UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
AOG Entertainment, Inc., et al.,[1]	:	Case No. 16-11090 (SMB)
Debtors.	:	(Jointly Administered)

DEBTORS' (I) MEMORANDUM OF LAW IN SUPPORT OF CONFIRMATION OF SECOND AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION FOR AOG ENTERTAINMENT, INC. AND ITS AFFILIATED DEBTORS AND (II) REPLY TO OBJECTIONS WITH RESPECT TO PLAN

Dated: September 21, 2016
New York, New York

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[1] A list of the Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number is attached as Exhibit A to the Plan (defined below) and at http://www.kccllc.net/AOG. The Debtors' executive headquarters are located at 8560 West Sunset Boulevard, 8th Floor, West Hollywood, CA 90069.

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AOG Entertainment, Inc. and its affiliated debtors and debtors in possession in the above-captioned cases (collectively, the "**Debtors**") submit this memorandum of law (a) in support of confirmation of the *Second Amended Joint Chapter 11 Plan of Reorganization for AOG Entertainment, Inc. and Its Affiliated Debtors* [Docket No. 294] (as the same may be amended, modified and/or supplemented, the "**Plan**") and (b) as a reply to objections filed with respect to confirmation of the Plan.[2]

I. PRELIMINARY STATEMENT

1. Confirmation of the Plan is the culmination of many months of negotiation and compromise — both prepetition and postpetition — achieved by and among the Debtors and the Consenting Lenders (who together hold 100% of the amount of debt outstanding under both the First and Second Lien Term Loan Facilities). The Plan also reflects a global settlement with the Creditors' Committee. It embodies the Debtors' goal of restructuring their balance sheet and maximizing value for the estates with as little disruption as possible to the Debtors' businesses during the chapter 11 process.

2. Since the Petition Date, the Debtors have stabilized their businesses through the transition into chapter 11 and proposed and solicited the terms of the Plan, which will significantly de-lever the Debtors by more than $385 million. In addition, the Debtors' two largest lenders, TCP and Crestview, agreed to reinvest approximately $18 million in the Reorganized Debtors pursuant to the terms of the Rights Offering. Throughout the entire bankruptcy process, which has paved the way to a successful financial restructuring, the Debtors have been able to successfully continue in their businesses, including concluding the thirteenth season of their successful program So You Think You Can Dance on September 12, 2016.

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[2] Capitalized terms used but not otherwise defined herein shall have those meanings given to them in the Plan or the Disclosure Statement (as defined below), as applicable.

3. Following the solicitation of the Plan, all impaired Classes entitled to vote on the Plan overwhelmingly voted to accept the Plan. With respect to creditors and interest holders deemed to reject the Plan, the Debtors seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code, as described in more detail below.

4. The level of support for the Plan is not surprising as the Plan is the product of a global settlement among the Debtors, Consenting Lenders and the Creditors' Committee following months of extensive negotiations. Such efforts have led to a streamlined chapter 11 process, which now reaches its final stage. The Debtors submit this memorandum of law in connection with the hearing on confirmation of the Plan and have filed concurrently herewith the declarations of: (a) Peter Hurwitz, President of certain Debtors (the "**Hurwitz Declaration**"); (b) Zul Jamal of Moelis & Company (the "**Jamal Declaration**"); and (c) the balloting tabulation prepared by Kurtzman Carson Consultants LLC ("**KCC**"), the Debtors' balloting agent (the "**Voting Certification**").

5. As set forth below, the Plan satisfies each of the requirements for confirmation under section 1129 and other applicable provisions of the Bankruptcy Code.

II. OVERVIEW OF THE PLAN

A. General Background.

6. On April 28, 2016 (the "**Petition Date**"), each of the Debtors filed voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the "**Bankruptcy Code**"). These chapter 11 cases have been consolidated for procedural purposes only. On May 17, 2016, an official committee of unsecured creditors (the "**Creditors' Committee**") was appointed in these cases. As of the date hereof, no trustee or examiner has been appointed in any of the Debtors' cases and no such appointment has been sought.

B. The Plan And Disclosure Statement.

7. The Debtors worked diligently to negotiate a plan of reorganization in these chapter 11 cases with two primary goals: (a) to restructure the Debtors' untenable capital structure such that the Debtors will be a viable going concern following emergence; and (b) to preserve and maximize value of the Debtors and their estates for the benefit of their creditors and stakeholders consistent with applicable law. The Debtors have achieved these goals by obtaining acceptance of a plan that reflects the compromise and settlement among the Debtors, holders of 100% of the debt outstanding under both the First and Second Lien Term Loan Facilities and the Creditors' Committee, with input from other creditor constituencies.

8. Specifically, the Plan provides for:[3]

(a) A balance sheet restructuring of the Debtors' current debt obligations under the First Lien Term Loan Facility and the Second Lien Term Loan Facility.

(b) Holders of the First Lien Lender Claims will receive (on account of their secured and unsecured deficiency claims) their Pro Rata Share of: (i) the issuance of obligations under a new term loan facility; (ii) all of the New Class A LLC Units in New CORE Holdings; (iii) interests in the Litigation Trust; (iv) a cash distribution (which the Rights Offering Purchasers will utilize their Pro Rata Share thereof to acquire the Rights Offering Units); (v) Subscription Rights to subscribe for their Pro Rata Share of the Rights Offering Units (solely with respect to the Rights Offering Participants and to the extent set forth in the Plan); and (vi) the General Unsecured Claim Cash Distribution (which Cash will be distributed to the other holders of Allowed General Unsecured Claims).

(c) Holders of the Second Lien Lender Claims will receive (on account of their secured and unsecured deficiency claims): (i) their allocated share of the New Second Lien Warrants, which Warrants shall be exercisable into New Class A LLC Units; and (ii) their Pro Rata Share of (x) interests in the Litigation Trust, and (y) the General Unsecured Claim Cash

[3] The summary of the Plan contained herein is qualified in its entirety by the terms of the Plan and in the event of any inconsistency, the Plan shall control in all respects. Specific descriptions of the material terms, treatment and distributions to each Class of Claims is set forth in Article V of the Plan, and a summary chart is included in Article II of the Disclosure Statement.

Distribution (which Cash will be distributed to the other holders of Allowed General Unsecured Claims).

(d) Other secured creditors will receive cash or their collateral, or will retain their liens, as applicable, in satisfaction of their Claims.

(e) Holders of Allowed General Unsecured Claims will receive their Pro Rata Share of: (i) interests in the Litigation Trust; and (ii) a cash distribution in the aggregate amount of $2,375,000 on account of their Allowed Claims under the Plan.

(f) Holders of Convenience Claims that are Allowed in the amount of $10,000 or less, or Allowed in an amount greater than $10,000, but which is reduced to $10,000, will be paid in full in Cash in satisfaction of their Claims; provided, however, that in the event the aggregate total of all Allowed Convenience Claims exceeds $350,000, each holder of an Allowed Convenience Claim shall instead receive its Pro Rata Share of $350,000.

(g) Holders of Subordinated Claims will not receive or retain any distribution under the Plan on account of such Subordinated Claims.

(h) The Existing Interests have no value and will be cancelled. Upon emergence, New CORE Holdings will be a Delaware Limited Liability Company, and all of New CORE Holdings' New Class A LLC Units will be owned by the First Lien Lenders, and will be subject to dilution by: (i) the New Class A LLC Units issued pursuant to the Management Incentive Plan; (ii) the New Class A LLC Units issued upon conversion of the New Series P Convertible Preferred Units by the Rights Offering Participants (who are comprised of certain holders of First Lien Lender Claims); and (iii) the New Class A LLC Units issued upon exercise of the New Second Lien Warrants by the holders of the Second Lien Lenders Claims. The equity interests issued pursuant to the Plan will not be registered with the SEC or any state securities regulatory authority and will not trade on any public exchange.

9. On June 17, 2016, the Debtors filed their initial versions of the Plan [Docket No. 144] and related disclosure statement [Docket No. 145] (as the same may have been amended, modified and/or supplemented, the "**Disclosure Statement**"). The Debtors filed (a) their first amended Plan and related Disclosure Statement on July 25, 2016 [Docket Nos. 249 and 250, respectively] and (b) their second amended Plan and related Disclosure Statement on August 4, 2016 [Docket Nos. 294 and 295, respectively].

C. Plan Solicitation And Voting Results.

10. On August 4, 2016, the Court entered an order [Docket No. 292] approving the Disclosure Statement (the "**Disclosure Statement Order**") and establishing procedures for plan solicitation. On August 12, 2016, the Debtors began soliciting votes on the Plan by distributing the Disclosure Statement and related materials to holders of Claims in impaired Classes that were entitled to vote under the Plan, as required by the Disclosure Statement Order (collectively, the "**Voting Parties**").[4] Specifically, the Debtors transmitted: (a) written notice of the Confirmation Hearing setting forth details regarding the solicitation process and applicable deadlines; (b) copies of the Plan and Disclosure Statement in PDF format on a CD-ROM; and (c) the appropriate Ballot and a return envelope (collectively, the "**Solicitation Package**") to all known holders of Claims as of August 5, 2016 in Class 3 (First Lien Lender Claims), Class 4 (Second Lien Lender Claims), Class 5 (General Unsecured Claims) and Class 6 (Convenience Claims), which were the only Classes of Claims entitled to vote to accept or reject the Plan. See Disclosure Statement Order at ¶ 3. Voting creditors were given at least 28 days to vote on the Plan.

11. In addition, as required by the Disclosure Statement Order, the Debtors transmitted to each member of Class 1 (Priority Non-Tax Claims), Class 2 (Other Secured Claims), Class 7 (Subordinated Claims) and Class 8 (Existing Interests) a notice indicating that such person was not entitled to vote on the Plan on account of such person's Claims or Interests. See Disclosure Statement Order at ¶ 4.

[4] No Class of Interest holders was entitled to vote under the Plan.

12. As set forth below, the Debtors received acceptance of the Plan from all four of the voting classes. See Voting Certification, Exhibit A. A summary of the results of voting on the Plan tabulated in accordance with the Disclosure Statement Order follows:

Voting Class[5]	**Accept**		**Reject**	
	Amount	Number	Amount	Number
Class 3 – First Lien Lender Claims	$97,500,000 **100%**	30 **100%**	$0 **0%**	0 **0%**
Class 4 – Second Lien Lender Claims	$4,238,023.09 **100%**	4 **100%**	$0 **0%**	$0 **0%**
Class 5 – General Unsecured Claims[6]	$295,882,732.48 **91.1%**	207 **98.56%**	$28,897,000 **8.90%**	3 **1.44%**
Class 6 – Convenience Claims	$89,829.62 **100%**	13 **100%**	$0 **0%**	$0 **0%**

13. Under the Plan, Class 1 (Priority Non-Tax Claims) and Class 2 (Other Secured Claims) are unimpaired, and thus, are deemed to have accepted the Plan and were not entitled to vote to accept or reject the Plan. See 11 U.S.C. § 1126(f). Moreover, Claims and Interests, as applicable, in Class 7 (Subordinated Claims) and Class 8 (Existing Interests) will not receive any distribution on account of such Claims and Interests. As a result, the holders of Claims and Interests in those Classes are deemed to have rejected the Plan and were not entitled to vote to accept or reject the Plan. See 11 U.S.C. § 1126(g).

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5 Classes 3 and 4 do not include any insiders.

6 The acceptances and rejections are reflected on an aggregate basis. On an individual Debtor basis, 100% in amount and 100% in number of eligible holders entitled to vote that cast ballots voted to accept the Plan for all Debtors other than in Class 5 for Debtor 19 Entertainment Limited (98.61% in number and 97.54% in amount) and CORE Media Group Inc. (97.37%% in number and 95.46% in amount), which, in any event, still voted overwhelmingly to accept the Plan. Excluding insiders, 100% in amount and 100% in number of eligible holders entitled to vote that cast ballots voted to accept the Plan for all Debtors other than in Class 5 for Debtor 19 Entertainment Limited (98.61% in number and 97.54% in amount). See Voting Certification, Exhibit A.

III. ARGUMENT

14. Section 1129 of the Bankruptcy Code governs confirmation of a chapter 11 plan and sets forth the requirements that must be satisfied in order for a plan to be confirmed. Pursuant to section 1129(a) of the Bankruptcy Code, the Court shall confirm a chapter 11 plan only if all of the following requirements are met:

(a) The plan complies with the applicable provisions of title 11 (section 1129(a)(1));

(b) The proponent of the plan complies with the applicable provisions of title 11 (section 1129(a)(2));

(c) The plan has been proposed in good faith and not by any means forbidden by law (section 1129(a)(3));

(d) Any payment made or to be made by the proponent, by the debtor, or by a person issuing securities or acquiring property under the plan, for services or for costs and expenses in or in connection with the case, or in connection with the plan and incident to the case, has been approved by, or is subject to the approval of, the court as reasonable (section 1129(a)(4));

(e) (A)(i) The proponent of the plan has disclosed the identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor, an affiliate of the debtor participating in a joint plan with the debtor, or a successor to the debtor under the plan; and (ii) the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy; and (B) the proponent of the plan has disclosed the identity of any insider that will be employed or retained by the reorganized debtor, and the nature of any compensation for such insider (section 1129(a)(5));

(f) The plan provides to the extent that the debtor is subject to the jurisdiction of any regulatory commission, any rate change provided for in the plan has been approved by, or is subject to the approval of, such regulatory commission (section 1129(a)(6));

(g) With respect to each impaired class of claims or interests, each holder of a claim or interest of such class either has accepted the plan or will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount

that such holder would receive or retain if the debtor were so liquidated under chapter 7 of the Bankruptcy Code on such date (section 1129(a)(7));

(h) Each class of claims or interests has either accepted the plan or is not impaired under the plan (section 1129(a)(8));

(i) The treatment of administrative expense and priority claims under the plan complies with the provisions of section 1129(a)(9);

(j) If a class of claims is impaired under the plan, at least one impaired class of claims has accepted the plan, determined without including the acceptances by any insiders holding claims in such class (section 1129(a)(10));

(k) Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan (section 1129(a)(11));

(l) The plan provides for payment on the effective date of all fees payable under 28 U.S.C. § 1930 (section 1129(a)(12)); and

(m) The plan provides for the continued payment of certain retiree benefits for the duration of the period that the debtor has obligated itself to provide such benefits (section 1129(a)(13)).

11 U.S.C. § 1129(a).[7]

15. The Debtors respectfully submit that the Plan complies with all relevant sections of the Bankruptcy Code — including sections 1122, 1123, 1125, 1126 and 1129 — the Federal Rules of Bankruptcy Procedure (the "**Bankruptcy Rules**") and applicable non-bankruptcy rules. Each requirement is addressed in turn.

A. The Plan Complies With The Applicable Provisions Of The Bankruptcy Code (Section 1129(a)(1)).

16. Section 1129(a)(1) of the Bankruptcy Code provides that a court may confirm a chapter 11 plan only if "[t]he plan complies with the applicable provisions of [the

[7] Sections 1129(a)(14) (regarding domestic support obligations), 1129(a)(15) (regarding individual debtors) and 1129(a)(16) (regarding transfers of property by non-moneyed businesses or trusts) are inapplicable to the Debtors.

Bankruptcy Code]." 11 U.S.C. § 1129(a)(1). The phrase "applicable provisions" has been interpreted to include sections 1122 and 1123 of the Bankruptcy Code, which govern the classification of claims and interests and the contents of a chapter 11 plan. See Kane v. Johns-Manville Corp. (In re Johns-Manville Corp.), 843 F.2d 636, 648-49 (2d Cir. 1988) ("Manville I"); In re Century Glove, Inc., No. 90-400-SLR, 1993 WL 239489, at *6 (D. Del. Feb. 10, 1993); H.R. Rep. No. 95-595, at 412 (1977) as reprinted in 1978 U.S.C.C.A.N. 5963, 6368; S. Rep. No. 95-989, at 126 (1978) as reprinted in 1978 U.S.C.C.A.N. 5787, 5912.

(1) The Plan Satisfies the Classification Requirements Of Section 1122 Of The Bankruptcy Code.

17. Section 1122(a) of the Bankruptcy Code provides that a plan may place a claim or interest in a particular class only if it is substantially similar to other claims or interests in the class. See 11 U.S.C. § 1122(a). "Substantially similar" generally has been interpreted to mean similar in legal character to other claims against a debtor's assets or to other interests in a debtor. See In re Drexel Burnham Lambert Grp., Inc., 138 B.R. 714, 715-716 (Bankr. S.D.N.Y. 1992) order aff'd, 140 B.R. 347 (S.D.N.Y. 1992) ("Drexel Burnham Lambert I"); In re MCorp Fin., Inc., 137 B.R. 219, 226 (Bankr. S.D. Tex. 1992), appeal dismissed, 139 B.R. 820 (S.D. Tex. 1992).

18. "A debtor in bankruptcy has considerable discretion to classify claims and interests in a chapter 11 reorganization plan." In re Wabash Valley Power Ass'n, 72 F.3d 1305, 1321 (7th Cir. 1995); accord Aetna Cas. & Sur. Co. v. Clerk, U.S. Bankr. Court, N.Y., N.Y. (In re Chateaugay Corp.), 89 F.3d 942, 949-50 (2d Cir. 1996). Section 1122(a) of the Bankruptcy Code does "not require that similar classes be grouped together, but merely that any group be homogenous." Drexel Burnham Lambert I, 138 B.R. at 715; see also In re Johnson, 69 B.R. 726, 728 (Bankr. W.D.N.Y. 1987); In re 11,111, Inc., 117 B.R. 471, 476 (Bankr. D. Minn. 1990)

("while § 1122(a) requires that a given class in a plan of reorganization consist of substantially similar claims, all substantially similar claims need not be included in the same class."). Thus, section 1122 of the Bankruptcy Code provides a debtor with a great degree of flexibility to create classification schemes that will facilitate its restructuring.

19. The Plan designates a total of eight classes of Claims and Interests of the Debtors. This classification scheme complies with section 1122(a) because each Class contains only Claims or Interests that are substantially similar to each other. Furthermore, the classification scheme used by the Plan is based on the similar nature of Claims or Interests contained in each Class and not on any impermissible classification factor. Finally, similar Claims and Interests have not been placed into different Classes in order to affect the outcome of the vote on the Plan.

20. Because each Class consists of only substantially similar Claims or Interests, the Court should approve the classification scheme as set forth in the Plan as consistent with section 1122(a) of the Bankruptcy Code.

(2) The Plan Satisfies The Requirements Of Section 1123 Of The Bankruptcy Code.

(a) *Mandatory Provisions.*

21. The Plan satisfies the seven mandatory requirements of sections 1123(a)(l) through (7).[8]

22. Specifically, Articles IV and V of the Plan satisfy the first three requirements of section 1123(a) by: (a) designating eight Classes of Claims and Interests, not including Claims of the kinds specified in sections 507(a)(2), (a)(3) and (a)(8) of the Bankruptcy Code, as required by section 1123(a)(l); (b) specifying the classes of Claims and Interests that are

[8] 11 U.S.C. § 1123(a)(8) is applicable only in cases in which the debtor is an individual.

unimpaired under the Plan, as required by section 1123(a)(2); and (c) specifying the treatment of each Class of Claims and Interests that is impaired, as required by section 1123(a)(3). The Plan also satisfies section 1123(a)(4) of the Bankruptcy Code because the treatment of each Claim or Interest within a Class is the same as the treatment of each other Claim or Interest within that Class, unless otherwise agreed by the holder of a particular claim to less favorable treatment.

23. Section 1123(a)(5) of the Bankruptcy Code requires that a plan "provide adequate means for the plan's implementation," and gives several examples of what may constitute "adequate means" for implementation. 11 U.S.C. § 1123(a)(5). Article VII of the Plan sets forth the means for implementation of the Plan, which the Debtors submit are adequate. These implementation mechanisms include:

- the creation of a Litigation Trust to pursue certain prepetition causes of action against parties not released under the Plan, see Plan § 7.1
- the continued corporate existence and vesting of assets (subject to Plan § 7.1) in the Reorganized Debtors, see Plan § 7.2;
- the funding of the Debtors' obligations under the Plan from the Debtors' (and/or one or more of their non-Debtor subsidiaries') cash on hand, see Plan § 7.3;
- the cancellation of the Debtors' existing securities and agreements, see Plan § 7.4;
- the appointment of the officers and directors of the Reorganized Debtors, see Plan §§ 7.5 and 7.6;
- the adoption of the Management Incentive Plan and Post-Emergence Incentive Program, see Plan § 7.6;
- the authorization of various corporate actions, including the amendment of the Debtors' certificates of incorporation and by-laws, see Plan § 7.7;
- the authorization, issuance and delivery of the Plan Securities, see Plan § 7.8;
- the consummation of the Rights Offering, see Plan § 7.9;
- the Reorganized Debtors' entry into the New Term Loan Facility, see Plan § 7.10;
- the payment of certain claims from the proceeds of the Debtors' insurance policies, to the extent available, see Plan § 7.12;
- the comprehensive settlement of Claims and controversies relating to the rights that a holder of a Claim or Interest may have with respect to any Allowed Claim or Allowed Interest or any Plan Distribution on account thereof, including the creation of an aggregated settlement fund, see Plan §§ 5.5, 7.13;

- the issuance of the New Second Lien Warrants, see Plan § 7.14;
- the consensual release of claims and liens under the First and Second Lien Term Loan Facilities upon the issuance of the New Term Loan Facility against the Sharp Entities, see Plan § 7.15;
- the payment of fee claims held by the First and Second Lien Lenders, see Plan § 7.16; and
- the consummation of the Alternative Restructuring Transactions, see Plan § 7.17.

24. Under section 1123(a)(6) of the Bankruptcy Code, a corporate debtor's chapter 11 plan must provide that the debtor's corporate charter will prohibit the issuance of non-voting equity securities. Accordingly, the holders of new stock issued under a plan of reorganization must have voting rights. See Acequia, Inc. v. Clinton (In re Acequia, Inc.), 787 F.2d 1352, 1361 (9th Cir. 1986). The purpose of section 1123(a)(6) is to "assure that creditors who are forced to take stock in a reorganized company will be entitled to exercise full voting control and have a voice in the selection of management that will protect their interests." RONALD W. GOSS, CHAPTER 11 OF THE BANKRUPTCY CODE: AN OVERVIEW FOR THE GENERAL PRACTITIONER, Utah B.J. 6 (Nov. 4, 1991). Here, the Amended Certificates of Incorporation and Certificates of Formation of the Reorganized Debtors will prohibit the issuance of non-voting equity securities to the extent required by section 1123(a)(6) of the Bankruptcy Code. See Plan § 7.2(a); see also Plan Supplement, Exhibit 4. Accordingly, section 1123(a)(6) is satisfied here.

25. Section 1123(a)(7) states that a plan shall "contain only provisions that are consistent with the interests of creditors and equity security holders and with public policy with respect to the manner of selection of any officer, director, or trustee under the plan and any successor to such officer, director, or trustee." 11 U.S.C. § 1123(a)(7). Pursuant to Sections 7.5 and 7.6 of the Plan, on the Effective Date, the initial board of directors and the officers of the Reorganized Debtors will consist of those individuals identified in the Plan Supplement, which were disclosed prior to the confirmation of the Plan in the Plan Supplement. See Plan

Supplement, Exhibit 5. Further, unless reappointed pursuant to Section 7.5(a) of the Plan, the members of the board of directors of each Debtor prior to the Effective Date shall have no continuing obligations to the Reorganized Debtors in their capacities as such on and after the Effective Date. See Plan § 7.5(b).

26. The appointment to or continuance in office of the officers and directors provided for under the Plan is consistent with the interests of creditors and interest holders and with public policy. This is particularly underscored by the fact that such directors and officers will be chosen by a majority of the Reorganized Debtors' future stockholders, i.e., the Consenting Lenders. See Hurwitz Dec. ¶ 15. Furthermore, no party in interest has objected to the manner of selection of the board of directors or the officers of the Reorganized Debtors. Accordingly, the Plan satisfies the requirements of section 1123(a)(7) of the Bankruptcy Code.

(b) *Permissive Provisions.*

27. Section 1123(b) of the Bankruptcy Code sets forth certain permissive plan provisions that may be, but need not necessarily be, included in a chapter 11 plan. The Plan contains certain of the provisions contemplated by section 1123(b). Specifically:

- In accordance with section 1123(b)(1) of the Bankruptcy Code, Article V of the Plan impairs or leaves unimpaired, as the case may be, each Class of Claims and Interests;
- In accordance with section 1123(b)(2) of the Bankruptcy Code, Article X of the Plan provides for the assumption, assumption and assignment or rejection of the Debtors' executory contracts and unexpired leases that have not been previously assumed or rejected pursuant to section 365 of the Bankruptcy Code and orders of the Court;
- Pursuant to section 1123(b)(3)(A) of the Bankruptcy Code, the Plan incorporates the comprehensive settlement and adjustment of claims or interests belonging to the Debtors and their estates;
- In accordance with section 1123(b)(3)(B) of the Bankruptcy Code, Section 12.9 of the Plan provides that the Reorganized Debtors, subject to Sections 7.1 and 12.6 of the Plan, will retain and may enforce any claims, demands, rights,

defenses and causes of action that any Debtor may hold against any entity, to the extent not expressly released under the Plan;

- In accordance with section 1123(b)(5) of the Bankruptcy Code, Article V of the Plan modifies or leaves unaffected, as the case may be, the rights of holders of Claims in each Class; and

- In accordance with section 1123(b)(6) of the Bankruptcy Code, the Plan includes additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code.

28. The Debtors believe that these permissive provisions are consistent with section 1123(b) and other applicable provisions of the Bankruptcy Code, including the potential assumption and assignment of executory contracts, in the event the Alternative Restructuring Transactions set forth in Section 7.17 of the Plan as well as the Plan Supplement are implemented, is appropriate pursuant to sections 1123(b)(2) and 365 of the Bankruptcy Code.

29. In accordance with Section 7.17(c) of the Plan, if the Alternative Restructuring Transactions are implemented, Debtor CORE Media (or one of its direct or indirect parent companies) shall sell, assign and transfer to CORE Operations Inc. n/k/a NEG Operations Inc. ("**NEG Operations**") all of its assets, including all of CORE Media's subsidiaries. Furthermore, pursuant to Section 10.1 of the Plan, as of the Effective Date, notwithstanding any applicable non-bankruptcy law to the contrary, if the Alternative Restructuring Transactions occur, all executory contracts and unexpired leases between CORE Media (or the applicable direct or indirect parent company of CORE Media) and the applicable counterparty, other than executory contracts and unexpired leases listed on the Schedule of Rejected Contracts and Leases, shall be assumed by CORE Media (or the applicable direct or indirect parent company of CORE Media) and assigned to NEG Operations (or such other entity or entities as may be formed to the extent the Alternative Restructuring Transactions are modified consistent with Section 7.17(e) of the Plan). To the extent provided under the

Bankruptcy Code or other applicable law, any executory contract or unexpired lease transferred and assigned in connection with the Alternative Restructuring Transaction will remain in full force and effect for the benefit of the transferee or assignee in accordance with its terms, notwithstanding any provision in such executory contract or unexpired lease (including, without limitation, those of the type set forth in section 365(c)(1) of the Bankruptcy Code) that prohibits, restricts, or conditions such transfer or assignment.[9]

30. Pursuant to section 1123(b)(2) of the Bankruptcy Code, a plan may provide for the assumption, assumption and assignment or rejection of the Debtors' executory contracts and unexpired leases that have not been previously assumed or rejected pursuant to section 365 of the Bankruptcy Code and orders of the Court. In addition, section 365(f) of the Bankruptcy Code permits a debtor to assign an executory contract if (a) the debtor assumes the contract in accordance with the other provisions of section 365, and (b) the debtor can provide "adequate assurance of future performance by the assignee of such contract." 11 U.S.C. § 365(f); see also In re Best Payphones, Inc., No. 01-15472 (SMB), 2008 WL 2705472, at *5 (Bankr. S.D.N.Y. July 3, 2008); In re Schick, 235 B.R. 318, 322 (Bankr. S.D.N.Y. 1999).

31. The meaning of "adequate assurance of future performance" depends on the facts and circumstances of each case, but should be given "practical, pragmatic construction." See Carlisle Homes, Inc. v. Azzari (In re Carlisle Homes, Inc.), 103 B.R. 524, 538 (Bankr. D.N.J. 1989) (quoting In re Bon Ton Rest. & Pastry Shop, Inc., 53 B.R. 789 (Bankr. N.D. Ill. 1985)). Among other things, adequate assurance may be given by demonstrating the assignee's

[9] Section 10.1 of the Plan further provides that to the extent provided under the Bankruptcy Code or other applicable law, any provision that prohibits, restricts, or conditions the assignment or transfer of any such executory contract or unexpired lease or that terminates or modifies such executory contract or unexpired lease or allows the counterparty to such executory contract or unexpired lease to terminate, modify, recapture, impose any penalty, condition renewal or extension, or modify any term or condition upon any such transfer and assignment, constitutes an unenforceable anti-assignment provision and is void and of no force or effect.

financial health and experience in managing the type of enterprise or property assigned. See In re Bygaph, Inc., 56 B.R. 596, 605-06 (Bankr. S.D.N.Y. 1986). Furthermore, a debtor is permitted to assume and assign an executory contract, whether or not such contract prohibits or restricts assignment of rights or delegation of duties, if the contract counterparty consents to such assumption or assignment. See 11 U.S.C. § 365(c)(1)(B).

32. Here, all contract counterparties were provided with an individualized notice of the assumption and, for all counterparties to contracts with CORE Media, potential assignment of such executory contracts. See Docket Nos. 354 and 382. Such notice included, in bold type, the following language: "Failure to object by the Objection Deadline shall be deemed consent to the assumption of and, with respect to CORE Media, assignment of, any agreement or lease listed on the Assumption and Cure Schedule, including consent for purposes of section 365(c)(1) of the Bankruptcy Code."[10] Other than the objection of TriNet Group, Inc., which has been consensually resolved as described below, no objections were filed to the assumption and assignment of any contract(s) under Section 7.17 of the Plan, and thus such parties are deemed to have consented to the assumption and potential assignment of their contracts, including for purposes of section 365(c)(1)(B) of the Bankruptcy Code.

33. In addition, with respect to adequate assurance of future performance: (a) most of the contracts and leases were not in default (other than invalid potential *ipso facto* clauses, see section 365(b)(2) of the Bankruptcy Code); and (b) for those contracts that may be assumed by CORE Media (or its direct or indirect parent) and assigned to NEG Operations, NEG Operations will own all of the assets, including the subsidiaries, of CORE Media following the

[10] Contract counterparties with CORE Media were instructed in their individualized cure notices to treat the notice as if their contracts and leases were being assumed and assigned to NEG Operations and further instructed such parties to file any objection to such assignment by the Plan objection deadline. Annexed hereto as Exhibit B is a sample individualized cure notice sent to CORE Media contract counterparties.

implementation of the Alternative Restructuring Transactions.[11] NEG Operations' financial position following the implementation of the Alternative Restructuring Transactions — and thus, NEG Operations' ability to perform under the assigned contracts — will be the same or superior to that of CORE Media pre-implementation. See Jamal Dec. ¶ 17; see also Disclosure Statement, Exhibit 3 (the "**Financial Projections**"). Further, based on the Financial Projections, all other contracts of the other Debtors where there has been a default are adequately assured of the Reorganized Debtors' future performance. See Jamal Dec. ¶ 18; see also Disclosure Statement, Exhibit 3.

(i) The Plan's Release, Injunction and Exculpation Provisions Are Appropriate and Should Be Approved.

34. Article XII of the Plan provides for: (a) releases by the Debtors and their estates of the other Released Parties; [12] (b) releases by and among the Released Parties; (c) an injunction precluding persons from bringing any action that is released pursuant to the Plan; and

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[11] Other than the existing credit facilities (to the extent they are executory contracts) and any intercompany agreements, there are no executory contracts or leases at any direct or indirect parent of CORE Media.

[12] "**Released Parties**," as defined in Section 1.127 of the Plan, means, collectively, and each solely in its capacity as such: (a) the Debtors; (b) the First Lien Administrative Agent, the First Lien Lenders and the Ad Hoc Group of First Lien Lenders; (c) the Second Lien Administrative Agent and the Second Lien Lenders; (d) the Independent Directors with respect to any Claims or Causes of Action relating to the Debtors for the period starting March 24, 2015 through the Effective Date; (e) the current directors, officers, employees, managing agents and attorneys of the Debtors who shall continue to occupy such roles after the Effective Date; (f) the Creditors' Committee Parties; (g) the Sharp Entities, the DIP Lender and its direct parent entity; and (h) to the extent the parties listed in clauses (a) – (g) above are empowered to grant the releases set forth in Section 12.6(b) of this Plan on their behalf, each of such parties' predecessors, successors and assigns, subsidiaries, funds, portfolio companies, affiliates, respective professionals, and each of their respective officers, directors, employees, managers, attorneys, financial advisors or other professionals or representatives; provided, however, that such attorneys and professional advisors shall only include those that provided services related to the Reorganization Cases or the U.K. Proceeding; provided, further, that the Released Parties shall not include any Excluded Party; provided, further, that no Person shall be a Released Party if it objects to the releases provided for in Article XII of this Plan; provided further, that any First Lien Lender or Second Lien Lender that does not execute the RSA prior to the Confirmation Hearing or vote to accept this Plan shall not be a Released Party. As set forth on Exhibit A hereto, pursuant to an agreement by and among the Debtors, the Consenting Lenders, Matthew Sharp and Robert Larson, the Confirmation Order specifically excludes Mr. Sharp and Mr. Larson, two executives of non-Debtor Sharp Entertainment LLC, from the definition of "Released Parties".

(d) exculpation for certain parties. As discussed in more detail below, these provisions are proper because, among other things, they are reasonable, in the best interests of the Debtors and their estates, the product of good faith arm's length negotiations, in exchange for substantial consideration from various parties including the Released Parties (as defined below), and critical to obtaining the support of various constituencies for the Plan.

(A) The Releases Provided By The Debtors Under The Plan Are Appropriate.

35. Section 12.6(a) of the Plan (the "**Debtor Releases**") releases the Released Parties from certain claims that the Debtors (including the Sharp Entities), any of their affiliates (to the extent such affiliate is being released under the Plan) or the Reorganized Debtors may have been entitled to assert against them. The Debtors have proposed the Debtor Releases based on their business judgment and submit that the Debtor Releases are reasonable and satisfy the standard that courts generally apply when reviewing these types of releases.

36. Pursuant to section 1123(b)(3) of the Bankruptcy Code, a chapter 11 plan may provide for "the settlement or adjustment of any claim or interest belonging to the debtor or to the estate." 11 U.S.C. § 1123(b)(3). In reviewing releases of claims by debtors, courts frequently employ the standards for approval of settlements under Bankruptcy Rule 9019. See, e.g., In re Bally Total Fitness of Greater N.Y., Inc., No. 07-12395 (BRL), 2007 WL 2779438, at *12 ("To the extent that a release or other provision in the Plan constitutes a compromise of a controversy, this Confirmation Order shall constitute an order under Bankruptcy Rule 9019 approving such compromise."); In re Spiegel, Inc., No. 03-11540 (BRL), 2005 WL 1278094, at *11 (Bankr. S.D.N.Y. May 25, 2005) (approving releases pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019).

37. Bankruptcy Rule 9019(a) provides: "[A]fter notice and a hearing, the court may approve a compromise or settlement." Fed R. Bankr. P. 9019. The legal standard for determining the propriety of a bankruptcy settlement is whether the settlement is in the "best interests of the estate." In re Purofied Down Prods. Corp., 150 B.R. 519, 523 (S.D.N.Y. 1993) (citation omitted); see also Plaza Equities LLC v. Pauker (In re Copperfield Invs., LLC), 401 B.R. 87, 91 (Bankr. E.D.N.Y. 2009). In addition, the Debtor Releases are subject to approval by the Court pursuant to section 1123(b)(3) of the Bankruptcy Code, which, as stated above, permits a debtor to include a settlement of the debtor's claims as a discretionary provision in its plan of reorganization.

38. Here, the proposed Debtor Releases represent valid and appropriate settlements of claims the Debtors or Reorganized Debtors may have against the Released Parties. In addition to the Debtors' belief that no valuable claims exist against any of the Released Parties (which is confirmed by the passing of the challenge period under the DIP Order as to the Consenting Lenders), the Debtor Releases constitute an integral aspect of the Debtors' arm's length negotiations with their key creditor constituencies that resulted in the RSA and the Plan. In reaching this result, each of the Released Parties has and will continue to contribute significantly in negotiating, formulating and ultimately effectuating the Plan, including, among other things, the following: (a) in the case of the Consenting Lenders, devoting significant time and resources to negotiating the terms of the Plan and related documents and agreeing to vote for and otherwise support the Plan; (b) in the case of the Creditors' Committee Parties, expending time and effort to represent the interests of the general unsecured creditors and providing input on the Plan, including the comprehensive settlement thereunder; and (c) in the case of the Debtors' officers, directors, employees, and non-Debtor affiliates that are Released Parties, their

significant efforts on behalf of the Debtors prior to, and continuing throughout, the chapter 11 cases to effectuate the restructuring set forth in the Plan. Absent the Debtor Releases, many of the Released Parties would have been unwilling to financially contribute to or otherwise participate in the Plan process, which would have reduced the enterprise value available for distribution to all creditors and would have negatively impacted the Debtors' restructuring.

39. Therefore, the Debtor Releases are in the best interests of the Debtors' estates and well within the Debtors' business judgment. The Debtors submit that even if they have viable claims against the Released Parties (which they do not believe exist), the pursuit of such claims would be unlikely to benefit their estates and parties in interest, for the costs involved with pursuing and prosecuting such claims likely would outweigh any potential benefit to the Debtors, their estates and parties in interest.[13] In addition, each of the Released Parties provided good and valuable consideration during these chapter 11 cases in exchange for the Debtor Releases. In fact, certain of the Released Parties, including the Consenting Lenders, bargained for this protection early in the plan process as evidenced in the terms of the RSA. Without such protection, the Plan may not have garnered the necessary support of the First Lien Lenders and Second Lien Lenders, making it impossible for the Debtors' near-term emergence from chapter 11. The Debtor Releases also include a carve-out for willful misconduct, gross negligence and breach of fiduciary duty (if any) so that the Debtors are not releasing any Released Parties for claims involving such acts. Accordingly, the Debtors submit that the Debtor Releases are reasonable, represent a valid exercise of their business judgment and should be approved pursuant to section 1123(b)(3) of the Bankruptcy Code and Bankruptcy Rule 9019.

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[13] Indeed, the Creditors' Committee also investigated a number of potential claims against certain of the Released Parties, including the Consenting Lenders, and determined that "the settlement that we achieved [embodied by the Plan] in light of the risks were far greater than the recoveries." In re AOG Entertainment, Inc., No. 16-11090 (SMB), Aug, 23, 2016 Hr'g Tr. at 36:17-19.

(B) The Consensual Releases Set Forth in the Plan Are Appropriate and Therefore Should Be Approved.

40. Section 12.6(b) of the Plan provides a limited release in favor of the Released Parties. As set forth in more detail herein, such releases constitute good faith settlements and compromises and are given in exchange for consideration received pursuant to the Plan. Notably, such releases are consensual. Thus, as part of the Plan, such releases are fair, equitable, reasonable and in the best interests of the Debtors and their estates.

41. As a preliminary matter, a court may only consider the propriety of a plan provision barring claims by a non-debtor against a non-debtor if it has subject matter jurisdiction over such injunction. See Quigley Co. v. Law Offices of Peter G. Angelos (In re Quigley Co.), 676 F.3d 45, 53 (2d Cir. 2012); Johns-Manville Corp. v. Chubb Indem. Ins. Co. (In re Johns-Manville Corp.), 517 F.3d 52, 66 (2d Cir. 2008), rev'd sub nom on other grounds, Travelers Indemn. Co. v. Bailey, 557 US 137 (2009) ("Manville II"); In re FairPoint Commc'ns, Inc., 452 B.R. 21, 29 (S.D.N.Y. 2011); In re Dreier LLP, 429 B.R. 112, 132 (Bankr. S.D.N.Y. 2010). "In assessing a court's jurisdiction to enjoin a third party dispute, the question is not whether the court has jurisdiction over the settlement, but whether it has jurisdiction over the attempts to enjoin the creditors' unasserted claims against the third party." Id. at 131. Bankruptcy court "related to" jurisdiction over non-debtor releases exists "where the subject of the third party dispute is property of the estate, or the dispute would have an effect on the estate." Id.; see also Manville II, 517 F.3d at 66 (bankruptcy court "only has jurisdiction to enjoin third-party non-debtor claims that directly affect the *res* of the bankruptcy estate").

42. Here, the Court has subject matter jurisdiction to approve the Plan's releases because the claims asserted therein would impact the *res* of the Debtors' estates. Importantly, no holder of a Claim or Interest has objected to the releases and Section 12.6(b) of

the Plan expressly provides that the releases are not imposed on any party and effective only "to the fullest extent permissible under applicable law . . . ." Plan § 12.6(b). Section 12.6(b) of the Plan thus implicitly limits the Plan's release to only those claims that are within the subject matter jurisdiction of this Court.

43. With respect to the underlying releases, the Plan's releases are appropriate and consistent with established precedent. Section 12.6(b) of the Plan provides for consensual releases by and among the Released Parties (the "**Releases**"). Courts in this District have routinely approved non-debtor releases where affected creditors have consented. See In re Metromedia Fiber Network, Inc., 416 F.3d 136, 142 (2d Cir. 2005); (noting that "[n]ondebtor releases may also be tolerated if the affected creditors consent"); In re NII Holdings, Inc., No. 14-12611 (SCC) (Bankr. S.D.N.Y. June 19, 2015) [Docket No. 831] ("The third-party releases are consensual as they are supported by all parties to the Settlement and are not opposed by any clearly affected creditors."); In re Eastman Kodak Co., No. 12-10202 (ALG) (Bankr. S.D.N.Y. Aug. 23, 2013) [Docket No. 4966] ("The voluntary release by certain Holders of Claims described in Article 12.6 of the Plan . . . is appropriate because it was voluntary."); In re Velo Holdings Inc., No. 12-11384 (MG) (Bankr. S.D.N.Y. Jan. 23, 2013), Conf. Hr'g Tr. at 39: 8-12 (approving debtors' releases based on creditor consent); In re U.S. Energy Sys., Inc., No. 08-10054 (RDD) (Bankr. S.D.N.Y. Oct. 12, 2010) (same); In re DBSD N. Am., Inc., 419 B.R. 179, 218 (Bankr. S.D.N.Y. 2009) (same), rev'd on other grounds, 634 F.3d 79 (2d Cir. 2010); In re Journal Register Co., 407 B.R. 520 (Bankr. S.D.N.Y. 2009) (same); In re Calpine Corp., No. 05-60200 (BRL), 2007 WL 4565223, at *10 (Bankr. S.D.N.Y. Dec. 19, 2007) (same); see also; In re Adelphia Commc'ns Corp., 368 B.R. 140, 268 (Bankr. S.D.N.Y. 2007) (finding that consent can

be established by a vote in favor of plan if proposed release is appropriately disclosed); In re Oneida Ltd., 351 B.R. 79, 94 (Bankr. S.D.N.Y. 2006) (same).

44. The Releases were clearly and conspicuously discussed in the Disclosure Statement and prominently featured on the Ballots. See Disclosure Statement Order, Exhibits B-1 through B-4. The holders of Claims in Classes 3 (First Lien Lender Claims) and 4 (Second Lien Lender Claims) that cast ballots unanimously voted to accept the Plan. See Voting Certification, Exhibit A. The Creditors' Committee Parties have expressly consented to the releases, as has the First Lien Administrative Agent and the Second Lien Administrative Agent — and the other parties as set forth therein. Any other Released Parties are all affiliates and/or insiders of the Debtors, and given their participation in the process, and absent any objection, mutual releases in favor of and by such parties is reasonable and appropriately included in the Plan. Accordingly, except as expressly set forth in the Plan or the Confirmation Order, the Releases should be approved with respect to all consenting parties.

45. The Releases also are appropriately limited in scope. First, as stated above, the Releases only apply to releases running by and among the Released Parties themselves. See Plan § 12.6(b). Second, as stated above, the claims and other liabilities being released pursuant to the Releases are limited by subject matter. Finally, the Plan contains carve-outs from the releases for, among other things, (a) claims against non-Debtors arising under the Internal Revenue Code or state, city or municipal tax code, or any criminal laws of the United States or any state, city or municipality, and (b) claims based on gross negligence, willful misconduct or breach of fiduciary duty (if any). See Plan § 12.6(c); see also In re Dynegy Inc., 486 B.R. 585, 594 (Bankr. S.D.N.Y. 2013) (noting that non-debtor release does not give

impermissible "blanket immunity" where it contains carve-out for causes of action for gross negligence, willful misconduct, fraud, or criminal conduct) (citation omitted).

46. For the reasons set forth above, the Debtors respectfully submit that both the Debtor Releases and the other Releases comply with applicable bankruptcy and non-bankruptcy law, satisfy the standards applicable to approval of plan releases in the Second Circuit, and should be approved.

(C) The Plan's Exculpation Provisions Are Permissible And Should Be Approved.

47. Courts in the Second Circuit evaluate exculpation provisions based upon a number of factors, including whether the provision is integral to the proposed plan and whether protection from liability was necessary for plan negotiations. See In re Citadel Broad. Corp., No. 09-17442 (BRL), 2010 WL 2010808, at *8 (Bankr. S.D.N.Y. May 19, 2010) (approving an exculpation provision as essential to the plan and included in good faith); Bally Total Fitness, 2007 WL 2779438, at *8 (finding exculpation, release, and injunction provisions were "integral to the structure of the [p]lan and formed part of the agreement among all parties in interest embodied therein"); Upstream Energy Servs. v. Enron Corp. (In re Enron Corp.), 326 B.R. 497, 503 (S.D.N.Y. 2005) (approving an exculpation provision where it was necessary to effectuate the plan and excluded gross negligence and willful misconduct and noting that excising similar exculpation provisions "would thus tend to unravel the entire fabric of the [p]lan, and would be inequitable to all those who participated in good faith to bring it into fruition.").

48. Courts in this District have found exculpation provisions appropriate where, as here, they do not extend to gross negligence and willful misconduct, are narrow in scope, and are limited to prepetition and postpetition acts taken in connection with the Debtors' restructuring efforts. See, e.g., In re Calpine Corp., 2007 WL 4565223, at *10 (finding that an

exculpation provision that did not relieve any party of liability for gross negligence or willful misconduct was appropriate); Enron, 326 B.R. at 501 (holding that an exculpation provision was appropriate where such provision excluded gross negligence and willful misconduct); see also In re Sabine Oil & Gas Corp., No. 15-11835 (SCC) (Bankr. S.D.N.Y. July 27, 2016) [Docket No. 1359]. Additionally, where a court finds that a plan has been proposed in good faith and meets the other requirements of confirmation, approval of an exculpation provision is appropriate to limit liabilities for those involved in the negotiation and formulation of a plan. See In re WorldCom Inc., No. 02-13533 (AJG), 2003 WL 23861928, at *28 (Bankr. S.D.N.Y. Oct. 31, 2003).

49. Accordingly, exculpation clauses are necessary and appropriate to prevent collateral attacks against parties that have made substantial contributions to a debtor's reorganization. Courts have specified certain parties that generally are appropriate candidates for exculpation, including parties to "unique transactions" who "contribute substantial consideration to the reorganization." Adelphia, 368 B.R. at 268.

50. The Court already has found that certain of the Released Parties acted in good faith during this process.[14] Moreover, the scope of the exculpation provision under Section 12.7 of the Plan is appropriately limited to the Released Parties' participation in the restructuring efforts and has no effect on liability that results from gross negligence or willful misconduct.

51. Therefore, the Debtors respectfully request that the Court approve the exculpation set forth in Section 12.7 of the Plan.

[14] See *Order Authorizing the Debtors to Enter Into and Perform Under a Restructuring Support Agreement* [Docket No. 184].

(D) The Plan's Injunction Provisions Are Permissible And Should Be Approved.

52. The Plan injunction is necessary to effectuate the release and exculpation provisions of the Plan and to protect the Reorganized Debtors from any potential litigation from prepetition creditors after the Effective Date. Any such litigation would hinder the efforts of the Reorganized Debtors to effectively fulfill their responsibilities as contemplated in the Plan. See SEC v. Drexel Burnham Lambert Grp., Inc. (In re Drexel Burnham Lambert Grp., Inc.), 960 F.2d 285, 293 (2d Cir. 1992) ("Drexel Burnham Lambert II") ("In bankruptcy cases, a court may enjoin a creditor from suing a third party, provided the injunction plays an important part in the debtor's reorganization plan.") (citations omitted).

53. The injunction provision is necessary to preserve and enforce the Debtor Releases, the Releases and the exculpation provisions, and is narrowly tailored to achieve that purpose. Further, the injunction provision is a key component of the Debtors' ultimate reorganization. Therefore, the Court should approve the injunction set forth in Section 12.8 of the Plan.

B. The Debtors Have Complied With The Applicable Provisions Of The Bankruptcy Code (Section 1129(a)(2)).

54. Section 1129(a)(2) of the Bankruptcy Code requires that the plan proponent comply with the applicable provisions of title 11. See 11 U.S.C. § 1129(a)(2). A principal purpose of section 1129(a)(2) is to ensure that plan proponents have complied with the requirements of the Bankruptcy Code and Bankruptcy Rules regarding disclosure and the solicitation of acceptances of a plan of reorganization. See H.R. Rep. No. 95-595, at 412. As discussed herein, the Debtors solicited votes following this Court's approval of the Disclosure Statement and in accordance with the procedures established by the Disclosure Statement Order. By soliciting votes on the Plan following approval of the Disclosure Statement and in accordance

with the Disclosure Statement Order, the requirements of section 1129(a)(2) have been satisfied. See Hurwitz Dec. ¶ 8; In re Drexel Burnham Lambert Grp., Inc., 138 B.R. 723, 769 (Bankr. S.D.N.Y. 1992) ("Drexel Burnham Lambert III") (section 1129(a)(2) satisfied where debtors complied with all provisions of Bankruptcy Code and Bankruptcy Rules governing notice, disclosure and solicitation relating to plan).

C. The Plan Has Been Proposed In Good Faith And Not By Any Means Forbidden By Law (Section 1129(a)(3)).

55. Section 1129(a)(3) of the Bankruptcy Code requires a plan to have been "proposed in good faith and not by any means forbidden by law." 11 U.S.C. § 1129(a)(3). The good faith standard requires a showing that "the plan was proposed with 'honesty and good intentions' and with 'a basis for expecting that the reorganization can be effect'[ive.]" Manville I, 843 F.2d at 649 (citations omitted); see also In re Texaco, Inc., 84 B.R. 893, 907 (Bankr. S.D.N.Y. 1988) ("[A] plan is considered proposed in good faith if there is a likelihood that the plan will achieve a result consistent with the standards prescribed under the Code.") (quoting Hanson v. First Bank of S.D., 828 F.2d 1310 (8th Cir. 1987)). In determining whether a plan has been proposed in good faith, courts have recognized that they should avoid applying any hard and inflexible rules, but should instead evaluate each case on its own merits. See In re Century Glove, 1993 WL 239489, at *4 (good faith should be evaluated in light of the totality of circumstances surrounding confirmation); In re Cellular Info. Sys., Inc., 171 B.R. 926, 945 (Bankr. S.D.N.Y. 1994) (same).

56. Here, the Plan's purpose and contents are honest, legitimate and viable. The Plan's paramount objectives are the reorganization of the Debtors' existing businesses as a going concern, the restructuring of the Debtors' liabilities and the preservation and maximization of the value of the Debtors' estates that allows creditors to realize a fair and equitable recovery

on their Claims. The Plan preserves jobs and puts the Reorganized Debtors in a stronger position to be competitive in the entertainment industry to the benefit of its employees, service providers, business partners and the viewing public. See Hurwitz Dec. ¶ 9.

57. Moreover, the Plan is the product of extensive, arm's length negotiations among the Debtors and their key creditor constituencies. See Hurwitz Dec. ¶ 10. As discussed above, shortly after the Petition Date, the Debtors successfully negotiated a comprehensive financial restructuring with the Consenting Lenders by entering into the RSA. After the execution and approval of the RSA, the Debtors continued to negotiate with the Creditors' Committee, Consenting Lenders and other parties in interest regarding the terms of the Plan. The Debtors' good faith formulation and proposal of the Plan is further underscored by the fact that no party in interest has filed an objection to the Plan challenging the Debtors' good faith. For these reasons, the Plan satisfies the requirements of 1129(a)(3) of the Bankruptcy Code.

D. The Plan Provides That Payments Made by the Debtors for Services or Costs and Expenses Are Subject to Court Approval (Section 1129(a)(4)).

58. Section 1129(a)(4) of the Bankruptcy Code requires that payments for services or costs and expenses incurred in connection with a chapter 11 case, or in connection with a plan and incident to the case, either be approved by or be subject to approval of the Court as reasonable. This section requires that all postpetition professional fees promised or received in the chapter 11 cases remain subject to the Court's review. See Drexel Burnham Lambert III, 138 B.R. at 760.

59. Section 3.3 of the Plan contains procedures for filing applications for final allowance of Fee Claims and procedures for the payment of such Fee Claims upon approval by the Bankruptcy Court. Article XIII of the Plan provides for the Court's retention of jurisdiction to hear and determine Fee Claims. Further, the Debtors' ordinary course professionals will be

paid in the ordinary course as holders of Administrative Expense Claims consistent with the *Order Authorizing Debtors to Employ and Retain Professionals Utilized in the Ordinary Course of Business* [Docket No. 183]. Thus, the Plan complies with the requirements of section 1129(a)(4) of the Bankruptcy Code.

60. In addition, pursuant to the Post-Emergence Incentive Program, the Debtors seek approval of certain emergence payments to six Key Employees in the aggregate amount of $2,350,000, which amount is payable after the Effective Date. The Post-Emergence Incentive Program, the material terms of which are contained in the Plan Supplement, is supported by the Debtors' secured lenders, who will own the Reorganized Debtors after the Effective Date. Given the support of the Debtors' secured lenders and the substantial time, effort and commitment of the Key Employees during these cases and their importance to the successful restructuring of the Debtors, the Court should approve the Post-Emergence Incentive Program.[15]

E. The Debtors Have Or Will Disclose All Necessary Information Regarding Directors, Officers And Insiders Prior To Confirmation (Section 1129(a)(5)).

61. Section 1129(a)(5)(A) of the Bankruptcy Code requires that the plan proponent disclose the "identity and affiliations of any individual proposed to serve, after confirmation of the plan, as a director, officer, or voting trustee of the debtor . . . or a successor to the debtor under the plan," and requires a finding that "the appointment to, or continuance in, such office of such individual, is consistent with the interests of creditors and equity security holders and with public policy." 11 U.S.C. § 1129(a)(5)(A)(i)–(ii). Section 1129(a)(5)(B) of the Bankruptcy Code requires a plan proponent to disclose the "identity of any insider that will be

[15] The Required Consenting Lenders have agreed that absent any order limiting or prohibiting the Reorganized Debtors from taking action, they will take commercially reasonable steps to cause the Reorganized Debtors to approve the Post-Emergence Payments to the Key Employees consistent with the Post-Emergence Incentive Program.

employed or retained by the reorganized debtor, and the nature of any compensation for such insider." 11 U.S.C. § 1129(a)(5)(B).

62. In accordance with the terms of the Plan, the Debtors included in the Plan Supplement a notice disclosing: (a) the identity of the members of the initial board of directors of the Reorganized Debtors, (b) the identity of the officers of each of the Reorganized Debtors as of the Effective Date; and (c) the compensation arrangements for each such officer who is currently an insider. See Plan Supplement, Exhibit 5.

63. Furthermore, the appointment to or continuance in office of the officers and directors of the Reorganized Debtors is consistent with the interests of creditors and interest holders and with public policy and thus, complies with section 1129(a)(5)(A)(ii) of the Bankruptcy Code. This is evident from the fact that such directors and officers were approved by the holders of the vast majority of Claims in the only Classes of Claims (Classes 3 and 4) that will be receiving equity in the Reorganized Debtors under the Plan — i.e., the Consenting Lenders, as well as the fact that the officers of the Reorganized Debtors have significant experience in the entertainment industry and have in-depth knowledge of the Debtors and their businesses. See Hurwitz Dec. ¶ 15. Accordingly, the Plan satisfies the requirements of section 1129(a)(5) of the Bankruptcy Code.

F. The Plan Does Not Contain Any Rate Changes Subject To The Jurisdiction Of Any Governmental Regulatory Commission (Section 1129(a)(6)).

64. Section 1129(a)(6) of the Bankruptcy Code requires that any regulatory commission having jurisdiction over the rates charged by the reorganized debtor in the operation of its business approve any rate change provided for in the plan. The Plan does not provide for or contemplate any rate change that would require the approval of any regulatory agency. See Hurwitz Dec. ¶ 16. Accordingly, section 1129(a)(6) is inapplicable in the Debtors' cases.

G. The Plan Is In The Best Interests Of Creditors And Interest Holders (Section 1129(a)(7)).

65. The "best interests" test set forth in section 1129(a)(7) of the Bankruptcy Code requires that each holder of a claim or interest in an impaired class either accept the plan or receive or retain property that is not worth less, as of the effective date of the plan, than the amount that such holder of the claim or interest would receive or retain if the debtor were liquidated under chapter 7. See 11 U.S.C. § 1129(a)(7). The "best interests" test applies if a class of claims or interests does not vote unanimously to accept a plan, even if the class as a whole votes to accept the plan. See Bank of Am. Nat'l Tr. & Sav. Ass'n v. 203 N. LaSalle St. P'ship, 526 U.S. 434, 441 n.13 (1999) ("The 'best interests' test applies to individual creditors holding impaired claims, even if the class as a whole votes to accept the plan."); In re Leslie Fay Cos., 207 B.R. 764, 787 (Bankr. S.D.N.Y. 1997). The "best interests" test is generally satisfied by a liquidation analysis demonstrating that an impaired class will receive no less under the plan than under a chapter 7 liquidation. See In re Smith, 357 B.R. 60, 67 (Bankr. M.D.N.C. 2006) ("In order to show that a payment under a plan is equal to the value that the creditor would receive if the debtor were liquidated, there must be a liquidation analysis of some type that is based on evidence and not mere assumptions or assertions." (citations omitted)), appeal dismissed, No. 07-cv-30, 2007 WL 1087575 (M.D.N.C. April 4, 2007).

66. Pursuant to section 1126(f) of the Bankruptcy Code, each holder of a Claim or Interest in a Class that is not impaired is conclusively presumed to have accepted the Plan. Therefore, with respect to Class 1 (Priority Non-Tax Claims) and Class 2 (Other Secured Claims), section 1129(a)(7) of the Bankruptcy Code is not implicated because the creditors in such Classes are unimpaired and are conclusively presumed to have accepted the Plan. Claims

and Interests in all other Classes are impaired under the Plan; therefore, the "best interests" test must be applied to such Classes.

67. To demonstrate compliance with section 1129(a)(7) of the Bankruptcy Code, the Debtors have prepared a detailed liquidation analysis (the "**Liquidation Analysis**") estimating and comparing the range of proceeds generated under the Plan and a hypothetical chapter 7 liquidation. See Disclosure Statement, Exhibit 2; Jamal Dec. ¶¶ 19-24. The Liquidation Analysis demonstrates that the following impaired Classes of Claims and Interests would have a zero percent (0%) recovery on their Claims or Interests in a hypothetical chapter 7 liquidation: Class 4 (Second Lien Lender Claims), Class 5 (General Unsecured Claims), Class 6 (Convenience Claims), Class 7 (Subordinated Claims) and Class 8 (Existing Interests). The Liquidation Analysis further provides that under a hypothetical chapter 7 liquidation, Class 3 (First Lien Lender Claims) would receive a 38% recovery on its Claims.

68. In addition, the period to challenge and investigate the liens and claims of the holders of First Lien Lender Claims and Second Lien Lender Claims has expired and such claims have been deemed allowed and the liens are valid, perfected and unavoidable in accordance with the terms of the DIP Order. Based on the Liquidation Analysis, as the amount of the First Lien Lender Claims exceeds the value of each of the Debtors, including 19 Entertainment Limited, in a hypothetical chapter 7 liquidation, no value would be available to any creditors other than the holders of First Lien Lender Claims, including at 19 Entertainment Limited. Jamal Dec. ¶ 23.

69. As the estimated recovery under the Plan available to holders of such Claims and Interests is equal to or exceeds the estimated recovery that would be available to such

holders in a hypothetical chapter 7 liquidation, the Plan satisfies section 1129(a)(7) of the Bankruptcy Code. See Disclosure Statement, Exhibit 2; Jamal Dec. ¶¶ 19-24.

H. The Plan Satisfies Section 1129(a)(8) With Respect To All Classes Other Than Classes That Were Deemed To Reject The Plan.

70. Subject to section 1129(b) of the Bankruptcy Code, section 1129(a)(8) requires that each class of claims and interests either has accepted the plan or is not impaired under the plan. See 11 U.S.C. § 1129(a)(8). A class of claims accepts a plan if the holders of at least two-thirds in dollar amount and more than one-half in the number of claims in the class vote to accept the plan, counting only those claims whose holders actually vote to accept or reject the plan. See 11 U.S.C. § 1126(c). A class that is not impaired under a plan, and each holder of a claim or interest in such class, is conclusively presumed to have accepted the plan. See 11 U.S.C. § 1126(f). Conversely, a class is conclusively deemed to have rejected a plan if the plan provides that the claims or interests of such class do not receive or retain any property under the plan on account of such claims or interests. See 11 U.S.C. § 1126(g).

71. Here, holders of Claims or Interests in Class 7 (Subordinated Claims) and Class 8 (Existing Interests) will receive no distributions under the Plan on account of such Claims or Interests. Accordingly, such Classes are deemed to have rejected the Plan. See 11 U.S.C. § 1126(g).

72. Holders of Claims in Class 1 (Priority Non-Tax Claims) and Class 2 (Other Secured Claims) are unimpaired under the Plan and therefore are deemed to have accepted the Plan. See 11 U.S.C. § 1126(f). In addition, as set forth in the Voting Certification, in accordance with the tabulation procedures in the Disclosure Statement Order, Classes 3, 4, 5 and 6 have voted to accept the Plan within the meaning of section 1126 of the Bankruptcy Code.

See Voting Certification. Exhibit A.[16] Accordingly, the Plan satisfies section 1129(a)(8) of the Bankruptcy Code with respect to all of the foregoing Classes and all unimpaired Classes.

73. However, holders of Claims and Interests in Classes 7 and 8 are conclusively deemed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code because they will not receive any distributions or retain any property under the Plan. Therefore, the Debtors seek confirmation of the Plan pursuant to section 1129(b) of the Bankruptcy Code, as described below in Section N.

I. The Plan Provides For The Payment In Full Of All Allowed Priority Claims (Section 1129(a)(9)).

74. Section 1129(a)(9) of the Bankruptcy Code requires a chapter 11 plan to provide that all persons holding claims entitled to priority under section 507(a) of the Bankruptcy Code will be fully compensated for their claims in cash unless the holder of a particular claim agrees to a different treatment with respect to such claim. As required by section 1129(a)(9) of the Bankruptcy Code, Section 3.2 of the Plan provides for full payment in Cash of all Allowed Administrative Expense Claims. In addition, Section 3.5 of the Plan provides for full payment of Allowed Priority Tax Claims. With respect to Allowed Priority Non-Tax Claims, Section 5.1 of the Plan provides that unless a holder of such a Claim agrees to less favorable treatment, on the applicable Distribution Date, the holder of such Allowed Priority Non-Tax Claim shall receive Cash in an amount equal to such Claim. Therefore, the Plan complies with section 1129(a)(9) of the Bankruptcy Code.

[16] For certain of the Debtors, there were no holders of Class 6 Claims, and as such the Class was eliminated pursuant to Section 6.4 of Plan. For certain other Debtors, while there was at least one holder of a Class 6 Claim, no holders returned a ballot, and thus, in accordance with paragraph 16(j) of the Disclosure Statement Order and Section 6.5 of the Plan, with respect to such Debtors Class 6 was deemed to have accepted the plan.

J. At Least One Class Of Impaired Claims Has Accepted The Plan (Section 1129(a)(10)).

75. Section 1129(a)(10) of the Bankruptcy Code requires at least one class of impaired claims to accept the Plan, not counting the votes of any insiders. As evidenced by the Voting Certification, section 1129(a)(10) of the Bankruptcy Code is satisfied as to each Debtor.

K. The Plan Meets The Feasibility Requirement Of The Bankruptcy Code (Section 1129(a)(11)).

76. Section 1129(a)(11) of the Bankruptcy Code requires the Court to determine that:

> Confirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.

11 U.S.C. § 1129(a)(11).

77. This requirement, commonly known as the "feasibility" standard, requires that "the Plan is workable and has a reasonable likelihood of success." Drexel Burnham Lambert III, 138 B.R. at 762. Feasibility does not require guaranteed success. See Manville I, 843 F.2d at 649 ("[T]he feasibility standard is whether the plan offers a reasonable assurance of success. Success need not be guaranteed.") (citations omitted); In re Cellular Info. Sys. Inc., 171 B.R. at 945 ("[T]he plan proponent need only demonstrate that there exists the reasonable probability that the provisions of the Plan can be performed.") (internal citation omitted).

78. For purposes of determining whether the Plan is feasible, the Debtors have, among other things, projected the future financial performance of the Reorganized Debtors. See Disclosure Statement, Exhibit 3. Based on the Financial Projections, assuming the Reorganized Debtors perform within the range forecasted in the Financial Projections: (a) adequate funds will exist to make the distributions provided for under the Plan; and (b) as of

the Effective Date, the Reorganized Debtors will (i) be able to satisfy their obligations under the Plan and (ii) not be left with unreasonably small available capital to operate their businesses as a result of the Plan or any transactions contemplated by the Plan. See Disclosure Statement, Exhibit 3; Jamal Dec. ¶¶ 14-18. Therefore, the Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.

L. All Statutory Fees Have Been Or Will Be Paid (Section 1129(a)(12)).

79. Section 1129(a)(12) of the Bankruptcy Code provides that a court may confirm a plan only if "[a]ll fees payable under section 1930 of title 28, as determined by the court at the hearing on confirmation of the plan, have been paid or the plan provides for the payment of all such fees on the effective date of the plan." 11 U.S.C. § 1129(a)(12). Section 3.4 of the Plan provides that each of the Debtors shall pay all fees arising under 28 U.S.C. § 1930 (and, to the extent applicable, interest thereon) on the date such U.S. Trustee Fees become due, until such time as a final decree is entered closing the applicable Reorganization Case or the applicable Reorganization Case is converted or dismissed, or the Bankruptcy Court orders otherwise. Accordingly, the Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code.

M. The Plan Adequately And Properly Treats Retiree Benefits (Section 1129(a)(13)).

80. Section 1129(a)(13) of the Bankruptcy Code requires that a plan provide for the continued payment of certain retiree benefits "for the duration of the period [that] the debtor has obligated itself to provide such benefits" at the level established by section 1114 of the Bankruptcy Code. 11 U.S.C. § 1129(a)(13). Section 14.2 of the Plan provides that, on and after the Effective Date, the Reorganized Debtors shall continue to pay all retiree benefits (within the meaning of, and subject to the limitations of, section 1114 of the Bankruptcy Code), if any, at the level established in accordance with section 1114 of the Bankruptcy Code, at any time prior

to the confirmation of the Plan, for the duration of the period for which any applicable Debtor had obligated itself to provide such benefits. Therefore, the Plan satisfies section 1129(a)(13) of the Bankruptcy Code.

N. The Plan Meets The Requirements For Cramdown Under Section 1129 Of The Bankruptcy Code (Section 1129(b)).

81. Section 1129(b) of the Bankruptcy Code provides a mechanism for confirmation of a plan in circumstances where the plan is not accepted by all impaired classes of claims and interests. Section 1129(b) provides in pertinent part:

> Notwithstanding section 510(a) of [the Bankruptcy Code], if all of the applicable requirements of [section 1129(a) of the Bankruptcy Code] other than [the requirement contained in section 1129(a)(8) that a plan must be accepted by all impaired classes] are met with respect to a plan, the court, on request of the proponent of the plan, shall confirm the plan notwithstanding the requirements of such paragraph if the plan does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan.

11 U.S.C. § 1129(b)(1) (emphasis added).

82. As set forth above, Class 7 (Subordinated Claims) and Class 8 (Existing Interests) are impaired and have been deemed to reject the Plan pursuant to section 1126(g) of the Bankruptcy Code. Accordingly, the Debtors request that the Court invoke the "cramdown" provisions of section 1129(b) of the Bankruptcy Code with respect to such Classes.

83. Under section 1129(b), a bankruptcy court may cram down a plan over the dissenting vote of an impaired class or classes of claims or interests as long as the plan does not "discriminate unfairly" and is "fair and equitable" with respect to the non-accepting class. See 11 U.S.C. § 1129(b)(1); Boston Post Rd. Ltd. P'ship v. FDIC (In re Bos. Post Rd. Ltd. P'ship), 21 F.3d 477, 480 (2d Cir. 1994), cert. denied, 513 U.S. 1109 (1995); In re Zenith Elecs. Corp., 241 B.R. 92, 105 (Bankr. D. Del. 1999) (explaining that "[w]here a class of creditors or

shareholders has not accepted a plan of reorganization, the court shall nonetheless confirm the plan if it 'does not discriminate unfairly and is fair and equitable'"); Mabey v. Sw. Elec. Power Co. (In re Cajun Elec. Power Coop., Inc.), 150 F.3d 503, 519 (5th Cir. 1998); John Hancock Mut. Life Ins. Co. v. Route 37 Bus. Park Assocs., 987 F.2d 154, 157 n.5 (3d Cir. 1993).

(1) The Plan Does Not Discriminate Unfairly With Respect To The Impaired Rejecting Classes.

84. The Plan does not discriminate unfairly against the impaired Classes that are deemed to have rejected the Plan (i.e., Classes 7 and 8). Section 1129(b) of the Bankruptcy Code does not prohibit differences in treatment between the classes. To the contrary, the very premise of any chapter 11 plan with multiple impaired classes is to differentiate among classes. Section 1129(b) of the Bankruptcy Code thus permits a debtor's plan of reorganization to provide for unequal treatment of separately classified creditors with similar legal rights, so long as the discriminatory treatment of the impaired dissenting class is not "unfair." See Mercury Capital Corp. v. Milford Conn. Assocs., L.P., 354 B.R. 1, 10 (D. Conn. 2006). The Bankruptcy Code does not provide a standard for determining when "unfair discrimination" exists. See In re 203 N. LaSalle St. Ltd. P'ship, 190 B.R. 567, 585 (Bankr. N.D. Ill. 1995). Courts instead typically examine the particular facts and circumstances of the case. See, e.g., In re Freymiller Trucking, Inc., 190 B.R. 913, 916 (Bankr. W.D. Okla. 1996).

85. Courts generally have found that a plan unfairly discriminates, in violation of section 1129(b) of the Bankruptcy Code, only if similarly situated claims are treated differently without a reasonable basis for the disparate treatment. See In re Lightsquared Inc., 513 B.R. 56, 99 (Bankr. S.D.N.Y. 2014) ("To determine whether a plan discriminates unfairly, courts consider whether (i) there is a reasonable basis for discriminating, (ii) the debtor cannot consummate the plan without the discrimination, (iii) the discrimination is proposed in good

faith, and (iv) the degree of discrimination is in direct proportion to its rationale") (citations omitted); In re Young Broad. Inc., 430 B.R. 99, 139-40 (Bankr. S.D.N.Y. 2010) ("Under 1129(b)(1), a plan unfairly discriminates when it treats similarly situated classes differently without a reasonable basis for the disparate treatment.").

86. With respect to the Classes that are deemed to have rejected the Plan, there is no unfair discrimination because there are no holders of similarly situated Claims or Interests, as applicable, receiving any distribution under the Plan. Accordingly, the Plan does not discriminate unfairly against such Classes.

(2) The Plan Is Fair And Equitable With Respect To Classes 7 And 8.

87. For a plan to be "fair and equitable" with respect to an impaired class of unsecured claims or interests that rejects a plan (or is deemed to reject a plan), the plan must follow the "absolute priority rule" and satisfy the requirements of section 1129(b)(2) of the Bankruptcy Code. See 11 U.S.C. §§ 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii);[17] see also Bank of Am. Nat'l Tr. & Sav. Ass'n v. 203 N. LaSalle St. P'ship, 526 U.S. 434, 441–42 (1999). Generally, this requires that the impaired rejecting class of claims or interests either be paid in full or that any class junior to the impaired rejecting class not receive any distribution under a plan on account of its junior claim or interest. See id. In addition, for a plan to be "fair and equitable," no class of claims or interests senior to the impaired dissenting class is permitted to

[17] The "fair and equitable" requirement may also be met: (a) with respect to a dissenting impaired class of unsecured claims if the plan provides that each holder of a claim of such class receive or retain on account of such claim property of a value, as of the effective date of the plan, equal to the allowed amount of such claim, see 11 U.S.C. § 1129(b)(2)(B)(i); and (b) with respect to a dissenting impaired class of interests, if the plan provides that each holder of an interest of such class receive or retain on account of such interest property of a value, as of the effective date of the plan, equal to the greatest of the allowed amount of any fixed liquidation preference to which such holder is entitled, and fixed redemption price to which such holder is entitled, or the value of such interest. See 11 U.S.C. § 1129(b)(2)(C)(i). However, such subsections need not be invoked in this instance because the Plan meets other applicable requirements of the "fair and equitable" standard.

receive more than the full value of its senior claims or interests under the plan. See In re Chemtura Corp., 439 B.R. 561, 592 (Bankr. S.D.N.Y. 2010); In re Granite Broad. Corp., 369 B.R. 120, 140 (Bankr. S.D.N.Y. 2007) ("There is no dispute that a class of creditors cannot receive more than full consideration for its claim, and that excess value must be allocated to junior classes of debt or equity, as the case may be."); In re Trans Max Techs., Inc., 349 B.R. 80, 89 (Bankr. D. Nev. 2006) ("One component of [the] fair and equitable treatment is that a plan may not pay a premium to a senior class."); H.R. Rep. No. 95-595, at 414 (requirement for any cramdown is that "[n]o class may be paid more than in full").

88. Here, the Plan satisfies the absolute priority rule with respect to Classes 7 and 8. First, no Class of Claims or Interests junior to such Classes will receive or retain any property under the Plan.[18] Second, no Class of Claims or Interests will receive or retain property under the Plan that has a value greater than 100% of such Class's Claims or Interests. Accordingly, the Plan satisfies the requirements of sections 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii) and, therefore, is fair and equitable with respect to Classes 7 and 8.

IV. THE DEBTORS' RESPONSE TO OBJECTIONS

89. The Debtors received objections, reservations of rights or informal comments with respect to the Plan from the following parties: (a) TriNet Group Inc. [Docket No. 385], (b) Citibank, N.A. [Docket No. 386], (c) Matthew Sharp and Robert Larson [Docket No. 397]; (d) Simon Robert Fuller [Docket No. 391] (the "**Fuller Objection**"); and (e) the

[18] The Plan provides that Intercompany Interests will be left in place to preserve the Debtors' existing corporate structure. *See* Plan § 2.3(b). Such preservation of economically valueless interests for corporate convenience purposes does not violate the absolute priority rule, particularly when, as here, senior secured creditors are not being paid in full and have first claim on the assets of all the Debtors. See, e.g., U.S. Bank N.A. v. Wilmington Sav. Fund Soc'y (In re MPM Silicones, LLC), 531 B.R. 321, 331 n.8 (S.D.N.Y. 2015); In re Ion Media Networks, Inc., 419 B.R. 585, 601 (Bankr. S.D.N.Y. 2009).

United States Trustee.[19] As set forth on the chart annexed hereto as Exhibit A, except for the Fuller Objection, the Debtors believe that all of the Plan objections have been or will be resolved prior to the confirmation hearing,[20] and the majority of formal and informal objections to the treatment of contracts and leases and related cure amounts have been consensually resolved or relate solely to the proposed Cure Amounts listed in the Cure Schedule (and therefore are not an impediment to confirmation of the Plan because the Debtors will reserve cash in an amount sufficient to pay the full amount asserted as the required cure payment (or such smaller amount as may be fixed or estimated by the Bankruptcy Court)).

90. With respect to the Fuller Objection, Mr. Fuller[21] argues that the Plan is not confirmable because it (a) violates the absolute priority rule, (b) is not fair and equitable and discriminates unfairly against holders of General Unsecured Claims in Class 5, and (c) improperly substantively consolidates the Debtors' assets and liabilities for Plan distribution. Each of these objections is without merit and should be overruled.

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[19] The Debtors also received formal and informal objections or comments to the treatment of contracts and leases and related cure amounts from the following parties: (i) formal objections: (a) an objection by the ad hoc group of lenders under the Debtors' prepetition first lien secured credit facility [Docket No. 373]; (b) a response by Creative Artists Agency, LLC [Docket No. 389]; (c) an objection by Boodle Music [Docket No. 390]; (d) an objection and reservation of rights by Baby George Productions, Inc., Marvelous Productions, Inc. and Nigel Lithgoe [Docket No. 392]; (e) a limited objection and reservation of rights by dick clark productions, inc. [Docket No. 394]; and (ii) informal objections: (aa) Sony Music Entertainment; (bb) Phillip Phillips; (cc) Mark Bright; (dd) Dann Huff; (ee) Carrie Underwood; and (ff) Kellie Pickler and Adam Lambert.

[20] To the extent any such objections are not resolved prior to the Confirmation Hearing, the Debtors intend to address such objections at the hearing.

[21] Throughout these chapter 11 cases, Mr. Fuller has consistently described himself as the Debtors' largest general unsecured creditor. See, e.g., Fuller Objection, ¶ 3. As evidenced by the Debtors' Schedules and the Plan itself, however, this is wrong, including as it pertains to Debtor 19 Entertainment Limited, the only Debtor against whom Mr. Fuller has asserted his claim. Indeed, the holders of First Lien Lender Claims and Second Lien Lender Claims hold deficiency claims at each Debtor entity in amounts far greater than Mr. Fuller's alleged claim.

91. As an initial matter, much of the Fuller Objection is premised on Mr. Fuller's (now denied) motions previously before the Court (collectively, the "**Fuller Motions**") requesting authority to conduct a Bankruptcy Rule 2004 examination and extend the challenge period under the final DIP Order (to contest the stipulations relating to the prepetition loans in the event his Bankruptcy Rule 2004 motion request was granted). However, following the filing of the Fuller Objection, the Court issued its *Memorandum Decision* [Docket No. 396] (the "**Fuller Decision**") denying the Fuller Motions. Thus, all of Fuller's objections premised upon how it would be improper for the Plan to be confirmed prior to Fuller proceeding with the relief he sought in the Fuller Motions are without any merit, as the requested relief now has been denied.

92. The balance of the Fuller Objection is equally without merit.

A. The Plan Has Been Overwhelmingly Accepted

93. It is well-settled that the "cram down" provisions of section 1129(b) of the Bankruptcy Code do not apply to impaired classes of claims or interests that have voted to accept a plan. See 11 U.S.C. § 1129(b)(1) (the fair and equitable and unfair discrimination requirements only apply "with respect to each class of claims or interests that is impaired under, and has not accepted, the Plan."); see also In re Adelphia Commc'ns Corp., 544 F.3d 420, 426 (2d Cir. 2008) ("[A] plan need not satisfy the Absolute Priority Rule so long as any class adversely affected by the variation accepts the plan."); Norwest Bank Worthington v. Ahlers, 485 U.S. 197, 207 (1988) ("[T]he Code provides that it is up to the creditors . . . to accept or reject a reorganization plan which fails to provide them adequate protection or fails to honor the absolute priority rule, 11 U.S.C. § 1126."). Here, all impaired classes of claims entitled to vote on the Plan (Classes 3, 4, 5 and 6) have voted to accept the Plan (see Voting Certification,

Exhibit A) and the requirements of section 1129(b) are not applicable to them. This is the case even with respect to Class 5 (General Unsecured Claims) at Debtor 19 Entertainment Limited (the only Debtor against which Mr. Fuller has asserted a claim), where holders of Claims entitled to vote and that cast ballots overwhelmingly voted to accept the Plan (i.e., 97.54% in amount and 98.61% in number of such holders of Claims).

94. With respect to Class 7 (Subordinated Claims) and Class 8 (Equity Interests), which receive no distribution under the Plan and were deemed to reject the Plan (and therefore are the only classes under the Plan to which section 1129(b) is applicable), Mr. Fuller does not hold a claim or interest in such Classes. Accordingly, he has no standing to object to the treatment provided to such Classes. See In re Quigley Co., 391 B.R. 695, 706 (Bankr. S.D.N.Y. 2008) (noting that one party cannot "object to the Plan based on how it affects the rights of third parties" and explaining that "[i]ssues relating to classification, treatment, solicitation and voting come immediately to mind" as issues that may be raised only by the affected creditors); In re Johns Manville Corp., 68 B.R. 618, 623 (Bankr. S.D.N.Y. 1986) ("[N]o party may successfully prevent the confirmation of a plan by raising the rights of third parties who do not object to confirmation."). In any case, as set forth above, the Plan easily satisfies the provisions of section 1129(b) with respect to such deemed rejecting classes

B. The Plan Does Not Provide For Substantive Consolidation

95. Mr. Fuller also alleges that the Plan impermissibly substantively consolidates the Debtors' assets and liabilities for distribution purposes. The Plan, however, does not provide for substantive consolidation of the Debtors (although the Debtors reserved the right in the Plan to seek to substantively consolidate any two or more of their estates, the Debtors

have not sought to do so).[22] In fact, section 6.2 of the Plan makes clear that all votes on the Plan are to be tabulated on a non-consolidated basis by Class and by Debtor for the purpose of determining whether the Plan satisfies sections 1129(a)(8) and/or (10) of the Bankruptcy Code.

96. Consistent with the foregoing, ballots on the Plan have been tabulated on a per Debtor, non-consolidated basis (See Voting Certification, Exhibit A-2), and holders of claims in Class 5 (General Unsecured Claims) against 19 Entertainment Limited (along with every other Debtor) have overwhelmingly voted in favor of the Plan. In doing so, such classes have agreed to the treatment provided under the Plan, including sharing their recoveries with the applicable creditors of the applicable other Debtors. Nothing in the Bankruptcy Code or applicable case law prohibits a class of creditors of one estate from sharing in the same *res* with a class of creditors of another estate. This treatment is particularly appropriate here, where: (a) the largest creditors in Class 5 at 19 Entertainment Limited are the prepetition lenders on account of their deficiency claim (and not Mr. Fuller); (b) the prepetition lenders have valid, perfected and enforceable liens on substantially all of the assets of the Debtors and are vastly undersecured (and thus, the only creditors theoretically being prejudiced (yet, the lenders have agreed to such treatment)); (c) unsecured creditors are not adversely affected, and in fact benefit from a common settlement pool; and (d) there are significant administrative benefits from such treatment.

97. Finally, even if Section 2.2 of the Plan (which groups the Debtors together solely for purposes of describing treatment under the Plan, confirmation of the Plan and making Plan Distributions) — but does not provide for substantive consolidation — were to be viewed as

[22] Section 6.2. of the Plan provides, in pertinent part, ". . . the Debtors, with the consent of the Required Consenting Lenders, reserve the right to seek to substantively consolidate any two or more Debtors; provided, that, such substantive consolidation does not materially and adversely impact the amount of the Plan Distributions to any Person." See Plan, § 6.2.

a limited consolidation (a conclusion that the Debtors strongly dispute), the Bankruptcy Code expressly contemplates that a consolidation may appropriately be used to effectuate a plan of reorganization. See 11 U.S.C. § 1123(a)(5)(C) (stating that "[n]othwithstanding any otherwise applicable nonbankruptcy law, a plan shall . . . provide adequate means for the plan's implementation, such as . . . consolidation of the debtor with one or more persons . . . ."); see also In re WorldCom, Inc., 2003 WL 23861928, at *35 (noting that consolidation is contemplated by Bankruptcy Code section 1123(a)(5)); In re Stone & Webster, 286 B.R. 532, 542 (Bankr. D. Del. 2002) ("[S]ubstantive consolidation such as that proposed by the Plan is, by reason of § 1123(a)(5)(C), clearly an allowable provision in a Chapter 11 plan."). The grouping of Debtors under Section 2.2 of the Plan is solely designed to facilitate voting on and distributions under the Plan and thus, the limited grouping (which is not substantive consolidation) envisioned by the Plan results in no prejudice to any creditor. Indeed, the Debtors' creditors have accepted this treatment by overwhelming numbers.

98. Similar treatment has been approved by courts in this and other districts. See, e.g., In re MPM Silicones, LLC, Case No. 14-22503 (RDD) (Bankr. S.D.N.Y. Sept. 11, 2014) [Docket No. 1001] (confirming plan which consolidated debtors for confirmation and distribution purposes); In re Legend Parent Inc., Case No. 14-10701 (RG) (Bankr. S.D.N.Y. July 21, 2014) [Docket No. 390] (approving substantive consolidation for voting and distribution purposes); In re Jennifer Convertibles, Inc., Case No. 10-13779 (ALG) (Bankr. S.D.N.Y. Feb. 8, 2011) [Docket No. 491] (same); In re American Media, Inc., Case No. 10-16140 (MG) (Bankr. S.D.N.Y. Dec. 20, 2010) [Docket No. 123] (approving substantive consolidation for "Plan purposes", including voting, treatment and distributions under the plan); In re Extended Stay Inc., Case No. 09-13764 (JMP) (Bankr. S.D.N.Y. July 20, 2010) [ECF No. 1172] (same); In re

Uno Restaurants Holdings Corp., Case No. 10-10209 (MG) (Bankr. S.D.N.Y. July 6, 2010) [Docket No. 559] (confirming plan that included limited substantive consolidation for voting, confirmation, and distribution purposes because "no class of creditors is disadvantaged in any manner by the substantive consolidation of the Debtors"); In re Graphics Props. Holdings, Inc., Case No. 09-11701 (MG) (Bankr. S.D.N.Y. Nov. 10, 2009) [Docket No. 820] (approving substantive consolidation for voting, confirmation, and distribution purposes); In re Journal Register Co., Case No. 09-10769 (ALG) (Bankr. S.D.N.Y. July 7, 2009) [Docket No. 532].

99. For the forgoing reasons, the Fuller Objection should be overruled.

CONCLUSION

For all of the foregoing reasons, the Debtors respectfully request that the Court confirm the Plan and overrule all objections thereto, to the extent not previously resolved.

Dated: September 21, 2016
New York, New York

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EXHIBIT A

Summary Chart

AOG ENTERTAINMENT, INC, et al., CASE NO. 16-11090 (SMB) (JOINTLY ADMINISTERED)[1]

SUMMARY CHART OF OBJECTIONS TO CONFIRMATION OR TREATMENT OF EXECUTORY CONTRACTS AND LEASES, INCLUDING CURE AMOUNTS, IN RESPECT OF SECOND AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION FOR AOG ENTERTAINMENT, INC. AND ITS AFFILIATED DEBTORS

ITEM NO.	PARTY	OBJECTION
(A)	Ad Hoc Group of First Lien Lenders Docket No. 373	1. Objection to the Debtors' assumption of the Fremantle Agreements without the consent of the ad hoc group of first lien lenders. **Resolved through proposed confirmation order, Appendix III ¶ (2).**
(B)	TriNet Group, Inc. Docket No. 385	1. Limited objection and reservation of rights with respect to Cure Amount and Plan due to alleged lack of adequate assurance of future performance. **Resolved through proposed confirmation order, Appendix III ¶ (1)(c).**
(C)	Citibank, N.A. Docket No. 386	1. Objection to the rejection of the Pledge Agreement. 2. Objection to the Plan to the extent it seeks to modify Citibank, N.A.'s legal, equitable and contractual rights under the Letter of Credit and Pledge Agreement. **Resolved through proposed confirmation order. A revised proposed confirmation order will be filed with the Court prior to the Confirmation Hearing and the resolution will be reflected in Appendix III ¶ (6).**
(D)	Creative Artists Agency LLC Docket No. 389	1. Response and reservation of rights to the Debtors' proposed assumption and Cure Amounts. **Resolved through proposed confirmation order, Appendix III ¶ (1)(a).**

[1] Capitalized terms used but not defined herein have the meanings given them in this brief, the Plan, the Disclosure Statement or relevant Confirmation Objection, as applicable.

ITEM NO.	PARTY	OBJECTION
(E)	Boodle Music Docket No. 390	1. Objection to Cure Amount ($2,300). **The Debtors believe that the Cure Amount of $0.00 is accurate. The amount Boodle has asserted as owing ($2,300) has been paid by the Debtors to Boodle postpetition in the ordinary course of business.**
(F)	Simon Robert Fuller Docket No. 391	1. Objection arguing that Plan is not confirmable because it (i) violates the absolute priority rule; (ii) is not fair and equitable and discriminates unfairly against holders of General Unsecured Claims in Class 5; and (iii) improperly substantively consolidates the Debtors' assets and liabilities for Plan distribution. **See paragraphs 90-99 of accompanying confirmation brief & lenders' reply [Docket No. 412].**
(G)	Baby George Productions, Inc., Marvelous Productions, Inc., and Nigel Lythgoe Docket No. 392	1. Objection and reservation of rights with respect to Cure Amount. **The parties are attempting to resolve the objection and reservation of rights with respect to the Cure Amount prior to the Confirmation Hearing. If a resolution is not reached, the Debtors intend to address the objection and reservation of rights at the Confirmation Hearing.**
(H)	dick clark productions, inc. Docket No. 394	1. Limited objection and reservation of rights: (i) seeking reassurance that all oral agreements with the Debtors will be assumed; (ii) disputing Cure Amount; and (iii) seeking adequate assurance of future performance. **The parties are attempting to resolve dick clark productions, inc.'s limited objection and reservation of rights prior to the Confirmation Hearing. If a resolution is not reached, the Debtors intend to address the limited objection and reservation of rights at the Confirmation Hearing.**
(I)	Matthew Sharp and Robert Lawson Docket No. 397	1. Reservation of rights with respect to: (i) the assumption of the Bonus Agreement; and (ii) whether Section 1.127 of the Plan expressly excludes the Sharp Executives from the definition of "Released Parties". **Resolved through proposed confirmation order, Appendix III ¶ (1)(b).**

ITEM NO.	PARTY	OBJECTION
(J)	Sony Music Entertainment	1. Informal objection relating to assumption of agreements. **Resolved through proposed confirmation order, Appendix III ¶ 4.**
(K)	Philip Phillips	1. Informal objection relating to assumption of agreements. **Resolved through proposed confirmation order, Appendix III ¶ 3.**
(L)	Mark Bright	1. Informal objection to Cure Amount. **The Debtors believe that the Cure Amount of $0.00 is accurate. The Debtors are current on all royalty payments to Mr. Bright.**
(M)	Dann Huff	1. Informal objection to Cure Amount. **The Debtors believe that the Cure Amount of $0.00 is accurate. The Debtors are current on all royalty payments to Mr. Huff.**
(N)	Carrie Underwood	1. Informal objection to Cure Amount. **The parties are attempting to resolve the informal objection to the Cure Amount prior to the Confirmation Hearing. If a resolution is not reached, the Debtors intend to address the informal objection at the Confirmation Hearing.**
(O)	Adam Lambert and Kellie Pickler	1. Informal objection to Cure Amount. **Resolved through proposed confirmation order, Appendix III ¶ (1)(d).**
(P)	United States Trustee	1. Informal objection regarding management incentive plan. **Resolved through proposed confirmation order. The resolution is currently reflected in paragraph 22 of the proposed confirmation order. A revised proposed confirmation order will be filed with the Court prior to the Confirmation Hearing and the resolution will be moved to, and reflected in, Appendix III ¶ (5).**

EXHIBIT B

Sample Individualized Notice to CORE Media Group Inc. Contract Counterparties

Objection Deadline: September 15, 2016 at 4:00 p.m. (prevailing Eastern Time)

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Counsel for the Debtors and Debtors in Possession

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:	:	Chapter 11
AOG Entertainment, Inc., et al.,[1]	:	Case No. 16-11090 (SMB)
Debtors.	:	(Jointly Administered)

NOTICE TO COUNTERPARTIES OF ASSUMPTION, POTENTIAL ASSIGNMENT AND CURE AMOUNT IN CONNECTION WITH SECOND AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION FOR AOG ENTERTAINMENT, INC. AND ITS AFFILIATED DEBTORS

PLEASE TAKE NOTICE that on August 4, 2016, the debtors and debtors in possession in the above-captioned cases (collectively, the "**Debtors**") filed *the Second Amended Joint Chapter 11 Plan of Reorganization for AOG Entertainment, Inc. and Its Affiliated Debtors* [Docket No. 294] (as the same may be amended, modified, and/or supplemented from time to time, the "**Plan**").[2]

PLEASE TAKE FURTHER NOTICE that, on September 1, 2016, the Debtors filed a schedule of executory contracts and unexpired leases (each, an "**Assumed Contract or Lease**"), that they intend to seek to assume and potentially assign in connection with Sections 10.1, 10.3(a) and 10.3(b) of the Plan and related Cure Amounts (the "**Assumption and Cure Schedule**") See [Docket No. 354], including your agreement(s) with CORE Media Group Inc. ("**CORE Media**") (Case No. 16-11130), pursuant to section 365 of the Bankruptcy Code as of, and subject to the occurrence of, the Effective Date of the Plan. Exhibit A sets forth, among

[1] A list of the Debtors in these chapter 11 cases and the last four digits of each Debtor's taxpayer identification number is attached as Exhibit A to the Plan (as defined below) and at http://www.kccllc.net/AOG. The Debtors' executive headquarters are located at 8560 West Sunset Boulevard, 8th Floor, West Hollywood, CA 90069.

[2] Capitalized terms used but not defined herein have the meanings given them in the Plan.

other information, the proposed Cure Amount for each Assumed Contract or Lease. The proposed Cure Amount for any contract or lease not listed on the Assumption and Cure Schedule (and not being rejected) is $0.

PLEASE TAKE FURTHER NOTICE that, if you are a counterparty to a contract or lease with CORE Media, pursuant to Section 7.17 of the Plan or as otherwise set forth in the Confirmation Order, in addition to assuming your agreement, CORE Media may assign your agreement to CORE Operations, an entity that may be newly formed by the Debtors in connection with consummation of the Plan as more fully set forth in Section 7.17 of the Plan. Section 7.17 of the Plan contemplates that all assets of CORE Media, including CORE Media's subsidiaries, shall be purchased by and transferred to CORE Operations. **Accordingly, although, as of the date hereof, the Debtors have not yet determined whether the contracts and leases to which CORE Media is a party will be assigned to CORE Operations, for objection purposes, you must treat this notice as if such assignment will occur and timely file any objections to such assignment as set forth in the immediately following paragraph.**

PLEASE TAKE FURTHER NOTICE that any counterparty to an Assumed Contract or Lease objecting to (i) the applicable Cure Amount, (ii) the ability of CORE Media (or, if applicable, as set forth in the immediately preceding paragraph and Section 7.17 of the Plan, CORE Operations) to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Assumed Contract(s) or Lease(s) identified on Exhibit A, or (iii) any other matter pertaining to the assumption and potential assignment of an Assumed Contract or Lease, must file with the Bankruptcy Court and serve an objection (an "**Objection**"), in writing, setting forth with specificity any and all cure obligations that the objecting counterparty asserts must be cured or satisfied in respect of the Assumed Contract or Lease, including the Cure Amount that the objecting party believes should be paid in connection with the assumption and potential assignment of the Assumed Contract(s) or Lease(s), and/or any and all objections to the potential assumption and potential assignment of such contract or lease, together with all documentation supporting such Objection, upon:

i) counsel for the Debtors, Willkie Farr & Gallagher LLP, 787 Seventh Avenue, New York, NY 10019, Attn: Matthew A. Feldman, Esq., Robin Spigel, Esq. and Andrew S. Mordkoff, Esq.;

ii) the Office of the United States Trustee for the Southern District of New York, 201 Varick Street, Suite 1006, New York, NY 10014, Attn: Richard Morrissey, Esq.; and

iii) counsel to the Committee, Sheppard, Mullin, Richter & Hampton LLP, 30 Rockefeller Plaza, New York, NY 10112 Attn: Craig Wolfe, Esq., Malani Cademartori, Esq. and Jason R. Alderson, Esq.

so as to be received no later than **4:00 p.m. (prevailing Eastern Time) on September 15, 2016** (the "**Objection Deadline**"). **Failure to object by the Objection Deadline shall be deemed consent to the assumption and assignment of any agreement or lease listed on the Assumption and Cure Schedule and the attached Exhibit A, including consent for purposes of section 365(c)(1) of the Bankruptcy Code.**

PLEASE TAKE FURTHER NOTICE that any party that fails to file an objection by the Objection Deadline shall be forever barred, estopped and enjoined from contesting the assumption and assignment (if any) of the applicable contract or lease, disputing the Cure Amount set forth on the Assumption and Cure Schedule (including a Cure Amount of $0.00) and Exhibit A, and/or from asserting any Claim against the applicable Debtor or Reorganized Debtor under section 365(b)(1) of the Bankruptcy Code.

PLEASE TAKE FURTHER NOTICE that the Debtors reserve all rights to add or remove any contracts and leases from the Assumption and Cure Schedule. In such event, the Debtors shall promptly send a notice to the applicable counterparty to such contract or lease of such decision.

PLEASE TAKE FURTHER NOTICE that the Debtors' decision to assume and potentially assign to CORE Operations the Assumed Contracts and Leases is subject to the Bankruptcy Court's approval and confirmation of the Plan and occurrence of the Effective Date. Absent confirmation of the Plan and occurrence of the Effective Date, each Assumed Contract or Lease shall not be deemed assumed and assigned and shall in all respects be subject to further administration under the Bankruptcy Code. The designation of any agreement as an Assumed Contract or Lease shall not constitute or be deemed to be a determination or admission by the Debtors that such agreement is, in fact, an executory contract or unexpired lease within the meaning of section 365 of the Bankruptcy Code (all rights with respect thereto being expressly reserved).

PLEASE TAKE FURTHER NOTICE that the Debtors reserve all rights to amend, revise or supplement any documents relating to the Plan and/or to be executed, delivered, assumed and assigned and/or performed in connection with the consummation of the Plan on the Effective Date, including the Assumption and Cure Schedule.

Dated: New York, New York
September 1, 2016

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