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UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re:

CRANSTON II, LLC,

Debtor.

Chapter 11  
Case No.: 08-12271-smb

Hon. Stuart M. Bernstein

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In re:

CRANSTON ACQUISITION, LLC

Debtor.

Case No.: 08-12275-smb

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**SECOND AMENDED PLAN OF  
REORGANIZATION PROPOSED BY THE DEBTORS**

CRANSTON II, LLC and Cranston Acquisition, LLC, Debtors and Debtors-in-Possession (the "Debtors"), proposes the following Amended Plan of Reorganization (the "Plan") pursuant to Chapter 11 of the Bankruptcy Code, 11 U.S.C. Section 101 et. seq.

**1. DEFINITIONS**

For purposes of this Plan, the following terms shall have the respective meanings as hereinafter set forth (such meanings to be equally applicable to the singular and plural forms of the terms defined, unless the context otherwise requires).

1.1) Administration or Administrative Claim or Claims - Any cost or expense of administration of the Chapter 11 case allowed under Section 503(b) of the Bankruptcy Code, including without limitation, any actual and necessary expenses of operating the business of the Debtors, and all allowances of compensation or reimbursement of expenses for legal or other professional services to the extent allowed by the Court under Sections 327, 330, 331 and 503 of the Bankruptcy Code.

1.2) Allowed Administrative or Administration Claim or Claims - All or that portion of any Administrative or Administration Claim which is an Allowed Claim.

1.3) Allowed Claim - Any claim or portion of a claim (a) which is scheduled by the Debtors pursuant to Sections 521(1) and 1106(a)(2) of the Bankruptcy Code as other than disputed, contingent or unliquidated, and as to which the Debtors or any other party in interest has not filed an objection; or (b) proof of which had been timely filed with the Court pursuant to Section 501(a) of the Bankruptcy Code or on or before the date designated to the Court as the last date for filing Proofs of Claim, and with respect to which no objection to the allowance thereof has been interposed within the applicable period of limitation fixed by the Bankruptcy Code, Bankruptcy Rules or by an Order of the Court; or (c) which, after objection thereto, has been allowed in whole or in part by a Final Order.

1.4) Allowed Insider Unsecured Claim - All or that portion of an Allowed Claim arising from a loan made by an Insider of the Debtors to the Debtors or from a capital call from the Debtors.

1.5) Allowed Non-Insider General Unsecured Claim - Any Allowed Claim that is not an Allowed Administrative Claim, an Allowed Secured Claim, an Allowed Priority Claim or an Allowed Insider Unsecured Claim. Interest accrued after the Filing Date shall not be a part of any Allowed Unsecured Claim.

1.6) Allowed Priority Claim - All or that portion of an Allowed Claim entitled to priority under Sections 507(a)(3), (4), (6) and (8) of the Bankruptcy Code. Except as may be allowed by the Court in the case of an Allowed Priority Claim under Section 507(a)(8) of the Bankruptcy Code, any interest on such claim which accrued after the filing date, shall be part of the allowed priority claim.

1.7) Allowed Secured Claim - All or that portion of any Allowed Claim that is secured by a valid enforceable lien on the property of the Debtors, to the extent of the value of such property, as determined by agreement between the Debtors and the holder of such allowed secured claim or by the Court by a Final Order pursuant to Section 506 of the Bankruptcy Code.

1.8) Bankruptcy Code - The Bankruptcy Reform Act of 1978 (11 U.S.C. Sections 101, et. seq.), as amended by the Bankruptcy Amendments and Federal Judgeship Act of 1984 (P.L. No. 98-353) and, as applicable to cases filed before its enactment, the Bankruptcy Reform Act of 1994 (P.L. 103-394) and Title 11 of the United States Code and the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005, as amended.

1.9) Bankruptcy Rules - The Federal Rules of Bankruptcy Procedure as applicable to cases under Title 11 of the United States Code.

1.10) Business Day - Any day other than a Saturday, Sunday or legal holiday as such term is defined in Bankruptcy Rule 9006.

- 1.11) Chapter 11 - Chapter 11 of the Bankruptcy Code.
- 1.12) Chapter 11 cases - In re: CRANSTON II, LLC and CRANSTON ACQUISITION, LLC, currently pending before this Court.
- 1.13) Claim - A claim against the Debtors as defined in Section 101(5) of the Bankruptcy Code.
- 1.14) Claimant - The holder of a Claim.
- 1.15) Class - A class of holders of Allowed Claims described in sections 2 and 3 of this Plan.
- 1.16) Confirmation - Entry of an order by the Court approving the Plan in accordance with Chapter 11.
- 1.17) Confirmation Date - The date upon which the Court enters an order confirming the Plan pursuant to Section 1129 of the Bankruptcy Code.
- 1.18) Confirmation Order - The order entered by the Court confirming the Plan in accordance with Chapter 11.
- 1.19) Consummation- means the occurrence of the Effective Date.
- 1.20) Court - The United States Court for the Southern District of New York or such other court as may have jurisdiction over the Debtors' Chapter 11 case.
- 1.21) Debtors - CRANSTON II, LLC and CRANSTON ACQUISITION, LLC.
- 1.22) DIP Credit Agreement – means that certain debtors-in-possession financing agreement, dated as of August 27, 2008, by and among Cranston II LLC, Cranston Acquisition LLC, Victory Park Credit Opportunities Master Fund, Ltd. and Victory Park Management, LLC, and all related loan documents, as the same may have been subsequently modified, amended, or supplemented, together with all instruments and agreements related thereto.
- 1.23) DIP Loan – means that certain debtors-in-possession senior, secured loan entered into pursuant to the DIP Credit Agreement.
- 1.24) Disallowed Claim - any Claim or portion thereof that has been disallowed by the Court by a Final Order.
- 1.25) Disputed Claim - (a) any Claim or portion of a Claim (other than an Allowed Claim) which is scheduled by the Debtors as disputed, contingent or unliquidated; or (b) a Claim

which has been filed pursuant to Section 501(a) of the Bankruptcy Code as unliquidated or contingent; or (c) a Claim which has been filed pursuant to Section 501(a) of the Bankruptcy Code and as to which an objection to the allowance thereof has been interposed within the time limitation by the Bankruptcy Code, the Bankruptcy Rules, an Order of the Court, or by this Plan, which objection has not been determined, in whole or in part by a Final Order.

1.26) Effective Date - means the date selected by the Debtors that is a Business Day after the Confirmation Date on which the conditions as specified in the Plan have been satisfied or waived. Unless otherwise specifically provided in the Plan, anything required to be done by the Debtors on the Effective Date may be done on the Effective Date or as soon as reasonably practicable thereafter.

1.27) Entity - Defined at Section 101(15) of the Bankruptcy Code.

1.28) Equity Interest - Shall mean any "Equity Interest" of the Debtors, as that term is defined in Section 101(16) of the Bankruptcy Code.

1.29) Exempt Taxes - Any and all stamp, transfer, mortgage recording, and other taxes to which the exemption contained in section 1146(c) of the Bankruptcy Code is applicable, including, without limitation, the New York State Real Estate Transfer Tax and Mortgage Recording Tax, and New York City Transfer Tax.

1.30) Exit Financing - means that certain senior, secured term loan to be entered into by the Reorganized Debtors and Victory Park on the Effective Date pursuant to the Exit Financing Agreement.

1.31) Exit Financing Agreement - means that certain credit agreement, dated as of the Effective Date, by and among the Reorganized Debtors and Victory Park, as the same may be subsequently modified, amended, or supplemented, together with all instruments and agreements related thereto.

1.32) Filing Date - June 17, 2008.

1.33) Final Order - An order or judgment as to which order or judgment (or any revision, modification or amendment thereof) (a) the time to appeal has expired and as to which no appeal has been filed, or (b) an order or judgment which has been appealed, has been affirmed on appeal and as to which appeal the time for further appeal has expired.

1.34) Insider - Shall be defined at Section 101(31) of the Bankruptcy Code.

1.35) New Equity - means those certain membership units of the Reorganized Debtors to be issued pursuant to the Plan.

1.36) New Warrant - means that certain warrant to be issued to Victory Park pursuant

to the Plan, which shall (a) grant Victory Park the right to purchase thirty percent (30%) of the New Equity of the Reorganized Debtors on a fully-diluted basis and (b) be exercisable (for the price of \$1) by Victory Park at any time in its sole discretion.

1.37) Plan - This Chapter 11 Plan of Reorganization as modified or amended from time to time as and to the extent permitted herein or by Bankruptcy Code.

1.38) Professional Person - Defined at Section 327(a) of the Bankruptcy Code.

1.39) Pro-rata – means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class.

1.40) Reorganized Debtors - Shall mean the Debtors on or after the Effective Date.

1.41) Victory Park – means, collectively, Victory Park Credit Opportunities Master Fund, Ltd. and Victory Park Management, LLC, in their respective capacities as lender and administrative and collateral agent under the DIP Credit Agreement.

## **2. CLASSIFICATION OF CLAIMS AND INTERESTS**

The Allowed Claims against the Debtors are divided into the following classes:

Class 1 - Allowed Administrative Claims;

Class 2 - Allowed Secured Claim of Victory Park;

Class 3 - Allowed Priority Claims;

Class 4 - Allowed Non-Insider General Unsecured Claims;

Class 5 - Allowed Insider Unsecured Claims; and

Class 6 - Equity Interests.

## **3. TREATMENT OF CLAIMS**

### **3.0 STATUTORY FEES**

The fees of the United States Trustee, pursuant to 28 U.S.C. §1930, are the responsibility of the Debtors and the Reorganized Debtors. All outstanding quarterly fees owed to the Office of the United States Trustee shall be paid in full in cash on the Effective Date or as soon as practicable thereafter. In addition, the Reorganized Debtors shall continue to incur quarterly fees

until the entry of the “Final Decree.” Unpaid United States Trustee fees accrue interest that is an expense of the Estate and a liability of the Reorganized Debtors.

3.1) **CLASS 1 - ADMINISTRATIVE CLAIMS**

Subject to the provisions of sections 328, 330(a), and 331 of the Bankruptcy Code, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Allowed Administrative Claim, each holder of such Allowed Administrative Claim shall be paid in full in cash the unpaid portion of such Allowed Administrative Claim in accordance with the terms of the applicable contract or agreement governing such Claim, if any, on the Effective Date or as soon as practicable thereafter.

Class 1 is not impaired by the Plan. Each holder of a Class 1 Administrative Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 1 Administrative Claims are not entitled to vote to accept or reject the Plan.

3.2) **CLASS 2 - SECURED CLAIM OF VICTORY PARK**

Victory Park holds a first priority secured claim in this case in the approximate amount of \$18,000,000 by virtue of its DIP Loan, the proceeds of which were used to pay the pre-petition secured claim of BC Media, fund the administration of this case, and fund the construction and operations of the station.

On the Effective Date, if the assets of the Debtors have not been sold for an amount sufficient to pay off the DIP Loan in full in cash and provide more to unsecured creditors than is to be distributed under this Plan, Victory Park shall receive the following treatment:

- (a) the DIP Loan shall be converted into the Exit Financing;
- (b) twenty-five percent (25%) of the New Equity; and
- (c) the New Warrant.

By voting to accept the Plan, Victory Park shall be deemed to authorize and consent to the distribution of New Equity in the Reorganized Debtors to the holders of Class 4 Allowed Non-Insider General Unsecured Claims and Barbara Laurence out of the proceeds of the collateral securing the DIP Loan.

Class 2 is impaired by the Plan. Victory Park is entitled to vote to accept or reject the Plan.

3.3) **CLASS 3 - ALLOWED PRIORITY CLAIMS**

The Internal Revenue Service has filed an estimated Claim for payroll taxes for a period prior to the time that Cranston II, LLC had any employees. To the extent this Claim is not withdrawn, the Debtors shall object to it. To the extent that claim is allowed, it will be paid upon the Effective Date, with statutory interest in full and final satisfaction, settlement, release and discharge of and in exchange for such claim.

Class 3(a) is not impaired by the Plan. Each holder of a Class 3(a) Allowed Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Class 3(a) Allowed Priority Claims, if any, are not entitled to vote to accept or reject the Plan.

Class 3(b). There are no other priority claims in this case. In the event there are Allowed Priority Claims, except to the extent that a holder of a Allowed Priority Claim agrees to a less favorable treatment, in full and final satisfaction, settlement, release, and discharge of and in exchange for each Class 3 Allowed Priority Claim, each holder of such Allowed Priority Claim shall be paid in full in cash, , on the Effective Date or as soon as practicable thereafter.

Class 3(b) is not impaired by the Plan. Each holder of a Class 3(b) Allowed Priority Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, holders of Class 3(b) Allowed Priority Claims, if any, are not entitled to vote to accept or reject the Plan.

#### 3.4) **CLASS 4 - ALLOWED NON-INSIDER GENERAL UNSECURED CLAIMS**

Class 4 consists of Allowed Non-Insider General Unsecured Claims. There are several different types of unsecured claims in this class. There are claims that were listed in the Debtors' schedules as neither disputed, contingent, nor unliquidated, and are thus deemed allowed claims. The Debtors listed \$654,890 in the schedules. There were also Claims filed by creditors in this class. After reconciling its books with those claims, and allowing the claim of Valley Broadcasting Company, the total agreed amount of Allowed Non-Insider General Unsecured Claims is \$655,387.67. The Debtors have amended its schedules to list one previously undisputed claim, the claim of Equity Media Holdings in the sum of \$227,436, as disputed. This was due to the Debtors discovering that it had been over billed for services rendered and based upon multiple breaches of the agreements between the Debtors and Equity Media Holdings by the claimant. The Debtors now believe that claim is zero, and will object to any claim that is filed.

One Claim of Seth Kanegis in the total amount of \$425,000 has been bifurcated into a Class 5 Allowed Insider Unsecured Claim of \$225,000 and a Class 4 Allowed Non-Insider General Unsecured Claim of \$200,000, based upon the fact that the later amount was lent prior to him having "Insider" status (as such term is defined in the Bankruptcy Code).

Claim No. 4 in the amount of \$250,000 was filed in both cases by the Estate of Lee Degenstein. The Debtors have objected to this Claim on several bases. First, this is an Insider Claim. Second, these funds were advanced to a different entity. When that entity failed, a warrant was granted for 20% of the interest in the Debtors. This interest holder also failed to meet its obligations pursuant to capital calls. This interest was also diluted by the granting of the warrants under the DIP Loan and will be null and void pursuant to the treatment of Class 5.

In full and final satisfaction, settlement, release, and discharge of and in exchange for each Class 4 Allowed Non-Insider General Unsecured Claim, on the Effective Date or as soon as practicable thereafter, each holder of a Class 4 Allowed Non-Insider General Unsecured Claim shall receive its respective pro-rata share of twenty percent (20%) of the New Equity in each Reorganized Debtor.

Class 4 is impaired by the Plan. Holders of Class 4 Allowed Non-Insider General Unsecured Claims are entitled to vote to accept or reject the Plan.

3.5) **CLASS 5 – ALLOWED INSIDER UNSECURED CLAIMS**

Class 5 consists of Allowed Insider Unsecured Claims. These Claims represent loans made by Insiders to the Debtors’ or capital calls under the applicable agreements. The following Claims are part of this Class:

|                     |                  |
|---------------------|------------------|
| Barbara Laurence    | \$25,000         |
| Denmark LLC         | \$25,000         |
| Hye-Tech LLC        | \$25,000         |
| Lee Degenstein      | \$25,000         |
| Lynn Welshman       | \$78,000         |
| Martin Genauer      | \$25,000         |
| Paul Libovitz       | \$25,000         |
| <u>Seth Kanegis</u> | <u>\$225,000</u> |
| Total               | \$453,000        |

In addition, there are unpaid management fees to Welshman 1210, LLC in the sum of \$245,000.

Holders of Class 5 Allowed Insider Unsecured Claims shall receive no distribution under the Plan.

Class 5 is impaired by the Plan. Each Holder of a Class 5 Allowed Insider Unsecured Claim is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Class 5 Allowed Insider Unsecured Claims are not entitled to vote to accept or reject the Plan.

### 3.6) **CLASS 6 - EQUITY INTERESTS**

On the Effective Date, all current equity interests of the Debtors, including all membership interests, warrants and similar interests, to the extent not already diluted pursuant to the Final DIP Financing Order shall be deemed canceled and extinguished, and shall be of no further force and effect, whether surrendered for cancellation or otherwise, and there shall be no distribution to any holders of Class 6 Equity Interests.

Class 6 is impaired by the Plan. Each Holder of a Class 6 Equity Interest is conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Class 6 Equity Interests are not entitled to vote to accept or reject the Plan.

## 4. **MEANS OF EFFECTUATING THE PLAN**

### 4.1) Exit Financing.

If the assets of the Debtors have not been sold prior to the Confirmation Date for an amount sufficient to pay off the DIP Loan in full in cash and provide more to unsecured creditors than is to be distributed under the Plan, on the Effective Date, the DIP Loan shall be converted into the Exit Financing. The Exit Financing shall be on substantially the same terms and conditions as the DIP Loan, except that (a) the term of the loan shall be extended to March 31, 2010 (the "New Maturity Date") with a three month extension of that date if the Debtors have entered into a bona fide contract to sell the assets of the Debtors by March 31, 2010, and (b) in lieu of the 12% cash interest in the DIP Loan and the 3% PIK interest, there shall only be PIK interest that compounds monthly at a rate equal to eighteen percent (18%) per annum from the Effective Date to and including the New Maturity Date.

Confirmation shall be deemed approval of the Exit Financing (including the transactions contemplated thereby and all actions to be taken, undertakings to be made, and obligations to be incurred by the Reorganized Debtors in connection therewith, including the payment of all fees, indemnities, and expenses provided for therein) and authorization for the Reorganized Debtors to enter into and execute the Exit Financing Agreement and such other documents as Victory Park may require to effectuate the treatment afforded to Victory Park pursuant to the Exit Financing Agreement. The Exit Financing Documents shall be in substantially the same form as the Final DIP Financing Agreements, except as modified by the terms and conditions set forth in the Plan. The Reorganized Debtors may use the Exit Financing for any purpose permitted under the Exit Financing Agreement, including the funding of obligations under the Plan and satisfaction of ongoing working capital needs.

Upon the satisfaction or waiver of the conditions precedent to effectiveness set forth in the Exit Financing Agreement (the "Conversion Date"), automatically and without further order of the Court, (a) the Reorganized Debtors shall be authorized to assume all obligations in respect of the loans and all other monetary obligations under the DIP Loan, as amended and modified by the

Exit Financing Agreement, (b) the DIP Loan shall be deemed to have been continued as a loan under the Exit Financing Agreement as amended and modified by the Exit Financing Agreement, and (c) the DIP Loan and related documents shall be deemed to have been superseded and replaced, and deemed amended and restated in the form of, the Exit Financing Agreement (with such changes satisfactory to Victory Park and the Reorganized Debtors deemed incorporated as necessary to make such technical changes necessary to effectuate the intent of this paragraph). Notwithstanding the foregoing, all obligations of the Debtors to Victory Park under the DIP Loan which are expressly stated in the DIP Credit Agreement as surviving such agreement's termination shall, as so specified, survive without prejudice and remain in full force and effect.

Upon the Conversion Date (a) the Debtors and the Reorganized Debtors are authorized to execute and deliver the Exit Financing Agreement, all mortgages, security documents and all other related agreements, documents or instruments to be executed or delivered in connection therewith (collectively, the "Exit Facility Documents") and perform their obligations thereunder including, without limitation, the payment or reimbursement of any fees, expenses, losses, damages or indemnities, (b) the Exit Facility Documents shall constitute the legal, valid and binding obligations of the parties thereto, enforceable in accordance with their respective terms, (c) the liens granted to secure the DIP Loan shall continue to secure all obligations under the Exit Facility Documents (unless otherwise stated in the Exit Facility Documents) and shall not be altered, amended or discharged by confirmation of this Plan and shall be, and shall remain, legal, valid, perfected, non-voidable and binding liens on, and security interests in, all property and assets of the Reorganized Debtors having the priority granted to them under the Plan or the orders approving the DIP Loan, and (d) no obligation, payment, transfer or grant of security under the Exit Facility Documents shall be stayed, restrained, voidable, or recoverable under the Bankruptcy Code or under any applicable law or subject to any defense, reduction, recoupment, setoff or counterclaim. The Debtors and the Reorganized Debtors, as applicable, and the other persons granting any liens and security interests to secure the obligations under the Exit Facility Documents are authorized to make all filings and recordings, and to obtain all governmental approvals and consents necessary or desirable to establish and further evidence of perfection of such liens and security interests under the provisions of any applicable federal, state, provincial or other law (whether domestic or foreign) (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.

4.2) Issuance of New Equity and New Warrants. On the Effective Date, or as soon as reasonably practicable thereafter, the New Equity and the New Warrants shall be issued pursuant to the Plan. The issuance of the New Equity and the New Warrants by the Reorganized Debtors are authorized without the need for any further corporate action or without any further action by a holder of Claims or Equity Interests.

4.3) Corporate Existence. Except as otherwise provided in the Plan, the Debtors shall continue to exist after the Effective Date as limited liability companies with all the powers of a limited liability company pursuant to the applicable law in the jurisdiction in which the Debtors are incorporated or formed and pursuant to the applicable formation documents in effect prior to the Effective Date, except to the extent such formation documents are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval. Barbara Laurence shall continue as the Managing Member of the Reorganized Debtors.

4.4) Vesting of Assets in the Reorganized Debtors. Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated herein, on the Effective Date, all property in the Debtors' estate, all causes of action, and any property acquired by the Debtors pursuant to the Plan shall vest in the Reorganized Debtors, free and clear of all liens, claims, charges, or other encumbrances (except for liens granted to secure the Exit Financing and Claims pursuant to the DIP Loan that by their terms survive termination of the DIP Loan). On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtors may operate its business and may use, acquire, or dispose of property and compromise or settle any claims, interests, or causes of action without supervision or approval by the Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

4.5) Corporate Action. Each of the matters provided for by the Plan involving the corporate structure of the Debtors or corporate or related actions to be taken by or required of the Reorganized Debtors shall, as of the Effective Date, be deemed to have occurred and be effective as provided in the Plan (except to the extent otherwise indicated), and shall be authorized, approved, and, to the extent taken prior to the Effective Date, ratified in all respects without any requirement of further action by holders of Claims or Equity Interests, members of the Debtors, or any other Entity.

4.6) Effectuating Documents; Further Transactions. On and after the Effective Date, the Reorganized Debtors and the members thereof, are 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 and the New Equity and New Warrant issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorization, or consents except for those expressly required pursuant to the Plan.

4.7) Exemption from Certain Taxes and Fees. Pursuant to section 1146(a) of the Bankruptcy Code, and to the extent permitted under the law, any transfer a Reorganized Debtors to any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity security, or other interest in the Debtors or the Reorganized Debtors; (b) the creation, modification, consolidation, 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; or (d) 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, shall not be subject to any stamp tax, , FERC filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

4.8) Sources of Consideration for Plan Distributions. All consideration necessary for the Debtors or the Reorganized Debtors to make payments or distributions pursuant hereto shall be obtained from the Exit Financing, the issuance of the New Equity, and the issuance of the New Warrant, each made available out of the proceeds of the collateral securing Victory Park's debt with Victory Park's consent.

4.9) Preservation of Rights of Action. In accordance with section 1123(b) of the Bankruptcy Code, but subject to Section 9 hereof, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all causes of action, whether arising before or after the Petition Date, and the Reorganized Debtors' rights to commence, prosecute, or settle such causes of action shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized Debtors may pursue such causes of action, as appropriate, in accordance with the best interests of the Reorganized Debtors. No Entity may rely on the absence of a specific reference in the Plan or the Disclosure Statement to any cause of action against them as any indication that the Debtors or Reorganized Debtors, as applicable, will not pursue any and all available causes of action against them. The Debtors or Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all causes of action against any Entity, except as otherwise expressly provided in the Plan. Unless any causes of action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Court order, the Reorganized Debtors 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.

The Reorganized Debtors reserve and shall retain the foregoing causes of action notwithstanding the rejection or repudiation of any executory contract or unexpired lease during the Chapter 11 case or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any causes of action that the Debtors may hold against any Entity shall vest in the Reorganized Debtors. The Reorganized Debtors, through its authorized agents or representatives, shall retain and may exclusively enforce any and all such causes of action. The Reorganized Debtors 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 and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Court.

## **5. ACCEPTANCE OR REJECTION OF THE PLAN**

5.1) Voting Classes. Classes 2 and 4 are impaired under the Plan and are entitled to vote to accept or reject the Plan.

5.2) Presumed Acceptance of the Plan. Classes 1 and 3 are unimpaired under the Plan. The holders of Claims in such Classes are conclusively presumed to have accepted the Plan and are not entitled to vote to accept or reject the Plan.

5.3) Deemed Rejection of the Plan. Classes 5 and 6 are impaired under the Plan, are deemed to have rejected the Plan, and are not entitled to vote to accept or reject the Plan.

5.4) Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code. Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by an impaired Class of Claims. 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 Equity Interests.

## **6. PROVISIONS CONCERNING DISTRIBUTIONS**

6.1) Timing and Calculation of Amounts to be Distributed. Unless otherwise provided in the Plan, on the Effective Date or as soon as reasonably practicable thereafter (or if a Claim is not an Allowed Claim on the Effective Date, within thirty (30) days of such Claim becoming an Allowed Claim), each Holder of an Allowed Claim against the Debtors shall receive the full amount of the distributions that the Plan provides for Allowed Claims in the applicable Class. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth below. Except as otherwise provided herein, Holders of Claims shall not be entitled to interest, dividends, or accruals on the distributions provided for herein, regardless of whether such distributions are delivered on or at any time after the Effective Date.

6.2) Distributions on Account of Claims Allowed After the Effective Date.

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

Notwithstanding any provision otherwise in the Plan and except as otherwise agreed to 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 have been resolved by settlement or Final Order and the Disputed Claims have been Allowed.

6.3) Delivery of Distributions and Undeliverable or Unclaimed Distributions.

Except as otherwise provided herein, the Reorganized Debtors shall make distributions to holders of Allowed Claims at the address for each such holder as indicated on the Debtors' records as of the date of any such distribution; provided, however, that the manner of such distributions shall be determined at the discretion of the Reorganized Debtors; and provided further, that the address for each holder of an Allowed Claim shall be deemed to be the address set forth in any proof of claim filed by that holder.

The Reorganized Debtors shall not be required to make partial distributions or payments of fractions of shares or units of New Equity and such fractions of shares or units shall be deemed to be zero.

In the event that any distribution to any holder is returned as undeliverable, no distribution to such holder shall be made unless and until the Reorganized Debtors have determined the then current address of such holder, at which time such distribution shall be made to such holder without interest; provided, however, such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of six (6) months from the Effective Date. After such date, all unclaimed property or interests in property shall revert to the Reorganized Debtors (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any holder to such property or interest in property shall be discharged and forever barred.

6.4) Disputed payments or distribution. In the event of any dispute between and among claimants (including the entity or entities asserting the right to receive the disputed payment or distribution) as to the right of any entity to receive or retain any payment or distribution to be made to such entity under the Plan, the Reorganized Debtors may, in lieu of making such payment or distribution to such entity, make it instead into an escrow account or to a disbursing agent, for payment or distribution as ordered by a court of competent jurisdiction or as the interested parties to such dispute may otherwise agree among themselves.

6.5) Setoffs. The Debtors and the Reorganized Debtors may withhold from the distributions called for under the Plan on account of any Allowed Claim an amount equal to any claims, equity interests, rights, and causes of action of any nature that the Debtors or the Reorganized Debtors may hold against the holder of any such Allowed Claim. In the event that

any such claims, equity interests, rights, and causes of action of any nature that the Debtors or the Reorganized Debtors may hold against the holder of any such Allowed Claim are adjudicated by Final Order or otherwise resolved, the Debtors or the Reorganized Debtors may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off against any Allowed Claim and the distributions to be made pursuant hereto on account of such Allowed Claim (before any distribution is made on account of such Allowed Claim) the amount of any adjudicated or resolved claims, equity interests, rights, and causes of action of any nature that the Debtors or the Reorganized Debtors may hold against the holder of any such Allowed Claim, but only to the extent of such adjudicated or resolved amount. Neither the failure to effect such a setoff nor the allowance of any Claim under the Plan shall constitute a waiver or release by the Debtors or the Reorganized Debtors of any such claims, equity interests, rights, and causes of action that the Debtors or the Reorganized Debtors may possess against any such Holder, except as specifically provided herein.

## **7. TREATMENT OF EXECUTORY CONTRACTS AND LEASES**

7.1) Any executory contract or unexpired leases which have not (a) expired by their own terms on or prior to the Effective Date, or (b) been assumed, assumed and assigned, or rejected with the approval of the Court, shall be deemed rejected by the Debtors as of the Confirmation Date, and the entry of the Confirmation Order by the Court shall constitute approval of the rejections of such executory contracts and unexpired leases pursuant to sections 365(a) and 1123 of the Bankruptcy Code.

7.2) Each Entity that is a party to an executory contract or unexpired lease that is rejected as of the Confirmation Date pursuant to the Plan and the Confirmation Order will be entitled to file, not later than forty-five (45) days following the Confirmation Date, a proof of claim for damages alleged to have been suffered due to such rejection; provided that the opportunity afforded an Entity whose executory contract or unexpired lease is rejected as of the Confirmation Date pursuant to the Plan and the Confirmation Order to file a proof of claim shall in no way apply to Entities that may assert a claim on account of an executory contract or unexpired lease that was previously rejected by the Debtors for which a prior bar date was established. Any Entity that has a Claim for damages as a result of the rejection of an executory contract or unexpired lease pursuant to the Plan that does not file a proof of claim in accordance with the terms and provisions of the Plan with the Court (and serve such proof of claim upon the Reorganized Debtors) will be forever barred from asserting that Claim against, and such Claim shall be unenforceable against, the Debtors, its estates and the Reorganized Debtors.

7.3) Any Entity whose claim arises from rejection of an executory contract or unexpired lease shall, to the extent such claim becomes an Allowed Claim, and is not an Insider General Unsecured Claim, have the rights of a holder of a Class 4 Non-Insider General Unsecured Claim with respect thereto.

## **8. PROCEDURES FOR RESOLVING DISPUTED CLAIMS**

8.1) The Time for Objections to Claims. Objections to Claims shall be filed by the Debtors with the Court and served upon each holder of each of the Claims to which objections are made not later than ten (10) days prior to the Confirmation Date or within such other time period as may be fixed by the Court, except that unless otherwise extended by Order of the Court, the Debtors may file an objection to the allowance of any Claim filed resulting from the rejection of an executory contract or unexpired lease on the later of 45 days following the Confirmation Date or within 45 days after the filing of such Claim and service of a copy of such Claim upon the Debtors as provided for herein.

8.2) Resolution of Disputed Claims. Unless otherwise ordered by the Court, the Debtors may litigate to judgment, settle or withdraw objections to Disputed Claims (with the consent of Victory Park) without notice to any party in interest and without further Court approval.

8.3) Payments. Payments and distributions to each holder of a Disputed Claim that ultimately becomes an Allowed Claim by a Final Order of the Court shall be made in accordance with the Plan. Such payments and distributions shall be made within thirty (30) days after the later of the Effective Date or the entry of a Final Order allowing such Claim. Payments made in accordance with this section shall not include interest on the amount of such payment.

## **9. SETTLEMENT, RELEASE AND RELATED PROVISIONS**

### **9.1) Release by the Debtors in Favor of Victory Park.**

Pursuant to section 1123(b) of the Bankruptcy Code, for good and valuable consideration, including, without limitation, the Exit Financing and the distributions made available under the Plan by Victory Park, on and after the Effective Date, the Debtors, their estate and the Reorganized Debtors shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever, released and discharged Victory Park Capital Advisors, LLC, Victory Park Management, LLC and Victory Park Credit Opportunities Master Fund, Ltd. (together with their respective employees, agents, representatives, consultants, attorneys, fiduciaries, officers, directors, partners, principals, managers, predecessors, successors and assigns, subsidiaries, parents, and affiliated and managed funds, collectively the "VP Released Parties") from any and all claims, obligations, rights, suits, damages, debts, demands, losses, costs and expenses, causes of action, remedies, and liabilities of any kind, character or nature whatsoever, including, without limitation, any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, fixed or contingent, existing or hereinafter arising, in law, equity, or otherwise, that the Debtors, their estates, the Reorganized Debtors, or their respective affiliates would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the holder of any Claim or Equity Interest or other Entity, based on or

relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Debtors' Chapter 11 cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between the Debtors and any VP Released Party, the restructuring of Claims and Equity Interests prior to or in the Chapter 11 case, the negotiation, formulation, or preparation of the Plan and Disclosure Statement, or related agreements, instruments, or other documents, or any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, whether or not the facts or legal bases therefor were known or existed prior to the Effective Date, other than claims or liabilities arising out of or relating to any act or omission of a VP Released Party that constitutes willful misconduct (including fraud) or gross negligence.

**9.2) Releases by Holders of Claims and Equity Interests in Favor of Victory Park.**

For good and valuable consideration, including, without limitation, the Exit Financing and the distributions made available under the Plan by Victory Park, on and after the Effective Date, all holders of Claims and Equity Interests shall be deemed to have conclusively, absolutely, unconditionally, irrevocably, and forever, released and discharged the VP Released Parties from any and all claims, obligations, rights, suits, damages, debts, demands, losses, costs and expenses, causes of action, remedies, and liabilities of any kind, character or nature whatsoever, including, without limitation, any derivative claims asserted on behalf of the Debtors, whether known or unknown, foreseen or unforeseen, fixed or contingent, existing or hereinafter arising, in law, equity, or otherwise, that such Entity would have been legally entitled to assert in their own right (whether individually or collectively) or on behalf of the Debtors, the holder of any Claim or Equity Interest or other Entity, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Debtors' Chapter 11 cases, the purchase, sale, or rescission of the purchase or sale of any security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Equity Interest that is treated in the Plan, the business or contractual arrangements between the Debtors and any VP Released Party, the restructuring of Claims and Equity Interests prior to or in the Chapter 11 case, the negotiation, formulation, or preparation of the Plan and Disclosure Statement, or related agreements, instruments, or other documents, or any other act or omission, transaction, agreement, event, or other occurrence taking place on or before the Effective Date, whether or not the facts or legal bases therefor were known or existed prior to the Effective Date regardless of whether a proof of Claim was filed, whether such Entity voted to accept or reject the Plan or whether the Claim or Equity Interest is an Allowed Claim or Equity Interest, other than claims or liabilities arising out of or relating to any act or omission of a VP Released Party that constitutes willful misconduct (including fraud) or gross negligence.

**9.3) Discharge of Claims and Termination of Interests.** Pursuant to section 1141(d) of the Bankruptcy Code, ,Unless the Debtors enter into a contract to sell its assets prior to

the Effective Date and except as otherwise specifically provided in the Plan, 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 Claims, Equity Interests, and causes of action of any nature whatsoever, including any interest accrued on Claims or Equity Interests from and after the Petition Date, whether known or unknown, against, liabilities of, liens on, obligations of, rights against, and Equity Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Equity Interests, including demands, liabilities, and causes of action that arose before the Effective Date, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a proof of claim or Equity Interest based upon such debt, right, or Equity Interest is filed or deemed filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Equity Interest based upon such debt, right, or Equity Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Equity Interest has accepted the Plan. Any default by the Debtors or their affiliates with respect to any Claim or Equity Interest that existed immediately prior to or on account of the filing of the Chapter 11 case shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Equity Interests subject to the Effective Date occurring.

Nothing in the Confirmation Order or the Plan shall effect a release of any claim by the United States Government or any of its agencies or any state and local authority whatsoever, including without limitation any claim arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against the Released Parties, nor shall anything in the Confirmation Order or the Plan of Reorganization enjoin the United States or any state or local authority from bringing any claim, suit, action or other proceedings against the Released Parties for any liability whatever, including without limitation any claim, suit or action arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state or local authority, nor shall anything in the Confirmation Order or the Plan of Reorganization exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, the environmental laws or any criminal laws of the United States or any state and local authority against the Released Parties.

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9.4) **Exculpation.** To the extent set forth in U.S.C. §1125(e) neither the VP Released Parties, the Debtors, the Reorganized Debtors, nor the Debtors' estate (a) shall have or incur any liability to, or be subject to any right of action by, the Debtors or any holder of a Claim or Equity Interest, or any other party in interest, or any of their respective

employees, agents, representatives, consultants, attorneys, fiduciaries, officers, directors, partners, principals, managers, predecessors, successors and assigns, subsidiaries, parents, or affiliates, for any act or omission in connection with, relating to, or arising out of, the Debtors' Chapter 11 cases, formulation, preparation, dissemination, negotiation, or filing of the Disclosure Statement or the Plan or any contract, instrument, release, or other agreement or document created or entered into in connection with the Disclosure Statement or the Plan, the filing of the Chapter 11 case, the pursuit of Confirmation, the pursuit of Consummation, the administration and implementation of the Plan, or the distribution of property under the Plan or any other agreement; and (b) in all respects shall be entitled to rely reasonably upon the advice of counsel with respect to their duties and responsibilities under the Plan.

9.5) **Injunction.** Except as otherwise expressly provided in the Plan, the Confirmation Order or such other order of the Court that may be applicable, all Entities who have held, hold or may hold Claims, Equity Interests or any other debt or liability that is discharged, released, exculpated, satisfied, terminated or cancelled pursuant to the Plan are permanently enjoined, from and after the Effective Date, from (a) commencing or continuing in any manner any action or other proceeding of any kind on any such Claim, Equity Interest or other debt or liability against the VP Released Parties, the Debtors, the Reorganized Debtors, the Debtors' estates, or their respective properties or interests in properties, (b) the enforcement, attachment, collection or recovery by any manner or means of any judgment, award, decree or order against the VP Released Parties, the Debtors, the Reorganized Debtors, the Debtors' estates, or their respective properties or interests in properties, (c) creating, perfecting, or enforcing any encumbrance of any kind against the VP Released Parties, the Debtors, the Reorganized Debtors, the Debtors' estates or against their respective property or interests in property, and (d) except to the extent provided, permitted or preserved by sections 553, 555, 556, 559 or 560 of the Bankruptcy Code or pursuant to the common law right of recoupment, asserting any right of setoff, subrogation or recoupment of any kind against any obligation due from the VP Released Parties, the Debtors, the Reorganized Debtors, the Debtors' estates or against their respective property or interests in property, with respect to any such Claim, Equity Interest or other debt or liability that is discharged, released, exculpated, satisfied, terminated or cancelled pursuant to the Plan.

#### **10. RETENTION OF JURISDICTION**

The Court shall retain jurisdiction of this Chapter 11 case pursuant to and for the purposes set forth in Section 1127(b) of the Bankruptcy Code and:

- (a) to hear and determine all controversies concerning allowance of Claims;
- (b) to determine any and all applications for compensation for Professional Persons and similar fees;

- (c) to hear and determine any and all pending applications for the rejection or assumption or for the assumption and assignment, as the case may be, of executory contracts to which the Debtors are a party or with respect to which Debtors may be liable, and to hear and determine, and if need be to liquidate, any and all Claims arising therefrom;
- (d) to determine any and all applications, adversary proceedings, and contested or litigated matters properly before the Court;
- (e) to modify the Plan pursuant to Section 1127 of the Bankruptcy Code or to remedy any defect or omission or reconcile any inconsistency in the Confirmation Order to the extent authorized by the Bankruptcy Code;
- (f) to hear and determine all controversies, suits and disputes, if any, as may arise in connection with the interpretation or enforcement of the Plan;
- (g) to hear and determine all controversies, suits and disputes, if any, as may arise with regard to orders of this Court in the Chapter 11 case entered on or before the Confirmation Date;
- (h) to hear and determine any and all controversies and disputes arising under, or in connection with, the Plan;
- (i) to adjudicate all controversies concerning the classification of any Claim or Equity Interest;
- (j) to liquidate damages in connection with any disputed, contingent or unliquidated Claims;
- (k) to adjudicate all Claims to a security or ownership interest in any property of the Debtors or in any proceeds thereof;
- (l) to adjudicate all claims or controversies arising out of any purchases, sales or contracts made or undertaken by the Debtors during the pendency of the Chapter 11 case;
- (m) to recover all assets and properties of the Debtors wherever located, including the prosecution and adjudication of all causes of action available to the Debtors as of the Confirmation Date;
- (n) to enter any order, including injunctions necessary to enforce the title, rights and powers of the Debtors and to impose such limitations,

restrictions, terms and conditions on such title, rights and powers that the Court may deem necessary or appropriate;

- (o) to enter an order of Consummation concluding and terminating the Chapter 11 cases;
- (p) to hear and determine adversary proceedings seeking the recovery of fraudulent conveyances, preferences or property or assets of the estate; and
- (q) to make such orders as are necessary or appropriate to carry out the provisions of the Plan, including but not limited to orders interpreting, clarifying or enforcing the provisions thereof.

## **11. CONDITIONS PRECEDENT TO CONFIRMATION AND CONSUMMATION**

11.1) Conditions Precedent to Confirmation. It shall be a condition to Confirmation of the Plan that the Court shall have entered the Confirmation Order in form and substance reasonably acceptable to the Debtors and Victory Park.

11.2) Conditions Precedent to Consummation. It shall be a condition to Consummation of the Plan that the following conditions shall have been satisfied (or waived by consent of both the Debtors and Victory Park, which waiver may occur without leave or order of the Court or any formal action other than proceeding to confirm or consummate the Plan):

- (a) The Confirmation Order shall have been entered in a form and in substance satisfactory to the Debtors and Victory Park;
- (b) The Exit Financing Agreement (in a form and in substance satisfactory to the Debtors and Victory Park) shall have been executed and delivered by the parties thereto, and all conditions precedent to the consummation thereof shall have been waived or satisfied in accordance with the terms thereof;
- (c) All actions, documents, certificates, and agreements necessary to implement this Plan (in a form and in substance satisfactory to the Debtors and Victory Park) shall have been effected or executed and delivered to the required parties and, to the extent required, filed with the applicable governmental units in accordance with applicable law; and
- (d) The Effective Date shall have occurred no later than the due date of the DIP Loan (August 31, 2009) or any extensions of same contained therein.

**12. MISCELLANEOUS PROVISIONS**

12.1) Payment Dates. If any payment or act under the Plan is required to be made or falls on a date which shall be a Saturday, Sunday or legal holiday, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

12.2) Notices. Any notice to be provided under the Plan shall be in writing and sent by certified mail, return receipt requested, postage pre-paid (with additional copy to Debtors' counsel and Victory Park by telefax); or by hand delivery, addressed as follows:

To the Debtors' counsel:

Avrum J. Rosen, Esq.  
The Law Offices of Avrum J. Rosen, PLLC  
38 New Street  
Huntington, New York 11743  
631 423 8527

To Victory Park:

Scott R. Zemnick, Esq.  
Victory Park Capital Advisors, LLC  
227 West Monroe Street, Suite 3900  
Chicago, Illinois 60606  
Telephone: 312.705.2786  
Facsimile: 312.701.0794

All payments, notices and requests to claimants, shall be sent to them at their last known address. The Debtors or any claimant may designate in writing any other address for purposes of this section, which designation shall be effective upon receipt, which receipt shall be deemed to be on the third business day after mailing. Any payment required under the Plan shall be deemed to have been paid on the date when such payment is mailed.

12.3) Professional Fees. Following the Confirmation Date, the estate of the Debtors shall be responsible for payment, and shall pay (with the consent of Victory Park) reasonable compensation and reimbursement of expenses due to professionals retained by the Debtors (the "Professionals"), for services rendered post-Confirmation and pre-Effective Date. Payment shall be made upon the submission of invoices, by the Professionals to the Debtors, within ten (10) days of receipt of the invoices, without approval or review by the Court, unless an objection is raised. In the event an objection is raised, then appropriate applications for reimbursement shall

be made to the Court and paid upon order of the Court.

12.4) Headings. The headings used in the Plan are inserted for convenience only and are not to be deemed a substantive portion of the Plan nor in any manner are they to affect the provisions of the Plan.

12.5) Severability. Should any provision in the Plan be determined to be unenforceable, such determination shall in no way limit or affect the enforce ability or operative effect of any and all other provisions of the Plan.

12.6) Governing Law. Except to the extent that the Bankruptcy Code is applicable, the rights and obligations arising under the Plan shall be governed by, and construed and enforced in accordance with, the laws of the State of New York.

12.7) Successors and Assigns. The rights and obligations of any entity named or referred to in the Plan shall be binding upon and shall inure to the benefit of, the successors and assigns of such entity.

12.8) Re-vesting of Property upon Confirmation. Upon the confirmation of this Plan, the Debtors shall be re-vested with legal and equitable title to his property and the property of the estates.

12.9) Modification, Revocation or Withdrawal of the Plan.

Except as otherwise specifically provided in the Plan, the Debtors, with the consent of Victory Park, reserves the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors expressly reserve its respective rights to revoke or withdraw, or, with the consent of Victory Park, to alter, amend, or modify materially the Plan with respect to the Debtors, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan.

Entry of a Confirmation Order shall mean that all modifications or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127(a) of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

The Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (a) the Plan shall be null and void in

all respects; (b) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Equity Interest or Class of Claims or Equity Interests), assumption or rejection of executory contracts or unexpired leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (c) nothing contained in the Plan shall: (i) constitute a waiver or release of any Claims or Equity Interests; (ii) prejudice in any manner the rights of the Debtors, Victory Park or any other Entity; or (iii) constitute an admission, acknowledgement, offer, or undertaking of any sort by such Debtors, Victory Park or any other Entity.

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

Dated: Huntington, New York  
July 23, 2009

Cranston II, LLC and Cranston Acquisition, LLC

By: S/Barbara Laurence, Managing Member.

The Law Offices of Avrum J. Rosen, PLLC  
Counsel to the Debtors

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