemption from such registration or pursuant to one or more registration statements; (c) make all distributions and issuances as required under the Plan, including cash, the New Term Loan Facilities, and the Restructured DESG Equity Interests; and (d) enter into any agreements (including the agreements governing the Exit Facilities), transactions, and sales of property as set forth in the Plan Supplement; and
- (3) authorize the implementation of the Plan (including the Restructuring Transactions as set forth in the Restructuring Transactions Memorandum) in accordance with its terms.

9.1.3 All Restructuring Documents shall, unless otherwise expressly set forth herein or in the Restructuring Support Agreement, be in form and substance reasonably acceptable to the Debtors, the Requisite Consenting Creditors and (solely to the extent the provisions of such adversely affect the MAFCO Parties) MAFCO, shall have been executed and delivered by each entity thereto, and any conditions precedent related thereto, shall have been satisfied, waived, or satisfied contemporaneously with the occurrence of the Effective Date.

9.1.4 The Debtors shall have obtained all written consents, waivers or amendments, of the counterparty to any material contracts or agreements to which the Debtors or any of their subsidiaries is a party or otherwise bound, subject to the override of the Bankruptcy Code or order of the Bankruptcy Court, where (i)(x) the

consummation of the transactions contemplated by the Restructuring Transactions would result in a breach of, constitute a default (or an event that, with notice or lapse of time or both, would become a default) under, create in the counterparty thereto the right to terminate or cancel, or require any consent under, such contract and (y) such breach, default, termination, cancellation or failure to obtain consent would have an adverse effect on the Restructuring Transactions or the business, operations, finances, properties, condition (financial or otherwise), assets, additional financing needs or liabilities of the Debtors and their subsidiaries taken as a whole or (ii) a notice, authorization, change of control or other like provision in such material contract or agreement would be triggered by the consummation of the Restructuring Transactions, in the case of each of (i) and (ii), in form and upon such terms and conditions, acceptable to the Debtors and the Requisite Consenting Creditors; provided that the Requisite Consenting Creditors shall have reasonably designated and requested in writing to the Debtors such consents, waivers or amendments reasonably sufficiently in advance of the Effective Date and in any event no later than October 18, 2019. For the avoidance of doubt, notwithstanding anything to the contrary in this [Section 9.1.4](#), no such advance written consents, waivers, or amendments shall be required to the extent overridden by the Bankruptcy Code or order of the Bankruptcy Court.

9.1.5 All New Organizational Documents shall be in form and substance acceptable to the Debtors and the Requisite Consenting Creditors (or such New Organizational Documents for Restructured DX Holding, solely acceptable to MAFCO), shall have been executed (or deemed executed) and delivered by all entities party thereto, and any conditions precedent related thereto shall have been satisfied, waived, or satisfied contemporaneously with the occurrence of the Effective Date. All New DX Holding Organizational Documents shall be in form and substance acceptable to DX Holding and MAFCO, shall have been executed (or deemed executed) and delivered by all entities party thereto, and any conditions precedent related thereto shall have been satisfied, waived, or satisfied contemporaneously with the occurrence of the Effective Date.

9.1.6 The Exit ABL Facility Documents shall be in form and substance acceptable to the Debtors, the Exit ABL Facility Parties and the Requisite Consenting Creditors, shall have been executed and delivered by each entity party thereto, and any conditions precedent related thereto, shall have been satisfied, waived, or satisfied contemporaneously with the occurrence of the Effective Date.

9.1.7 The New Term Loan Facilities Documents shall be in form and substance acceptable to the Debtors and the Requisite Consenting Creditors, shall have been executed and delivered by each Entity party thereto, and any conditions precedent related thereto shall have been satisfied, waived or satisfied contemporaneously with the occurrence of the Effective Date.

9.1.8 The Restructured DESG Equity Interests shall have been issued by Restructured Holdings in accordance with the Restructuring Documents.

9.1.9 The Debtors shall have obtained all amendments, waivers, or consents (which amendments, waivers, or consents shall be on terms reasonably acceptable to the Requisite Consenting Creditors) from the lenders under the Foreign Debt necessary in connection with the Restructuring Transactions.

9.1.10 The guarantees, mortgages, deeds of trust, Liens, pledges, or other security interests held by all Holders of Senior Priming Term Loan Claims, Priming Term Loan Claims, Existing Term Loan Claims, and Existing ABL Facility Claims (whether held individually or by their Agent) against any UK Guarantor shall be fully released and discharged.

9.1.11 All actions, documents, and agreements necessary to implement and consummate the Restructuring Transactions shall have been effected and executed.

9.1.12 All accrued and unpaid Ad Hoc Committee Expenses (including the fees and expenses of Stroock, FTI, and such other professionals retained by the Requisite Consenting Creditors) and the Agents (including the fees and expenses of Cravath, Swaine & Moore LLP and Norton Rose Fulbright, as counsel to the Agents) incurred up to and including the Effective Date shall be paid in full in Cash.

9.1.13 The Restructuring Support Agreement shall have not been terminated and shall be in full force and effect.

9.1.14 All governmental and third-party approvals and consents, including Bankruptcy Court approval, that are necessary to implement the Restructuring Transactions shall have been obtained, not be subject to unfulfilled conditions, and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent, or otherwise impose materially adverse conditions on such transactions.

9.1.15 The DIP Orders shall have been entered by the Bankruptcy Court, and shall not have been stayed, modified, or vacated.

9.1.16 The Debtors shall not be in default under the DIP Term Facility or the DIP Orders (or, to the extent that the Debtors are in default on the proposed Effective Date, such default shall have been waived by the DIP lenders or cured by the Debtors in a manner consistent with the DIP Term Facility and the DIP Orders).

9.1.17 The final version of the Plan Supplement and all of the schedules, documents, and exhibits contained therein, and all other schedules, documents, supplements, and exhibits to the Plan shall be consistent with the Restructuring Support Agreement and the Restructuring Documents.

9.1.18 All professional fees and expenses of Professionals approved by the Bankruptcy Court shall have been paid in full or amounts sufficient to pay such fees and expenses after the Effective Date have been placed in a Professional Fee Escrow Account pending approval by the Bankruptcy Court.

9.1.19 The Debtors shall have implemented the Restructuring Transactions, and all transactions contemplated by the Restructuring Support Agreement, in a manner consistent in all respects with the Restructuring Support Agreement and the Plan.

9.1.20 With respect to all actions, documents, and agreements necessary to implement the Plan: (a) all conditions precedent to such documents and agreements (other than any conditions precedent related to the occurrence of the Effective Date) shall have been satisfied or waived pursuant to the terms of such documents or agreements; (b) such documents and agreements shall have been tendered for delivery to the required parties and been approved by any required parties and, to the extent required, filed with and approved by any applicable Governmental Units in accordance with applicable laws; and (c) such documents and agreements shall have been effected or executed.

9.1.21 All material authorizations, consents, regulatory approvals, rulings, or documents that are necessary to implement and effectuate the Plan and the transactions contemplated herein shall have been obtained.

## **9.2 Waiver of Conditions Precedent**

The Debtors (with the prior consent of the Requisite Consenting Creditors, and, solely to the extent the provisions of such adversely affect the MAFCO Parties, MAFCO and, in the case of Sections 9.1.6 and 9.1.12 the Exit ABL Facility Parties, which may be via e-mail), may waive any of the conditions to the Effective Date set forth in Section 9.1 of the Plan (except for the condition to the Effective Date set forth in Section 9.1.2) at any time, without any notice to any other parties in interest and without any further notice to or action, order, or approval of the Bankruptcy Court, and without any formal action other than a proceeding to confirm the Plan or Consummate the Plan. The failure of the Debtors to exercise any of the foregoing rights shall not be deemed a waiver of such rights or any other rights, and each such right shall be deemed an ongoing right, which may be asserted at any time (with the prior consent of the Requisite Consenting Creditors, which may be via e-mail).

## **9.3 Effect of Non-Occurrence of Conditions to Consummation**

If the Effective Date does not occur on or before the termination of the Restructuring Support Agreement, or if, prior to the Effective Date, the Confirmation Order is vacated pursuant to a Final Order, then (except as provided

in any such Final Order): (a) the Plan shall be null and void in all respects; (b) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected under 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, the Confirmation Order, the Disclosure Statement or the Restructuring Support Agreement shall: (i) constitute a waiver or release of any Claims, Interests, or Causes of Action; (ii) prejudice in any manner the rights of the Debtors or any other Entity; or (iii) constitute an admission, acknowledgement, offer, or undertaking of any sort by the Debtors or any other Entity.

#### **9.4 Substantial Consummation**

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

### **ARTICLE X**

#### **MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN**

##### **10.1 Modification of Plan**

Effective as of the date hereof: (a) the Debtors reserve the right (subject to the terms of the Restructuring Support Agreement and the consents required therein) in accordance with the Bankruptcy Code and the Bankruptcy Rules, to amend or modify the Plan before the entry of the Confirmation Order consistent with the terms set forth herein; and (b) after the entry of the Confirmation Order, the Debtors (subject to the terms of the Restructuring Support Agreement and the consents required therein) or the Restructured Debtors and Restructured DX Holding, as applicable, may, upon order of the Bankruptcy Court, amend or modify the Plan, in accordance with section 1127(b) of the Bankruptcy Code, 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 consistent with the terms set forth herein. Notwithstanding anything to the contrary herein, the Debtors or the Restructured Debtors and Restructured DX Holding, as applicable, shall not amend or modify the Plan in a manner inconsistent with the Restructuring Support Agreement.

##### **10.2 Effect of Confirmation on Modifications**

Entry of the Confirmation Order shall constitute approval of all modifications to the Plan occurring after the solicitation of votes thereon pursuant to section 1127(a) of the Bankruptcy Code and a finding that such modifications to the Plan do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

##### **10.3 Revocation or Withdrawal of Plan**

The Debtors reserve the right (subject to the terms of the Restructuring Support Agreement and the consents required therein) to revoke or withdraw the Plan with respect to any or all Debtors before the Confirmation Date and to file subsequent chapter 11 plans. If the Debtors revoke or withdraw the Plan, or if Confirmation or the Effective Date does not occur, then: (a) the Plan will be null and void in all respects; (b) the Restructuring Support Agreement will be null and void in all respects; (c) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effectuated by the Plan, and any document or agreement executed pursuant hereto will be null and void in all respects; and (d) nothing contained in the Plan shall (1) constitute a waiver or release of any Claims, Interests, or Causes of Action by any Entity, (2) prejudice in any manner the rights of any Debtor or any other Entity, or (3) constitute an admission, acknowledgement, offer, or undertaking of any sort by any Debtor or any other Entity.

## ARTICLE XI

### RETENTION OF JURISDICTION

Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction over all matters arising out of, or related to, the Chapter 11 Cases and the Plan pursuant to sections 105(a) and 1142 of the Bankruptcy Code, including jurisdiction to:

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, secured or unsecured status, or amount of any Claim against a Debtor, including the resolution of any request for payment of any Claim and the resolution of any and all objections to the secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;
3. resolve any matters related to Executory Contracts or Unexpired Leases, including: (a) the assumption or assumption and assignment of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable and to hear, determine, and, if necessary, liquidate, any Cure or Cure Claims arising therefrom, including pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; and (c) any dispute regarding whether a contract or lease is or was executory or expired;
4. ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan and adjudicate any and all disputes arising from or relating to distributions under the Plan;
5. adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor that may be pending on the Effective Date;
6. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of (a) contracts, instruments, releases, indentures, and other agreements or documents approved by Final Order in the Chapter 11 Cases and (b) the Plan, the Confirmation Order, and contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan;
7. enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;
8. grant any consensual request to extend the deadline for assuming or rejecting Unexpired Leases pursuant to section 365(d)(4) of the Bankruptcy Code;
9. 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;
10. hear, determine, and resolve any cases, matters, controversies, suits, disputes, or Causes of Action in connection with or in any way related to the Chapter 11 Cases, including: (a) with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim for amounts not timely repaid pursuant to Section 6.5(a) of the Plan; (b) with respect to the releases, injunctions, and other provisions contained in Article VIII of the Plan, including entry of such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions; (c) that may arise in connection with the Consummation, interpretation, implementation, or enforcement of the Plan, the Confirmation Order, and contracts, instruments, releases, and other agreements or documents created in connection with the Plan; or (d) related to section 1141 of the Bankruptcy Code;

11. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
12. consider any modifications of the Plan, to cure any defect or omission, or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;
13. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
14. enter an order or Final Decree concluding or closing the Chapter 11 Cases;
15. enforce all orders previously entered by the Bankruptcy Court; and
16. hear any other matter not inconsistent with the Bankruptcy Code;

*provided*, that, on and after the Effective Date and after the effectiveness of the following agreements or documents, the Bankruptcy Court shall not retain jurisdiction over matters arising out of or related to each of the Exit Facilities Documents, the New Shareholders Agreement, the New Organizational Documents, and the New DX Holding Organizational Documents, and the Exit Facilities Documents, the New Shareholders Agreement, the Tax Indemnity Agreement, the New Organizational Documents, and the New DX Holding Organizational Documents shall be governed by the respective jurisdictional provisions therein.

## ARTICLE XII

### MISCELLANEOUS PROVISIONS

#### **12.1 Immediate Binding Effect**

Subject to Section 9.1 hereof, and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the terms of the Plan and the Plan Supplement shall be immediately effective and enforceable and deemed binding upon the Debtors, the Restructured Debtors, Restructured DX Holding, and any and all Holders of Claims or Interests (irrespective of whether such Claims or Interests are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges, and injunctions described in the Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors.

#### **12.2 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. The Debtors or the Restructured Debtors and Restructured DX Holding, as applicable, and all Holders of Claims receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

#### **12.3 Reservation of Rights**

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

**12.4 Successors and Assigns**

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

**12.5 Service of Documents**

After the Effective Date, any pleading, notice, or other document required by the Plan to be served on or delivered to the Restructured Debtors or Restructured DX Holding shall be served on:

<b>Debtors</b>	<b>Proposed Counsel to the Debtors</b>
Deluxe Entertainment Services Group Inc. 2400 West Empire Avenue Burbank, California 91504 Attn: Stefanie Liquori and Eric Cummins	Kirkland & Ellis LLP 601 Lexington Avenue New York, New York 10022 Attn: Jonathan S. Henes, P.C.
<b>United States Trustee</b>	<b>Counsel to the Consenting Creditors</b>
Office of the United States Trustee for the Southern District of New York U.S. Federal Office Building 201 Varick Street, Suite 1006 New York, New York 10014	Stroock & Stroock & Lavan LLP 180 Maiden Lane New York, New York 10038 Attn: Kristopher M. Hansen, Erez Gilad, Jonathan Canfield, and Gabriel Sasson
<b>MAFCO</b>	<b>Counsel to MAFCO</b>
MacAndrews & Forbes Incorporated 35 E. 62nd Street, 3rd Floor New York, NY 10065 Attn: General Counsel	Skadden, Arps, Slate, Meagher & Flom LLP 4 Times Square New York, New York 10036 Attn: Peter Serating, Mark McDermott, and Shana Elberg

After the Effective Date, the Restructured Debtors and Restructured DX Holding have authority to send a notice to Entities that, to continue to receive documents pursuant to Bankruptcy Rule 2002, they must file a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Restructured Debtors and Restructured DX Holding are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have filed such renewed requests.

In accordance with Bankruptcy Rules 2002 and 3020(c), within fourteen (14) calendar days of the date of entry of the Confirmation Order, the Debtors, Restructured Debtors, and Restructured DX Holding, as applicable, shall serve the Notice of Confirmation by United States mail, first class postage prepaid, by hand, or by overnight courier service to all parties served with the Confirmation Hearing notice; *provided* that no notice or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtors, Restructured Debtors, and Restructured DX Holding mailed a Confirmation Hearing notice, but received such notice returned marked “undeliverable as addressed,” “moved, left no forwarding address” or “forwarding order expired,” or similar reason, unless the Debtors have been informed in writing by such Entity, or are otherwise aware, of that Entity’s new address. To supplement the notice described in the preceding sentence, within twenty-one (21) calendar days of the date of the Confirmation Order, the Debtors or Restructured Debtors and Restructured DX Holding, as applicable, shall publish the Notice of Confirmation once in *The Wall Street Journal* (national edition). Mailing and publication of the Notice of Confirmation in the time and manner set forth in the this paragraph shall be good and sufficient notice under the particular circumstances and in accordance with the requirements of Bankruptcy Rules 2002 and 3020(c), and no further notice is necessary.

## **12.6 Term of Injunctions or Stays**

Unless otherwise provided herein or in the Confirmation Order, all injunctions or stays in effect in the Chapter 11 Cases (pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Bankruptcy Court) and existing on the Confirmation Date (excluding any injunctions or stays contained in the Plan or the Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or the Confirmation Order shall remain in full force and effect in accordance with their terms.

## **12.7 Entire Agreement**

Except as otherwise indicated, the Plan supersedes all previous and contemporaneous negotiations, promises, covenants, agreements, understandings, and representations on such subjects, all of which have become merged and integrated into the Plan.

## **12.8 Plan Supplement**

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. Except as otherwise provided in the Plan, such exhibits and documents included in the Plan Supplement shall be filed with the Bankruptcy Court on or before the Plan Supplement filing date. After the exhibits and documents are filed, copies of such exhibits and documents shall be made available upon written request to the Debtors' proposed counsel at the address above or by downloading such exhibits and documents from the Debtors' restructuring website at <https://cases.primeclerk.com/deluxe> or the Bankruptcy Court's website at [www.nysb.uscourts.gov](http://www.nysb.uscourts.gov).

## **12.9 Non-Severability**

If, prior to Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted; *provided*, that, absent the prior consent of the Requisite Consenting Creditors, and (solely to the extent that such term or provision adversely affects the MAFCO Parties) MAFCO, such alteration or interpretation is not inconsistent with the Restructuring Support Agreement. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the Debtors' and Requisite Consenting Creditors' and (solely to the extent that such term or provision adversely affects the MAFCO Parties) MAFCO's prior consent, consistent with the terms set forth herein; and (c) nonseverable and mutually dependent.

## **12.10 Votes Solicited in Good Faith**

Upon entry of the Confirmation Order, the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e) of the Bankruptcy Code, the Debtors and each of the Consenting Creditors and each of their respective Affiliates, agents, representatives, members, principals, equity holders (regardless of whether such interests are held directly or indirectly), officers, directors, managers, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the offer, issuance, sale, and purchase of Securities offered and sold under the Plan, and, therefore, neither any of such parties or individuals or the Restructured Debtors or Restructured DX Holding will have any liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer, issuance, sale, or purchase of the Securities offered and sold under the Plan.

