

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

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<b>In re:</b>	:	<b>Chapter 11</b>
	:	
<b>TRUMP ENTERTAINMENT RESORTS, INC., et al.,<sup>1</sup></b>	:	<b>Case No. 14-12103 (KG)</b>
	:	
<b>Debtors.</b>	:	<b>(Jointly Administered)</b>
	:	
	-X	

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**DEBTORS' JOINT PLAN OF REORGANIZATION UNDER  
CHAPTER 11 OF THE BANKRUPTCY CODE**

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Dated: Wilmington, Delaware  
October 1, 2014

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<sup>1</sup> The Debtors in these chapter 11 cases, along with the last four digits of each Debtor's federal tax identification number, are: Trump Entertainment Resorts, Inc. (8402), Trump Entertainment Resorts Holdings, L.P. (8407), Trump Plaza Associates, LLC (1643), Trump Marina Associates, LLC (8426), Trump Taj Mahal Associates, LLC (6368), Trump Entertainment Resorts Development Company, LLC (2230), TER Development Co., LLC (0425) and TERH LP Inc. (1184). The mailing address for each of the Debtors is 1000 Boardwalk at Virginia Avenue, Atlantic City, NJ 08401.

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## INTRODUCTION<sup>2</sup>

Trump Entertainment Resorts, Inc. and the other debtors and debtors in possession in the above-captioned cases propose the following joint chapter 11 plan of reorganization for the resolution of the Claims against and Interests in the Debtors.

Reference is made to the Disclosure Statement accompanying this Plan, including the exhibits and supplements thereto, for a discussion of the Debtors' history, business, properties and operations, projections for those operations, risk factors, a summary and analysis of this Plan, and certain related matters including, among other things, certain tax matters, and the securities and other consideration to be issued and/or distributed under this Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code, Bankruptcy Rule 3019 and Sections 14.6 and 14.7 of this Plan, the Debtors, reserve the right to alter, amend, modify, revoke or withdraw this Plan prior to its substantial consummation.

This Plan is not predicated upon and does not provide for the substantive consolidation of the Chapter 11 Cases. This Plan is being proposed with respect to each Debtor, and failure to confirm the Plan with respect to one Debtor shall have no bearing on confirmation of the Plan with respect to any other Debtor.

The only Persons that are entitled to vote on this Plan are the holders of First Lien Credit Agreement Claims. Such Persons are encouraged to read the Plan and the Disclosure Statement and their respective exhibits and schedules in their entirety before voting to accept or reject the Plan. No materials other than the Disclosure Statement, the respective schedules, notices and exhibits attached thereto and referenced therein have been authorized by the Bankruptcy Court for use in soliciting acceptances or rejections of the Plan.

## ARTICLE I.

### DEFINITIONS AND INTERPRETATION

#### A. *Definitions.*

The following terms shall have the meanings set forth below (such meanings to be equally applicable to both the singular and plural):

**503(b)(9) Claims** means Allowed Claims that have been timely and properly filed prior to the Bar Date and that are granted administrative expense priority treatment pursuant to section 503(b)(9) of the Bankruptcy Code.

**Administrative Bar Date** has the meaning set forth in Section 3.1(a) of this Plan.

**Administrative Expense Claim** means any right to payment constituting a cost or expense of administration of the Chapter 11 Cases of the kind specified in section 503(b) of the Bankruptcy Code and entitled to priority pursuant to sections 328, 330, 363, 364(c)(1), 365, 503(b), 507(a)(2), 507(b), or 1114(e)(2) of the Bankruptcy Code (other than a Fee Claim or U.S.

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<sup>2</sup> All capitalized terms used but not defined herein have the meanings set forth in Article I herein.

Trustee Fees) for the period from the Petition Date to the Effective Date, including, without limitation: (i) any actual and necessary costs and expenses of preserving the Estates, any actual and necessary costs and expenses of operating the Debtors' businesses, and any indebtedness or obligations incurred or assumed by the Debtors during the Chapter 11 Cases; (ii) 503(b)(9) Claims; and (iii) any payment to be made under this Plan to cure a default on an assumed executory contract or unexpired lease.

**Allowed Claim** or Allowed [\_\_\_\_\_] Claim (with respect to a specific type of Claim, if specified) means: (a) any Claim (or a portion thereof) as to which no action to dispute, deny, equitably subordinate or otherwise limit recovery with respect thereto, or alter priority thereof, has been sought within the applicable period of limitation fixed by this Plan or applicable law, except to the extent the Debtors or Reorganized Debtors, as the case may be, object to the enforcement of such Claim or, if an action to dispute, deny, equitably subordinate or otherwise limit recovery with respect thereto, or alter priority thereof, has been sought, to the extent such Claim has been allowed (whether in whole or in part) by a Final Order of a court of competent jurisdiction with respect to the subject matter thereof; or (b) any Claim or portion thereof that is allowed (i) in the New Equity Investment Agreement, (ii) pursuant to the terms of the Plan, or (iii) by Final Order of the Bankruptcy Court.

**Amended By-Laws** means the amended and restated by-laws for the applicable Reorganized Debtor, on terms and conditions and in form and substance acceptable to the Consenting First Lien Lenders, substantially final forms of which will be contained in the Plan Supplement.

**Amended Certificates of Incorporation** means the amended and restated certificates of incorporation (or articles of incorporation, as applicable) for the applicable Reorganized Debtor, in form and substance acceptable to the Consenting First Lien Lenders, substantially final forms of which will be contained in the Plan Supplement.

**Assets** means all of the right, title and interest of the Debtors in and to property of whatever type or nature (real, personal, mixed, intellectual, tangible or intangible).

**AST** means the American Stock Transfer & Trust Company LLC.

**Ballot** means the form approved by the Bankruptcy Court and distributed to holders of impaired Claims entitled to vote on the Plan on which such holders shall indicate the acceptance or rejection of the Plan.

**Bankruptcy Code** means title 11 of the United States Code, as amended from time to time, as applicable to the Chapter 11 Cases.

**Bankruptcy Court** means the United States Bankruptcy Court for the District of Delaware, or any other court exercising competent jurisdiction over the Chapter 11 Cases or any proceeding therein.

**Bankruptcy Rules** means the Federal Rules of Bankruptcy Procedure, as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, as

amended from time to time, applicable to the Chapter 11 Cases, and any Local Rules of the Bankruptcy Court.

**Bar Date** means any deadline for filing proofs of Claim, including, without limitation, Claims arising prior to the Petition Date (including 503(b)(9) Claims) and Administrative Expense Claims, as established by an order of the Bankruptcy Court or under the Plan.

**Business Day** means any day other than a Saturday, Sunday, or a “legal holiday,” as defined in Bankruptcy Rule 9006(a).

**Cash** means the legal currency of the United States and equivalents thereof.

**Cash Collateral Order** means that certain [Final/Interim] Order (A) Authorizing Postpetition Use of Cash Collateral, (b) Granting Adequate Protection to the Secured Parties, and (c) Granting Related Relief [Docket No. \_\_\_].

**Causes of Action** means any and all actions, causes of action (including avoidance actions arising under chapter 5 of the Bankruptcy Code or similar state fraudulent transfer or fraudulent conveyance laws), suits, accounts, controversies, agreements, promises, rights to legal remedies, rights to equitable remedies, rights to payment, and Claims, whether known or unknown, reduced to judgment, not reduced to judgment, liquidated, unliquidated, fixed, contingent, matured, unmatured, disputed, undisputed, secured, unsecured and whether asserted or assertable directly or derivatively, in law, equity or otherwise.

**CBA Motion** means that certain motion filed by the Debtors on September 26, 2014 [Docket No. 134], seeking entry of an order, pursuant to section 1113 of the Bankruptcy Code or otherwise, authorizing and implementing certain modifications to the Local 54 Taj Collective Bargaining Agreement, or any supplement, modification or amendment to such motion, on terms and conditions acceptable to the Consenting First Lien Lenders.

**CBA Order** means an order of the Bankruptcy Court, in form and substance acceptable to the Debtors and the Consenting First Lien Lenders, approving the CBA Motion and granting the relief requested in the CBA Motion.

**Chapter 11 Cases** means the jointly-administered cases under chapter 11 of the Bankruptcy Code commenced by the Debtors on the Petition Date in the Bankruptcy Court and captioned *Trump Entertainment Resorts Inc., et al.*, Case No. 14-12103 (KG) (Jointly Administered).

**Claim** means any “claim” against any Debtor as defined in section 101(5) of the Bankruptcy Code, including, without limitation, any Claim arising after the Petition Date.

**Claims Agent** means Prime Clerk LLC, or any other entity approved by the Bankruptcy Court to act as the Debtors’ claims and noticing agent pursuant to 28 U.S.C. §156(c).

**Class** means each category of Claims or Interests established under Article IV of the Plan pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.



***Collateral*** means any property or interest in property of the Estates of the Debtors subject to a Lien to secure the payment or performance of a Claim, which Lien is not subject to avoidance or otherwise invalid under the Bankruptcy Code or applicable non-bankruptcy law.

***Confirmation Date*** means the date on which the Clerk of the Bankruptcy Court enters the Confirmation Order on the docket of the Bankruptcy Court.

***Confirmation Hearing*** means a hearing to be held by the Bankruptcy Court regarding confirmation of this Plan, as such hearing may be adjourned or continued from time to time.

***Confirmation Order*** means the order of the Bankruptcy Court confirming this Plan pursuant to section 1129 of the Bankruptcy Code and, in form and substance, acceptable to the Debtors and the Consenting First Lien Lenders.

***Consenting First Lien Lenders*** means those First Lien Lenders holding, in the aggregate, in excess of a majority of the principal amount of the First Lien Credit Agreement Claims outstanding as of the applicable reference date.

***Creditors' Committee*** means the statutory committee of unsecured creditors appointed in the Chapter 11 Cases in accordance with section 1102 of the Bankruptcy Code, as the same may be reconstituted from time to time.

***Cure Amount*** has the meaning set forth in Section 10.3 of this Plan.

***Cure Dispute*** has the meaning set forth in Section 10.3 of this Plan.

***Cure Schedule*** has the meaning set forth in Section 10.3 of this Plan.

***Debtor(s)*** means, individually or collectively, as the context requires: Trump Entertainment Resorts, Inc.; TERH LP Inc.; Trump Entertainment Resorts Holdings, L.P.; Trump Plaza Associates, LLC; Trump Marina Associates, LLC; Trump Taj Mahal Associates, LLC; Trump Entertainment Resorts Development Co.; and TER Development Co., LLC.

***Disallowed*** means a ruling of the Bankruptcy Court or other court of competent jurisdiction, a Final Order, or provision in the Plan, as the case may be, providing that a Claim shall not be an Allowed Claim.

***Disbursing Agent*** means the entity, which may be a Reorganized Debtor, designated by the Debtors or the Reorganized Debtors to distribute the Plan Consideration.

***Disclosure Statement*** means the disclosure statement (including all exhibits and schedules annexed thereto or referred to therein), in form and substance reasonably acceptable to the Debtors and Consenting First Lien Lenders, as approved by the Bankruptcy Court pursuant to section 1125 of the Bankruptcy Code, that relates to this Plan, as such disclosure statement may be amended, modified, or supplemented from time to time.

***Disclosure Statement Hearing*** means the hearing held by the Bankruptcy Court to consider approval of the Disclosure Statement as containing adequate information as required by

section 1125 of the Bankruptcy Code, as the same may be adjourned or continued from time to time.

***Disputed Claim*** means, as of any relevant date, any Claim, or any portion thereof: (a) that is not an Allowed Claim or Disallowed Claim as of the relevant date; or (b) for which a proof of Claim or Interest has been timely filed with the Bankruptcy Court or a written request for payment has been made, to the extent the Debtors or any party in interest has interposed a timely objection or request for estimation (in whole or in part), which objection or request for estimation has not been withdrawn or determined by a Final Order as of the relevant date.

***Disputed Priority Claims Reserve*** has the meaning set forth in Section 9.3(b) of this Plan.

***Distribution Date*** means: (a) the Initial Distribution Date; (b) any Interim Distribution Date; or (c) the Final Distribution Date, as the context requires.

***Distribution Record Date*** means, with respect to all Classes for which distributions are to be made under the Plan (other than Class 3), the third Business Day after the Confirmation Date or such other later date as shall be established by the Bankruptcy Court in the Confirmation Order.

***Effective Date*** means the first Business Day on which all conditions to the Effective Date set forth in Section 11.2 hereof have been satisfied or waived in accordance with the terms hereof, and no stay of the Confirmation Order is in effect.

***Equitably Subordinated Claim*** means any Claim subject to subordination pursuant to section 510(c) of the Bankruptcy Code.

***Estate*** means each estate created in the Chapter 11 Cases pursuant to section 541 of the Bankruptcy Code.

***Estimation Order*** means an order or orders of the Bankruptcy Court estimating for voting and/or distribution purposes (under section 502(c) of the Bankruptcy Code) the allowed amount of any Claim. The defined term Estimation Order includes the Confirmation Order to the extent the Confirmation Order grants the same relief that would have otherwise been granted in a separate Estimation Order.

***Existing Securities Law Claim*** means any Claim, whether or not the subject of an existing lawsuit: (a) arising from rescission of a purchase or sale of any securities of any Debtor or an affiliate of any Debtor; (b) for damages arising from the purchase or sale of any such security; (c) for violations of the securities laws, misrepresentations, or any similar Claims, including, to the extent related to the foregoing or otherwise subject to subordination under section 510(b) of the Bankruptcy Code, any attorneys' fees, other charges, or costs incurred on account of the foregoing Claims; or (d) except as otherwise provided for in this Plan, including Section 12.12 hereof, for reimbursement, contribution, or indemnification allowed under section 502 of the Bankruptcy Code on account of any such Claim.

***Existing TER Interests*** means all Interests in TER outstanding prior to the occurrence of the Effective Date.

**Executive Severance Benefits** means the potential severance rights provided to certain eligible executives pursuant to the Executive Severance Plan, to not more than nine eligible executives, which includes, among other things, “separation pay” (as defined in the Executive Severance Plan) in an aggregate amount which does not exceed \$2,634,000.00.

**Executive Severance Plan** means the Trump Entertainment Resorts Inc. Executive Severance Plan, effective September 5, 2014, which provides for, among other things, severance benefits for certain eligible executive employees of the Debtors.

**Fee Claim** means a Claim by a Professional Person for compensation, indemnification or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503(b) or 1103(a) of the Bankruptcy Code in connection with the Chapter 11 Cases, including, without limitation, in connection with final fee applications of such Professional Persons.

**Final Distribution Date** means the first Business Day that is twenty (20) Business Days after the date on which all Disputed Claims have been resolved by Final Order (or such earlier or later date as may be reasonably determined by the Reorganized Debtors).

**Final Order** means an order, ruling or judgment of the Bankruptcy Court (or other court of competent jurisdiction) entered by the Clerk of the Bankruptcy Court on the docket in the Chapter 11 Cases (or by the clerk of such other court of competent jurisdiction on the docket of such court) that: (a) is in full force and effect; (b) is not stayed; and (c) is no longer subject to review, reversal, modification or amendment, by appeal or writ of certiorari; provided, however, that the possibility that a motion under Rule 50 or 60 of the Federal Rules of Civil Procedure, or any analogous rule under the Federal Rules of Civil Procedure or Bankruptcy Rules, may be filed relating to such order, ruling or judgment shall not cause such order, ruling or judgment not to be a Final Order.

**First Administrative Bar Date** means the bar date fixed by an order of the Bankruptcy Court, dated [ \* ], 2014, by which holders of certain Administrative Expense Claims that are incurred or arise during the period from and after the Petition Date through and including December 10, 2014, are required to have filed an application for allowance and payment therefor.

**First Lien Agent** means Icahn Agency Services, LLC, solely in either of its capacities as collateral agent or administrative agent under the First Lien Credit Agreement.

**First Lien Credit Agreement** means that certain Amended and Restated Credit Agreement, dated as of July 16, 2010, by and among TER and Trump Entertainment Resorts, Holdings, L.P., as borrowers, the guarantors party thereto, the First Lien Lenders and the First Lien Agent, including all agreements, documents, notes, instruments and any other agreements executed or delivered pursuant thereto or in connection therewith, in each case, as amended, modified or supplemented from time to time.

**First Lien Credit Agreement Claims** means any Claim against any Debtor arising under or related to the First Lien Credit Agreement, including all accrued and unpaid principal, interest, fees, costs, expenses, indemnities, and other charges thereunder.

**First Lien Deficiency Claims** means any First Lien Credit Agreement Claim or portion thereof that is not an Allowed First Lien Secured Claim.

**First Lien Lenders** means those certain parties, Icahn Partners LP, Icahn Partners Master Fund LP and IEH Investments I LLC, the lenders under the First Lien Credit Agreement.

**First Lien Secured Claims** means any and all First Lien Credit Agreement Claims that are Secured Claims.

**General Unsecured Claim** means any Claim (including a First Lien Deficiency Claim) other than: (a) a Secured Claim, Other Secured Claims, and First Lien Secured Claims; (b) an Administrative Expense Claim; (c) a Fee Claim; (d) a Priority Tax Claim; (e) a Priority Non-Tax Claim; (f) an Intercompany Claim; (g) an Existing Securities Law Claim and (f) U.S. Trustee Fees, and shall not include Claims that are Disallowed or released, whether by operation of law or pursuant to order of the Bankruptcy Court, written release or settlement, the provisions of this Plan or otherwise.

**Initial Distribution Date** means the Effective Date or as soon thereafter as is practicable.

**Intercompany Claim** means any Claim (including an Administrative Expense Claim), Cause of Action, or remedy asserted by a Debtor against another Debtor.

**Intercompany Interest** means any Interest held by a Debtor in another Debtor.

**Interest** means the interest (whether legal, equitable, contractual or other rights) of any holders of any class of equity securities of any of the Debtors represented by shares of common or preferred stock or other instruments evidencing an ownership interest in any of the Debtors, whether or not certificated, transferable, voting or denominated “stock” or a similar security, and any Claim or Cause of Action related to or arising from the foregoing, or any option, warrant or right, contractual or otherwise, to acquire any such interest.

**Interim Compensation Order** means that certain *Order Establishing Procedures For Interim Compensation and Reimbursement of Expenses for Retained Professionals* [Docket No. \_\_\_].

**Interim Distribution Date** means any date, other than the Final Distribution Date, after the Initial Distribution Date on which the Reorganized Debtors or the Disbursing Agent determine that an interim distribution should be made to holders of Allowed Claims.

**Lien** has the meaning set forth in section 101(37) of the Bankruptcy Code.

**Local 54 Taj Collective Bargaining Agreement** means that certain collective bargaining agreement (including, without limitation, any and all amendments, modifications, side letters, memoranda of understanding, documents incorporated by reference, attachments and exhibits thereto) by and between Trump Taj Mahal Associates, LLC and Local 54 – Unite Here.

**New Common Stock** means, collectively, shares of common stock of Reorganized TER, par value \$0.01, to be issued by Reorganized TER in connection with the implementation of, and as authorized by, this Plan.

**New Term Loan** means that certain PIK term loan in the aggregate principal amount of \$100 million with a five (5) year maturity, as set forth in and subject to the terms and conditions of the New Credit Agreement.

**New Credit Agreement** means that certain Senior Secured First Lien Credit Agreement by and between the Debtors and [\_\_\_\_], governing the New Term Loan, on terms and conditions and in form and substance acceptable to the Consenting First Lien Lenders.

**New Equity Investment** means that certain commitment by [\_\_\_\_] to purchase New Equity Investment Stock on the Effective Date for \$100 million, as set forth in and subject to the terms and conditions of the New Equity Investment Agreement.

**New Equity Investment Agreement** means that certain Investment Agreement by and between the Debtors and [\_\_\_\_] on terms and conditions and in form and substance acceptable to the Consenting First Lien Lenders.

**New Equity Investment Stock** means the New Common Stock issued in connection with the New Equity Investment which shall constitute [45]% of the shares of New Common Stock to be issued by Reorganized TER on the Effective Date on a fully-diluted basis.

**New First Lien Collateral Documents** means the new documents creating first priority liens and security interests for the benefit of the lenders and to secure the loans under the New Credit Agreement including, without limitation, the security agreements, mortgages, assignment of leases and rents, intellectual property security agreement, and any other collateral documents, instruments, and agreements delivered in connection with the New Credit Agreement, each of which documents, instruments, and agreements shall be on terms and conditions and in form and substance acceptable to the Consenting First Lien Lenders.

**Other Secured Claim** means any Secured Claim against a Debtor, other than First Lien Credit Agreement Claims.

**Person** means any individual, corporation, partnership, association, indenture trustee, limited liability company, organization, joint stock company, joint venture, estate, trust, governmental unit or any political subdivision thereof, Interest holder, or any other entity or organization of whatever nature.

**Petition Date** means September 9, 2014, the date on which the Debtors commenced the Chapter 11 Cases.

**Plan** means this joint chapter 11 plan proposed by the Debtors and in form and substance acceptable to the First Lien Lenders, including, without limitation, all applicable exhibits, supplements, appendices and schedules hereto (including, without limitation, the Plan Supplement), either in its present form or as the same may be altered, amended or modified from time to time with the consent of the Consenting First Lien Lenders as set forth herein, and in

accordance with the provisions of the Bankruptcy Code and Bankruptcy Rules and the terms hereof or thereof.

**Plan Consideration** means, with respect to any Class of Claims entitled to a distribution under this Plan, the distribution to which such Class of Claims is entitled to under this Plan, including Cash and/or New Common Stock, as the context requires.

**Plan Distribution** means the payment or distribution under the Plan of the Plan Consideration.

**Plan Documents** means the documents, other than the Plan, to be executed, delivered, assumed, and/or performed in connection with the consummation of the Plan, including, without limitation, the documents to be included in the Plan Supplement, the Amended Certificates of Incorporation of the applicable Reorganized Debtors, the Amended By-laws of the applicable Reorganized Debtors, the New Equity Investment Agreement, the New Credit Agreement, the New First Lien Collateral Documents, the Schedule of Assumed Contracts and Leases and any and all exhibits to the Plan and the Disclosure Statement; provided, that, all Plan Documents shall be in form and substance acceptable to the Consenting First Lien Lenders and the Debtors (except to the extent the Plan provides another standard of acceptance).

**Plan Supplement** means the supplemental appendix to this Plan, to be filed no later than ten (10) calendar days prior to the deadline for Ballots to be received in connection with voting to accept or reject the Plan, which will contain, among other things, draft forms, signed copies, or summaries of material terms, as the case may be, of the Plan Documents and which shall be in form and substance acceptable to the Debtors and the Consenting First Lien Lenders.

**Plaza Collective Bargaining Agreements** means all collective bargaining agreements (including, without limitation, any and all amendments, modifications, side letters, memoranda of understanding, documents incorporated by reference, attachments and exhibits thereto ) to which Trump Plaza Associates, LLC is a party and which are in effect as of the Petition Date.

**Priority Non-Tax Claim** means any Claim, other than an Administrative Expense Claim, a Fee Claim or a Priority Tax Claim, entitled to priority in payment as specified in section 507(a) of the Bankruptcy Code.

**Priority Tax Claim** means any Claim of a governmental unit (as defined in section 101(27) of the Bankruptcy Code) of the kind entitled to priority in payment under sections 502(i) and 507(a)(8) of the Bankruptcy Code.

**Professional Fee Escrow Account** means an interest-bearing account to hold and maintain an amount of Cash initially equal to the Professional Fee Reserve Amount funded by the Debtors on the Effective Date solely for the purpose of paying all Allowed and unpaid Fee Claims.

**Professional Fee Reserve Amount** means the aggregate unpaid Fee Claims prior to and as of the Confirmation Date plus a reasonable estimate of fees and expenses for each Professional Person to be incurred through the Effective Date.

**Professional Person(s)** means all Persons retained by order of the Bankruptcy Court in connection with the Chapter 11 Cases, pursuant to sections 327, 328, 330 or 1103 of the Bankruptcy Code, excluding any ordinary course professionals retained pursuant to order of the Bankruptcy Court.

**Pro Rata Share** means with respect to any distribution on account of an Allowed Claim, a distribution equal in amount to the ratio (expressed as a percentage) that the amount of such Allowed Claim bears to the aggregate amount of all Allowed Claims in its Class.

**Released Parties** means, collectively, (a) each of the following: (i) the First Lien Agent, (ii) the First Lien Lenders, and (iii) with respect to each of the foregoing entities in clauses (a)(i) and (a)(ii), such entity's current and former shareholders, affiliates, partners, subsidiaries, members, officers, directors, principals, employees, agents, managed funds, advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals, together with their respective predecessors, successors, and assigns; and (b) each of the following solely in their capacity as such: (i) the Creditors' Committee, (ii) the Debtors and the Reorganized Debtors, and (iii) with respect to each of the foregoing entities in clauses (b)(i) and (b)(ii), such entity's current and former shareholders, affiliates, partners, subsidiaries, members, officers, directors, principals, employees, agents, managed funds, advisors, attorneys (except for the law firm of Levine, Staller, Sklar, Chan & Brown, P.A.), accountants, investment bankers, consultants, representatives, and other professionals, solely in their respective capacities as such, together with their respective predecessors, successors, and assigns.

**Reorganized Debtor** means the applicable reorganized Debtor or any successors thereto by merger, consolidation or otherwise, on and after the Effective Date, after giving effect to the restructuring transactions occurring on the Effective Date in accordance with this Plan.

**Reorganized TER** means TER, as reorganized, on and after the Effective Date.

**Schedules** has the meaning set forth in Section 9.3(b) of this Plan.

**Schedule of Assumed Contracts and Leases** means a schedule of the contracts and leases to be assumed pursuant to section 365 of the Bankruptcy Code and Section 10.1 hereof, which shall be filed by the Debtors at least twenty-one (21) calendar days prior to the commencement of the Confirmation Hearing, and which shall be in form and substance acceptable to the Debtors and the Consenting First Lien Lenders, as such schedule may be amended from time to time on or before the Confirmation Date with the consent of the Consenting First Lien Lenders.

**Secured Claim** means a Claim, either as set forth in this Plan, as agreed to by the holder of such Claim and the Debtors or as determined by a Final Order in accordance with sections 506(a) and 1111(b) of the Bankruptcy Code: (a) that is secured by a valid, perfected and enforceable Lien on Collateral, that is not subject to avoidance under applicable bankruptcy or nonbankruptcy law, to the extent of the value of the Claim holder's interest in such Collateral as of the Confirmation Date; or (b) to the extent that the holder thereof has a valid right of setoff pursuant to section 553 of the Bankruptcy Code.

**Securities Act** means the Securities Act of 1933, as amended.

**Subsidiary** means any corporation, association or other business entity of which at least the majority of the securities or other ownership interest is owned or controlled by a Debtor and/or one or more subsidiaries of the Debtor.

**Taj Trade Collective Bargaining Agreements** means all collective bargaining agreements (including, without limitation, any and all amendments, modifications, side letters, memoranda of understanding, documents incorporated by reference, attachments and exhibits thereto) to which Trump Taj Mahal Associates LLC is a party and which are in effect as of the Petition Date, other than the Local 54 Taj Collective Bargaining Agreement.

**TER** means Trump Entertainment Resorts, Inc., one of the Debtors.

**U.S. Trustee** means the United States Trustee for the District of Delaware.

**U.S. Trustee Fees** means fees arising under 28 U.S.C. § 1930(a)(6) and, to the extent applicable, accrued interest thereon arising under 31 U.S.C. § 3717.

**B. Interpretation; Application of Definitions and Rules of Construction.**

Unless otherwise specified, all section or exhibit references in this Plan are to the respective section in, or exhibit to, this Plan. The words “herein,” “hereof,” “hereto,” “hereunder,” and other words of similar import refer to this Plan as a whole and not to any particular section, subsection, or clause contained therein. Whenever from the context it is appropriate, each term, whether stated in the singular or the plural, will include both the singular and the plural. Any term that is not otherwise defined herein, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning given to that term in the Bankruptcy Code or the Bankruptcy Rules, as applicable. Except for the rules of construction contained in sections 102(5) of the Bankruptcy Code, which shall not apply, the rules of construction contained in section 102 of the Bankruptcy Code shall apply to the construction of the Plan. Any reference in this Plan to a contract, instrument, release, indenture, or other agreement or documents being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, and any reference in this Plan to an existing document or exhibit filed or to be filed means such document or exhibit as it may have been or may be amended, modified, or supplemented. Subject to the provisions of any contract, certificates or articles of incorporation, by-laws, instruments, releases, or other agreements or documents entered into in connection with this Plan, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, federal law, including the Bankruptcy Code and Bankruptcy Rules. The captions and headings in this Plan are for convenience of reference only and shall not limit or otherwise affect the provisions hereof. Any reference to an entity as a holder of a Claim or Interest includes that entity’s successors and assigns.

**C. Appendices and Plan Documents.**

All Plan Documents and appendices to the Plan are incorporated into the Plan by reference and are a part of the Plan as if set forth in full herein. The documents contained in the exhibits and Plan Supplement shall be approved by the Bankruptcy Court pursuant to the



Confirmation Order. Holders of Claims and Interests may inspect a copy of the Plan Documents, once filed, in the Office of the Clerk of the Bankruptcy Court during normal business hours, or via the Claims Agent's website at <http://cases/primeclerk.com/ter>, or obtain a copy of the Plan Documents by a written request sent to the Claims Agent at the following address:

Prime Clerk, LLC  
830 Third Avenue, 9th Floor  
New York, New York 10022

## ARTICLE II.

### **RESOLUTION OF CERTAIN INTER-CREDITOR AND INTER-DEBTOR ISSUES**

#### ***2.1. Settlement of Certain Inter-Creditor Issues.***

The treatment of Claims and Interests under this Plan represents, among other things, the settlement and compromise of certain potential inter-creditor disputes.

#### ***2.2. Formation of Debtor Groups for Convenience Purposes.***

The Plan groups the Debtors together solely for purposes of describing treatment under the Plan, confirmation of the Plan and making Plan Distributions in respect of Claims against the Debtors under the Plan. Such groupings shall not affect any Debtor's status as a separate legal entity, change the organizational structure of the Debtors' business enterprise, constitute a change of control of any Debtor for any purpose, cause a merger or consolidation of any legal entities, nor cause the transfer of any assets; and, except as otherwise provided by or permitted in the Plan, all Debtors shall continue to exist as separate legal entities.

Notwithstanding the foregoing, the Debtors 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 distributions to any Person under the Plan.

#### ***2.3. Intercompany Claims.***

Notwithstanding anything to the contrary herein, on or after the Effective Date, any and all Intercompany Claims will be adjusted (including by contribution, distribution in exchange for new debt or equity, or otherwise), paid, continued, or discharged to the extent reasonably determined appropriate by the Reorganized Debtors. Any such transaction may be effected on or subsequent to the Effective Date without any further action by the Bankruptcy Court or by the stockholders of any of the Reorganized Debtors.

## ARTICLE III.

### **ADMINISTRATIVE EXPENSE CLAIMS, FEE CLAIMS, U.S. TRUSTEE FEES AND PRIORITY TAX CLAIMS**

The Plan constitutes a joint plan of reorganization for each of the Debtors. All Claims and Interests, except Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims, are placed in the Classes set forth in Article IV below. In accordance with

section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims, Fee Claims, U.S. Trustee Fees and Priority Tax Claims of the Debtors have not been classified, and the holders thereof are not entitled to vote on this Plan. A Claim or Interest is placed in a particular Class only to the extent that the Claim or Interest falls within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest falls within the description of such other Classes.

A Claim or Interest also is placed in a particular Class for all purposes, including voting, confirmation and distribution under this Plan and under sections 1122 and 1123(a)(1) of the Bankruptcy Code. However, a Claim or Interest is placed in a particular Class for the purpose of receiving distributions pursuant to this Plan only to the extent that such Claim or Interest is an Allowed Claim or Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date.

### **3.1. *Administrative Expense Claims.***

#### **(a) Time for Filing Administrative Expense Claims.**

Unless required to have been previously filed by the First Administrative Bar Date, the holder of an Administrative Expense Claim, other than the holder of:

- (i) a Fee Claim;
- (ii) a 503(b)(9) Claim;
- (iii) an Administrative Expense Claim that has been Allowed on or before the Effective Date;
- (iv) an Administrative Expense Claim of a governmental unit (as defined in section 101(27) of the Bankruptcy Code) not required to be filed pursuant to section 503(b)(1)(D) of the Bankruptcy Code;
- (v) an Administrative Expense Claim on account of fees and expenses incurred on or after the Petition Date by ordinary course professionals retained by the Debtors pursuant to an order of the Bankruptcy Court; or
- (vi) an Administrative Expense Claim arising, in the ordinary course of business, out of the employment by one or more Debtors of an individual from and after the Petition Date, but only to the extent that such Administrative Expense Claim is solely for outstanding wages, commissions, accrued benefits, or reimbursement of business expenses.

must file with the Bankruptcy Court and serve on the Debtors or Reorganized Debtors (as the case may be), the Claims Agent, and the Office of the U.S. Trustee, proof of such Administrative Expense Claim **within thirty (30) calendar days after the Effective Date** (the “*Administrative Bar Date*”). Such proof of Administrative Expense Claim must include at a minimum: (i) the

name of the applicable Debtor that is purported to be liable for the Administrative Expense Claim and if the Administrative Expense Claim is asserted against more than one Debtor, the exact amount asserted to be owed by each such Debtor; (ii) the name of the holder of the Administrative Expense Claim; (iii) the amount of the Administrative Expense Claim; (iv) the basis of the Administrative Expense Claim; and (v) supporting documentation for the Administrative Expense Claim. For the avoidance of doubt, any deadline for filing Administrative Expense Claims shall not apply to fees payable pursuant to section 1930 of title 28 of the United States Code. **FAILURE TO FILE AND SERVE SUCH PROOF OF ADMINISTRATIVE EXPENSE CLAIM TIMELY AND PROPERLY SHALL RESULT IN THE ADMINISTRATIVE EXPENSE CLAIM BEING FOREVER BARRED AND DISCHARGED WITHOUT THE NEED FOR FURTHER ACTION, ORDER OR APPROVAL OF OR NOTICE TO THE BANKRUPTCY COURT.**

(b) Treatment of Administrative Expense Claims.

Except to the extent that a holder of an Allowed Administrative Expense Claim agrees to a different treatment, on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty (30) calendar days after the date an Administrative Expense Claim becomes an Allowed Claim, the holder of such Allowed Administrative Expense Claim shall receive from the applicable Reorganized Debtor Cash in an amount equal to such Allowed Claim; provided, however, that Allowed Administrative Expense Claims representing liabilities incurred in the ordinary course of business by the Debtors, as debtors in possession, shall be paid by the Debtors or the Reorganized Debtors, as applicable, in the ordinary course of business, consistent with past practice and in accordance with the terms and subject to the conditions of any orders or agreements governing, instruments evidencing, or other documents relating to, such liabilities.

**3.2. Fee Claims.**

(a) Time for Filing Fee Claims.

Any Professional Person seeking allowance by the Bankruptcy Court of a Fee Claim shall file its respective final application for allowance of compensation for services rendered and reimbursement of expenses incurred prior to the Effective Date no later than forty-five (45) calendar days after the Effective Date. Objections to such Fee Claims, if any, must be filed and served pursuant to the procedures set forth in the Confirmation Order no later than sixty-five (65) calendar days after the Effective Date or such other date as established by the Bankruptcy Court.

(b) Treatment of Fee Claims.

All Professional Persons seeking allowance by the Bankruptcy Court of a Fee Claim shall be paid in full in Cash in such amounts as are approved by the Bankruptcy Court by Final Order: (i) upon the later of (x) the Effective Date, and (y) fourteen (14) calendar days after the date upon which the Bankruptcy Court's order relating to the allowance of any such Fee Claim is entered, or (ii) upon such other terms as may be mutually agreed upon between the holder of such Fee Claim and the Reorganized Debtors.

(c) Professional Fee Escrow Account.

Notwithstanding anything to the contrary in the Cash Collateral Order or otherwise, on the Effective Date, the Debtors shall fund a Professional Fee Escrow Account with Cash equal to the aggregate Professional Fee Reserve Amount for all Professional Persons, which Professional Fee Escrow Account shall be an account maintained by counsel for the Debtors, Young Conaway Stargatt & Taylor, LLP. The Professional Fee Escrow Account shall be maintained in trust for the Professional Persons. Such funds shall not be considered property of the Debtors' Estates or of the Reorganized Debtors. The amount of Allowed Fee Claims owing to the Professional Persons shall be paid in Cash to such Professional Persons from funds held in the Professional Fee Escrow Account when such Claims are Allowed by an order of the Bankruptcy Court. When all Allowed Fee Claims are paid in full in Cash, amounts remaining in the Professional Fee Escrow Account, if any, shall revert to the Reorganized Debtors. To the extent the Professional Fee Escrow Account does not have sufficient funds to satisfy all Allowed Fee Claims, any Allowed Fee Claims not paid with funds in the Professional Fee Escrow Account shall be satisfied and paid in Cash by the Reorganized Debtors.

(d) Post-Effective Date Fees and Expenses.

On and after the Effective Date, the Reorganized Debtors shall, in the ordinary course of business and without any further notice to or action, order, or approval of the Bankruptcy Court, pay in Cash the reasonable legal, professional (with the exception of Professional Persons retained by or on behalf of the Creditors' Committee) or other fees and expenses incurred by any Professional Person or the Claims Agent related to implementation and consummation of the Plan, including without limitation, reconciliation of, objection to, and settlement of Claims; provided, however, that the Professional Persons retained by or on behalf of the Creditors' Committee will solely have the rights to payment set forth in Section 14.4 hereof. Upon the Effective Date, any requirement that Professional Persons comply with sections 327 through 331, and 1103 of the Bankruptcy Code or the Interim Compensation Order in seeking retention or compensation for services rendered after such date shall terminate, and the Reorganized Debtors may employ and pay any Professional Persons in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court.

**3.3. U.S. Trustee Fees.**

The Debtors or Reorganized Debtors, as applicable, shall pay all outstanding U.S. Trustee Fees of a Debtor on an ongoing basis on the later of: (i) the Effective Date; and (ii) the date such U.S. Trustee Fees become due, until such time as a final decree is entered closing the applicable Chapter 11 Case, the applicable Chapter 11 Case is converted or dismissed, or the Bankruptcy Court orders otherwise.

**3.4. Priority Tax Claims.**

Except to the extent that a holder of an Allowed Priority Tax Claim agrees to different treatment, each holder of an Allowed Priority Tax Claim shall receive, in the Debtors' or Reorganized Debtors' discretion, either: (i) on, or as soon thereafter as is reasonably practicable, the later of the Effective Date and the first Business Day after the date that is thirty

(30) calendar days after the date a Priority Tax Claim becomes an Allowed Claim, Cash in an amount equal to such Claim, or (ii) deferred Cash payments following the Effective Date, over a period ending not later than five (5) years after the Petition Date, in an aggregate amount equal to the Allowed amount of such Priority Tax Claim (with any interest to which the holder of such Priority Tax Claim may be entitled to be calculated in accordance with section 511 of the Bankruptcy Code); provided, however, that all Allowed Priority Tax Claims that are not due and payable on or before the Effective Date shall be paid in the ordinary course of business as they become due.

## ARTICLE IV.

### CLASSIFICATION OF CLAIMS AND INTERESTS

#### 4.1. *Classification of Claims and Interests.*

The following table designates the Classes of Claims against and Interests in the Debtors, and specifies which Classes are: (i) impaired or unimpaired by this Plan; (ii) entitled to vote to accept or reject this Plan in accordance with section 1126 of the Bankruptcy Code; and (iii) deemed to accept or reject this Plan.

<u>Class</u>	<u>Designation</u>	<u>Impairment</u>	<u>Entitled to Vote</u>
Class 1	Priority Non-Tax Claims	No	No (Deemed to accept)
Class 2	Other Secured Claims	No	No (Deemed to accept)
Class 3	First Lien Credit Agreement Claims	Yes	Yes
Class 4	General Unsecured Claims	Yes	No (Deemed to reject)
Class 5(a)	Existing Securities Law Claims	Yes	No (Deemed to reject)
Class 5(b)	Equitably Subordinated Claims	Yes	No (Deemed to reject)
Class 6	Existing TER Interests	Yes	No (Deemed to reject)

#### 4.2. *Unimpaired Classes of Claims.*

The following Classes of Claims are unimpaired and, therefore, deemed to have accepted this Plan and are not entitled to vote on this Plan under section 1126(f) of the Bankruptcy Code.

- (a) Class 1: Class 1 consists of all Priority Non-Tax Claims.
- (b) Class 2: Class 2 consists of all Other Secured Claims.

#### 4.3. *Impaired Classes of Claims and Interests.*

The following Classes of Claims are impaired and entitled to vote on this Plan:

- (a) Class 3: Class 3 consists of all First Lien Credit Agreement Claims.

The following Classes of Claims and Interests are impaired and deemed to have rejected this Plan and, therefore, are not entitled to vote on this Plan under section 1126(g) of the Bankruptcy Code:

- (a) Class 4: Class 4 consists of all General Unsecured Claims.
- (b) Class 5(a): Class 5(a) consists of all Existing Securities Law Claims.
- (c) Class 5(b): Class 5(b) consists of all Equitably Subordinated Claims.
- (d) Class 6: Class 6 consists of all Existing TER Interests.

**4.4. *Separate Classification of Other Secured Claims.***

Although all Other Secured Claims have been placed in one Class for purposes of nomenclature, each Other Secured Claim, to the extent secured by a Lien on Collateral different than that securing any other Other Secured Claims, shall be treated as being in a separate sub-Class for the purpose of receiving Plan Distributions.

**ARTICLE V.**

**TREATMENT OF CLAIMS AND INTERESTS**

**5.1. *Priority Non-Tax Claims (Class 1).***

(a) Treatment: The legal, equitable and contractual rights of the holders of Priority Non-Tax Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Priority Non-Tax Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable Priority Non-Tax Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, each holder of an Allowed Priority Non-Tax Claim shall receive Cash from the applicable Reorganized Debtor in an amount equal to such Allowed Claim.

(b) Voting: The Priority Non-Tax Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Priority Non-Tax Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Priority Non-Tax Claims.

**5.2. *Other Secured Claims (Class 2).***

(a) Treatment: The legal, equitable and contractual rights of the holders of Other Secured Claims are unaltered by this Plan. Except to the extent that a holder of an Allowed Other Secured Claim agrees to different treatment, on the later of the Effective Date and the first Distribution Date after the applicable Other Secured Claim becomes an Allowed Claim, or as soon after such date as is reasonably practicable, each holder of an Allowed Other Secured Claim shall receive, at the election of the Reorganized Debtors: (i) Cash in an amount equal to such Allowed Claim; (ii) the return of the Collateral securing such Allowed Other Secured Claim; or

(iii) such other treatment that will render the Other Secured Claim unimpaired pursuant to section 1124 of the Bankruptcy Code; provided, however, that Other Secured Claims incurred by a Debtor in the ordinary course of business may be paid in the ordinary course of business in accordance with the terms and conditions of any agreements relating thereto, in the discretion of the applicable Debtor or Reorganized Debtor, without further notice to or action, order, or approval of the Bankruptcy Court. Each holder of an Allowed Other Secured Claim shall retain the Liens securing its Allowed Other Secured Claim as of the Effective Date until payment or other satisfaction of such Allowed Other Secured Claim is made as provided herein. On the payment or other satisfaction of such Claims in accordance with the Plan, the Liens securing such Allowed Other Secured Claim shall be deemed released, terminated and extinguished, in each case without further notice to or action, order, or approval of the Bankruptcy Court, act or action under applicable law, regulation, order or rule or the vote, consent, authorization or approval of any Person.

(b) Voting: The Other Secured Claims are not impaired Claims. In accordance with section 1126(f) of the Bankruptcy Code, the holders of Other Secured Claims are conclusively presumed to accept this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Allowed Other Secured Claims.

(c) Deficiency Claims: To the extent that the value of the Collateral securing each Other Secured Claim is less than the Allowed amount of such Other Secured Claim, the undersecured portion of such Allowed Claim shall be treated for all purposes under this Plan as an Allowed General Unsecured Claim and shall be classified as a General Unsecured Claim.

### **5.3. *First Lien Credit Agreement Claims (Class 3).***

(a) Allowance: On the Effective Date, the First Lien Credit Agreement Claims shall be deemed Allowed Claims in the amount of \$292,257,374.79.

(b) Treatment: On the Effective Date, or as soon as reasonably practicable thereafter, the holders of Allowed First Lien Secured Claims shall receive, subject to the terms of this Plan, in full satisfaction, settlement, release and discharge of, and in exchange for, such Claims in the aggregate the following consideration: (x) [55]% of the shares of New Common Stock to be issued by Reorganized TER on the Effective Date on a fully-diluted basis and (y) the New Term Loan. Holders of Allowed First Lien Credit Agreement Claims shall have the right to allocate among each other the portion of New Common Stock and New Term Loan each holder shall receive out of the aggregate amounts in the immediately preceding sentence, and the Disbursing Agent shall make distributions on account of Allowed First Lien Credit Agreement Claims based on such allocations.

(c) Voting: The First Lien Credit Agreement Claims are impaired Claims. Holders of such Claims are entitled to vote to accept or reject the Plan, and the votes of such holders will be solicited with respect to such Allowed First Lien Credit Agreement Claims.

**5.4. *General Unsecured Claims (Class 4).***

(a) Treatment: Subject to section 7.13 hereof, holders of General Unsecured Claims shall not be entitled to receive or retain any distribution under the Plan on account of such General Unsecured Claims.

(b) Voting: The General Unsecured Claims are impaired Claims. In accordance with section 1126(g) of the Bankruptcy Code, the holders of General Unsecured Claims are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such General Unsecured Claims.

**5.5. *Existing Securities Law Claims (Class 5(a)).***

(a) Treatment: Subject to section 7.13 hereof, if applicable, holders of Existing Securities Law Claims shall not receive or retain any distribution under the Plan on account of such Existing Securities Law Claims.

(b) Voting: The Existing Securities Law Claims are impaired Claims. In accordance with section 1126(g) of the Bankruptcy Code, the holders of Existing Securities Law Claims are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Existing Securities Law Claims.

**5.6. *Equitably Subordinated Claims (Class 5(b)).***

(a) Treatment: Subject to Section 7.13 hereof, if applicable, holders of Equitably Subordinated Claims shall not receive or retain any distribution under the Plan on account of such Equitably Subordinated Claims.

(b) Voting: The Equitably Subordinated Claims are impaired Claims. In accordance with section 1126(g) of the Bankruptcy Code, the holders of Equitably Subordinated Claims are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Equitably Subordinated Claims.

**5.7. *Existing TER Interests (Class 6).***

(a) Treatment: Holders of Existing TER Interests shall not receive or retain any distribution under the Plan on account of such Existing TER Interests. On the Effective Date, all Existing TER Interests shall be deemed cancelled and extinguished.

(b) Voting: The Existing TER Interests are impaired Interests. In accordance with section 1126(g) of the Bankruptcy Code, the holders of Existing TER Interests are conclusively presumed to reject this Plan and are not entitled to vote to accept or reject the Plan, and the votes of such holders will not be solicited with respect to such Existing TER Interests.



**ARTICLE VI.**

**ACCEPTANCE OR REJECTION OF  
THE PLAN; EFFECT OF REJECTION BY ONE  
OR MORE CLASSES OF CLAIMS OR INTERESTS**

**6.1. *Class Acceptance Requirement.***

A Class of Claims shall have accepted the Plan if it is accepted by at least two-thirds (2/3) in amount of the Allowed Claims in such Class and more than one-half (1/2) in number of holders of such Claims that have voted on the Plan.

**6.2. *Voting of Claims***

Each holder of an Allowed Claim in an Impaired Class of Claims shall be entitled to vote to accept or reject the Plan as provided in such order as may be entered by the Court establishing certain procedures with respect to the solicitation and tabulation of votes to accept or reject the Plan, or any other order or orders of the Court.

**6.3. *Confirmation Pursuant to Section 1129(b) of the Bankruptcy Code or “Cramdown.”***

Because certain Classes are deemed to have rejected this Plan, the Debtors will request confirmation of this Plan, as it may be modified and amended from time to time, under section 1129(b) of the Bankruptcy Code with respect to such Classes. The Debtors reserve the right to alter, amend, modify, revoke or withdraw this Plan or any Plan Document in order to satisfy the requirements of section 1129(b) of the Bankruptcy Code, if necessary. The Debtors also reserve the right to request confirmation of the Plan, as it may be modified, supplemented or amended from time to time, with respect to any Class that affirmatively votes to reject the Plan.

**6.4. *Elimination of Vacant Classes.***

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

**6.5. *Voting Classes; Deemed Acceptance by Non-Voting Classes.***

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

**6.6. Confirmation of All Cases.**

Except as otherwise specified herein, the Plan shall not be deemed to have been confirmed unless and until the Plan has been confirmed as to each of the Debtors; provided, however, that the Debtors may at any time waive this Section 6.6.

**ARTICLE VII.**

**MEANS FOR IMPLEMENTATION**

**7.1. Continued Corporate Existence and Vesting of Assets in Reorganized Debtors.**

(a) Except as otherwise provided in this Plan, the Debtors shall continue to exist after the Effective Date as Reorganized Debtors in accordance with the applicable laws of the respective jurisdictions in which they are incorporated or organized and pursuant to the Amended Certificates of Incorporation and Amended By-Laws of the Reorganized Debtors, for the purposes of satisfying their obligations under the Plan and the continuation of their businesses. On or after the Effective Date, each Reorganized Debtor, in its sole and exclusive discretion, may take such action as permitted by applicable law and such Reorganized Debtor's organizational documents, as such Reorganized Debtor may determine is reasonable and appropriate, including, but not limited to, causing: (i) a Reorganized Debtor to be merged into another Reorganized Debtor, or its Subsidiary and/or affiliate; (ii) a Reorganized Debtor to be dissolved; (iii) the legal name of a Reorganized Debtor to be changed; or (iv) the closure of a Reorganized Debtor's case on the Effective Date or any time thereafter.

(b) Except as otherwise provided in this Plan, on and after the Effective Date, all property of the Estates of the Debtors, including all claims, rights and Causes of Action and any property acquired by the Debtors under or in connection with this Plan, shall vest in each respective Reorganized Debtor free and clear of all Claims, Liens, charges, other encumbrances and Interests; provided, however, that the Debtors and the Reorganized Debtors waive and release any Causes of Action against any of the Released Parties as provided for in Section 12.7(a) hereof. Subject to Section 7.1(a) hereof, on and after the Effective Date, the Reorganized Debtors may operate their businesses and may use, acquire and dispose of property and prosecute, compromise or settle any Claims (including any Administrative Expense Claims) and Causes of Action without supervision of or approval by the Bankruptcy Court and free and clear of any restrictions of the Bankruptcy Code or the Bankruptcy Rules other than restrictions expressly imposed by this Plan or the Confirmation Order. Without limiting the foregoing, the Reorganized Debtors may pay the charges that they incur on or after the Effective Date for Professional Persons' fees, disbursements, expenses or related support services without application to the Bankruptcy Court.

(c) On the Effective Date or as soon as reasonably practicable thereafter, the Reorganized Debtors may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including: (1) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable

requirements of applicable law and any other terms to which the applicable entities may agree, including, without limitation, the New Equity Investment Agreement, the New Credit Agreement and the New First Lien Collateral Documents; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any asset, property, right, liability, debt or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (3) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion or dissolution pursuant to applicable state law; and (4) all other actions that the applicable entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

**7.2. *Plan Funding.***

The distributions of Cash under this Plan shall be funded from: (a) the Debtors' Cash on hand as of the Effective Date; and (b) the proceeds of the New Equity Investment.

**7.3. *Cancellation of Existing Securities and Agreements.***

Except for the purpose of evidencing a right to distribution under this Plan, and except as otherwise set forth herein, on the Effective Date all agreements, instruments, and other documents evidencing any Claim or Interest, other than Intercompany Interests, and any rights of any holder in respect thereof, shall be deemed cancelled, discharged and of no force or effect. Notwithstanding the foregoing, the First Lien Credit Agreement shall continue in effect solely to the extent necessary to allow the Reorganized Debtors and the First Lien Agent to make distributions pursuant to this Plan on account of the First Lien Credit Agreement Claims, and to effectuate any charging liens permitted under the First Lien Credit Agreement. The holders of or parties to such cancelled instruments, securities and other documentation will have no rights arising from or relating to such instruments, securities and other documentation or the cancellation thereof, except the rights expressly provided for pursuant to this Plan. Except as provided pursuant to this Plan, the First Lien Agent and its respective agents, successors and assigns shall be discharged of all of their obligations associated with the First Lien Credit Agreement.

**7.4. *Cancellation of Certain Existing Security Interests.***

Upon the payment or other satisfaction of an Allowed Other Secured Claim, the holder of such Allowed Other Secured Claim shall deliver to the Debtors or Reorganized Debtors (as applicable) any Collateral or other property of the Debtors held by such holder, and any termination statements, instruments of satisfactions, or releases of all security interests with respect to its Allowed Other Secured Claim that may be required in order to terminate any related financing statements, mortgages, mechanic's liens, or *lis pendens*.

**7.5. *Officers and Boards of Directors.***

(a) On the Effective Date, the initial board of directors of each of the Reorganized Debtors shall consist of those individuals identified in the Plan Supplement. The initial board of directors of Reorganized TER will consist of five (5) members, comprised of

individuals to be designated by the Consenting First Lien Lenders. On the Effective Date, the officers of each of the Reorganized Debtors shall be disclosed in the Plan Supplement. The compensation arrangement for any insider of the Debtors that shall become an officer of a Reorganized Debtor will be disclosed in the Plan Supplement.

(b) The members of the board of directors of each Debtor prior to the Effective Date, in their capacities as such, shall have no continuing obligations to the Debtors or the Reorganized Debtors on or after the Effective Date, and each such member will be deemed to have resigned or shall otherwise cease to be a director of the applicable Debtor on the Effective Date. Commencing on the Effective Date, each of the directors of each of the Reorganized Debtors shall serve pursuant to the terms of the applicable organizational documents of such Reorganized Debtor and may be replaced or removed in accordance with such organizational documents.

#### **7.6. *Corporate Action.***

(a) On the Effective Date, the Amended Certificates of Incorporation and Amended By-Laws, and any other applicable corporate organizational documents of each of the Reorganized Debtors shall be amended and restated and deemed authorized in all respects.

(b) Any action under the Plan to be taken by or required of the Debtors or the Reorganized Debtors, including, without limitation, the adoption or amendment of certificates of incorporation and by-laws, the issuance of securities and instruments, the assumption of the Executive Severance Plan and the Executive Severance Benefits, or the selection of officers or directors, shall be authorized and approved in all respects, without any requirement of further action by any of the Debtors' or Reorganized Debtors' boards of directors or managers, as applicable, or security holders.

(c) The Debtors and the Reorganized Debtors, shall be authorized to execute, deliver, file, and record such documents (including the Plan Documents), contracts, instruments, releases and other agreements and take such other action as may be necessary to effectuate and further evidence the terms and conditions of the Plan, without the necessity of any further Bankruptcy Court, corporate, board or shareholder approval or action. In addition, the selection of the Persons who will serve as the initial directors, officers and managers of the Reorganized Debtors as of the Effective Date shall be deemed to have occurred and be effective on and after the Effective Date without any requirement of further action by the board of directors, board of managers, or stockholders of the applicable Reorganized Debtor.

#### **7.7. *Amended Certificates of Incorporation***

The Reorganized Debtors' Amended Certificates of Incorporation shall contain restrictions on the transfer of New Common Stock to minimize the likelihood of any potential adverse U.S. federal income tax consequences resulting from an ownership change (as defined in section 382 of the Internal Revenue Code) in the Reorganized Debtors. Pursuant to the Amended Certificates of Incorporation, no person or entity shall be permitted to acquire additional New Common Stock unless such acquisition has been approved by the board of directors of the Reorganized Debtors. No person or entity that is a 5% shareholder (as defined in

section 382 of the Internal Revenue Code) shall be entitled to dispose of New Common Stock unless such disposal has been approved by the board of directors of the Reorganized Debtors.

**7.8. *Authorization, Issuance and Delivery of New Common Stock.***

(a) On the Effective Date, Reorganized TER is authorized to issue or cause to be issued the New Common Stock for distribution in accordance with the terms of this Plan and the Amended Certificate of Incorporation of Reorganized TER, without the need for any further corporate or shareholder action. Certificates, if any, of New Common Stock will bear a legend restricting the sale, transfer, assignment or other disposal of such shares, as more fully set forth in the Amended Certificate of Incorporation of Reorganized TER.

(b) As of the Effective Date, the New Common Stock shall not be registered under the Securities Act of 1933, as amended, and shall not be listed for public trading on any securities exchange. The distribution of New Common Stock pursuant to the Plan may be made by delivery of one or more certificates representing such shares as described herein, by means of book-entry registration on the books of the transfer agent for shares of New Common Stock or by means of book-entry exchange through the facilities of the AST in accordance with the customary practices of the AST, as and to the extent practicable.

**7.9. *New Credit Agreement***

On the Effective Date, Reorganized TER is authorized to enter into the New Credit Agreement and the New First Lien Collateral Documents in accordance with the terms of this Plan without the need for any further corporate or shareholder action.

**7.10. *New Equity Investment Agreement***

On the Effective Date, Reorganized TER is authorized to issue or cause to be issued the New Equity Investment Stock for distribution in accordance with the terms of this Plan and the New Equity Investment Agreement without the need for any further corporate or shareholder action.

**7.11. *[RESERVED]***

**7.12. *Intercompany Interests.***

No Intercompany Interests shall be cancelled pursuant to this Plan, and all Intercompany Interests shall continue in place following the Effective Date, solely for the purpose of maintaining the existing corporate structure of the Debtors and the Reorganized Debtors.

**7.13. *Insured Claims.***

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy. To the extent that one or more of the Debtors' insurers agrees to satisfy in full or in part a Claim (if and to the

extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, the applicable portion of such Claim may be expunged without a Claim objection having to be Filed and without any further notice to or action, order, or approval of the Court.

## **ARTICLE VIII.**

### **DISTRIBUTIONS**

#### **8.1. *Distributions.***

The Disbursing Agent shall make all Plan Distributions to the appropriate holders of Allowed Claims in accordance with the terms of this Plan.

#### **8.2. *No Postpetition Interest on Claims.***

Unless otherwise specifically provided for in the Plan, Confirmation Order or other order of the Bankruptcy Court, or required by applicable bankruptcy or non-bankruptcy law, postpetition interest shall not accrue or be paid on any Claims, and no holder of a Claim shall be entitled to interest accruing on such Claim on or after the Petition Date.

#### **8.3. *Date of Distributions.***

Unless otherwise provided herein, any distributions and deliveries to be made hereunder shall be made on the Effective Date or as soon thereafter as is reasonably practicable, provided that the Reorganized Debtors may utilize periodic distribution dates to the extent appropriate. In the event that any payment or act under this Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on or as soon as reasonably practicable after the next succeeding Business Day, but shall be deemed to have been completed as of the required date.

#### **8.4. *Distribution Record Date.***

As of the close of business on the Distribution Record Date, the various lists of holders of Claims in each of the Classes, as maintained by the Debtors, or their agents, shall be deemed closed and there shall be no further changes in the record holders of any of the Claims after the Distribution Record Date. Neither the Debtors nor the Disbursing Agent shall have any obligation to recognize any transfer of Claims occurring after the close of business on the Distribution Record Date. Additionally, with respect to payment of any Cure Amounts or any Cure Disputes in connection with the assumption and/or assignment of the Debtors' executory contracts and leases, neither the Debtors nor the Disbursing Agent shall have any obligation to recognize or deal with any party other than the non-Debtor party to the underlying executory contract or lease, even if such non-Debtor party has sold, assigned or otherwise transferred its Claim for a Cure Amount.

#### **8.5. *Disbursing Agent.***

All distributions under this Plan shall be made by the Reorganized Debtors or the Disbursing Agent on and after the Effective Date as provided herein. The Disbursing Agent shall

not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court and, in the event that the Disbursing Agent is so otherwise ordered, all costs and expenses of procuring any such bond or surety shall be borne by Reorganized Debtors. Furthermore, any such entity required to give a bond shall notify the Bankruptcy Court and the U.S. Trustee in writing before terminating any such bond that is obtained.

**8.6. *Delivery of Distribution.***

Subject to Section 8.4 of the Plan, the Disbursing Agent will issue, or cause to be issued, and authenticate, as applicable, the applicable Plan Consideration, and subject to Bankruptcy Rule 9010, make all distributions or payments to any holder of an Allowed Claim as and when required by this Plan at: (a) the address of such holder on the books and records of the Debtors or their agents; or (b) at the address in any written notice of address change delivered to the Debtors or the applicable Disbursing Agent, including any addresses included on any filed proofs of Claim or transfers of Claim filed pursuant to Bankruptcy Rule 3001. In the event that any distribution to any holder is returned as undeliverable, no distribution or payment to such holder shall be made unless and until the applicable Disbursing Agent has been notified of the then current address of such holder, at which time or as soon as reasonably practicable thereafter such distribution shall be made to such holder without interest, provided, however, such distributions or payments shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of the later of one year from: (i) the Effective Date; and (ii) the first Distribution Date after such holder's Claim is first Allowed.

**8.7. *Unclaimed Property.***

One year from the later of: (i) the Effective Date, and (ii) the first Distribution Date after the applicable Claim is first Allowed, all unclaimed property or interests in property shall revert to the Reorganized Debtors or the successors or assigns of the Reorganized Debtors, and the Claim of any other holder to such property or interest in property shall be discharged and forever barred without the need for notice to or action, order, or approval of the Bankruptcy Court. The Reorganized Debtors and the Disbursing Agent shall have no obligation to attempt to locate any holder of an Allowed Claim other than by reviewing the Debtors' books and records, or proofs of Claim filed against the Debtors, as reflected on the claims register maintained by the Claims Agent.

**8.8. *Satisfaction of Claims.***

Unless otherwise provided herein, any distributions and deliveries to be made on account of Allowed Claims hereunder shall be in complete settlement, satisfaction and discharge of such Allowed Claims.

**8.9. *Manner of Payment Under Plan.***

Except as specifically provided herein, at the option of the Debtors or Reorganized Debtors (as applicable), any Cash payment to be made hereunder may be made by a

check or wire transfer or as otherwise required or provided in applicable agreements or customary practices of the Debtors.

**8.10. *Fractional Shares/De Minimis Cash Distributions.***

No fractional shares of New Common Stock shall be distributed. When any distribution would otherwise result in the issuance of a number of shares of New Common Stock that is not a whole number, the shares of the New Common Stock subject to such distribution will be rounded to the next higher or lower whole number as follows: (i) fractions equal to or greater than  $\frac{1}{2}$  will be rounded to the next higher whole number; and (ii) fractions less than  $\frac{1}{2}$  will be rounded to the next lower whole number. The total number of shares of New Common Stock to be distributed on account of Allowed Claims will be adjusted as necessary to account for the rounding provided for in this Plan. No consideration will be provided in lieu of fractional shares that are rounded down. Neither the Reorganized Debtors nor the Disbursing Agent shall have any obligation to make a distribution that is less than one (1) share of New Common Stock or \$50.00 in Cash. Fractional shares of New Common Stock or cash amounts that are not distributed in accordance with this Section 8.10 shall be returned to Reorganized TER. In the event that any final Plan Distribution for an Allowed Claim is less than \$50.00 in Cash, the Reorganized Debtors shall be authorized, but not required, to tender such final Plan Distribution (together with any other such final Plan Distributions) to a charity selected by the Reorganized Debtors.

**8.11. *No Distribution in Excess of Amount of Allowed Claim.***

Notwithstanding anything to the contrary herein, no holder of an Allowed Claim shall, on account of such Allowed Claim, receive a Plan Distribution (of a value set forth herein) in excess of the Allowed amount of such Claim plus any postpetition interest on such Claim, to the extent such interest is permitted by Section 8.2 of this Plan.

**8.12. *Exemption from Securities Laws.***

The issuance of and the distribution under the Plan of the New Common Stock and the New Equity Investment Stock shall be exempt from registration under the Securities Act any other applicable securities laws pursuant to section 1145 of the Bankruptcy Code and/or Section 4(a)(2) of the Securities Act and Regulation D promulgated thereunder, to the maximum extent permitted thereunder. Subject to any transfer restrictions contained in the Certificate of Incorporation of Reorganized TER, the New Common Stock (other than the New Equity Investment Stock) may be resold by the holders thereof without restriction, except to the extent that any such holder is deemed to be an "underwriter" as defined in section 1145(b)(1) of the Bankruptcy Code. The New Equity Investment Stock may not be sold or transferred unless there is an effective registration statement under the Securities Act covering the New Equity Investment Stock or the securities are sold or transferred in a transaction that is exempt from or not subject to the registration and prospectus delivery requirement of the Securities Act and otherwise in compliance with state securities laws.



**8.13. *Setoffs and Recoupments.***

Each Reorganized Debtor, or such entity's designee (including, without limitation, the Disbursing Agent) as instructed by such Reorganized Debtor, may, pursuant to section 553 of the Bankruptcy Code or applicable non-bankruptcy law, set off and/or recoup against any Allowed Claim, and the distributions to be made pursuant to this Plan on account of such Allowed Claim, any and all claims, rights and Causes of Action that a Reorganized Debtor or its successors may hold against the holder of such Allowed Claim after the Effective Date; provided, however, that neither the failure to effect a setoff or recoupment nor the allowance of any Claim hereunder will constitute a waiver or release by a Reorganized Debtor or such entity's designee or its successor of any and all claims, rights (including, without limitation, rights of setoff and/or recoupment) and Causes of Action that a Reorganized Debtor or such entity's designee or its successor may possess against such holder.

**8.14. *Rights and Powers of Disbursing Agent.***

(a) *Powers of Disbursing Agent.* The Disbursing Agent shall be empowered to: (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under this Plan; (ii) make all applicable distributions or payments contemplated hereby; (iii) employ professionals to represent it with respect to its responsibilities; and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court (including any order issued after the Effective Date), pursuant to this Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

(b) *Expenses Incurred on or After the Effective Date.* Except as otherwise ordered by the Bankruptcy Court, and subject to the written agreement of the Reorganized Debtors, the amount of any reasonable fees and expenses incurred by the Disbursing Agent on or after the Effective Date (including, without limitation, taxes) and any reasonable compensation and expense reimbursement Claims (including, without limitation, reasonable attorney and other professional fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors.

**8.15. *Withholding and Reporting Requirements.***

(a) In connection with this Plan and all distributions hereunder, the Reorganized Debtors and the Disbursing Agent shall comply with all withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all Plan Distributions hereunder shall be subject to any such withholding and reporting requirements. The Reorganized Debtors and the Disbursing Agent shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements, including, without limitation, liquidating a portion of any Plan Distribution to generate sufficient funds to pay applicable withholding taxes or establishing any other mechanisms the Debtors, Reorganized Debtors or the Disbursing Agent believe are reasonable and appropriate, including requiring a holder of a Claim to submit appropriate tax and withholding certifications. Prior to making any Plan Distribution to the holder of an Allowed Claim, the Reorganized Debtors and the Disbursing Agent shall require that the holder of such

Claim furnish all documents required by applicable tax law or other government regulation as a condition to the making of a Plan Distribution (the “***Required Reporting Documents***”). If (x) the holder of an Allowed Claim fails to furnish the Required Reporting Documents within ninety (90) days, or such longer period agreed to by the Reorganized Debtors and the Disbursing Agent, of a written request for the Required Reporting Documents, or (y) a Plan Distribution made on account of an Allowed Claim is not negotiated within ninety (90) days from the mailing of such Plan Distribution, then (a) the Reorganized Debtors and the Disbursing Agent shall treat such Plan Distribution (or Plan Distribution to be made) as forfeited and return the funds to the Reorganized Debtors and the Disbursing Agent for distribution in accordance with the terms of the Plan, and (b) the holder of such Claim shall receive no further Plan Distributions and shall forfeit its rights to collect any amounts under the Plan.

(b) Notwithstanding any other provision of this Plan: (i) each holder of an Allowed Claim that is to receive a Plan Distribution shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations on account of such distribution; and (ii) no Plan Distributions shall be required to be made to or on behalf of such holder pursuant to this Plan unless and until such holder has made arrangements satisfactory to the Reorganized Debtors for the payment and satisfaction of such tax obligations or has, to the Reorganized Debtors’ satisfaction, established an exemption therefrom.

**8.16. *Cooperation with Disbursing Agent.***

The Reorganized Debtors shall use all commercially reasonable efforts to provide the Disbursing Agent with the amount of Claims and the identity and addresses of holders of Claims, in each case, as set forth in the Debtors’ and/or Reorganized Debtors’ books and records. The Reorganized Debtors will cooperate in good faith with the Disbursing Agent to comply with the reporting and withholding requirements outlined in Section 8.15 hereof.

**8.17. *Compliance with Gaming Laws and Regulations***

Reorganized TER shall not distribute New Common Stock to any person or entity in violation of the gaming laws and regulations in the states in which the Debtors or the Reorganized Debtors, as applicable, operate. Consequently, no holder shall be entitled to receive New Common Stock unless and until such holder’s acquisition of New Common Stock does not require compliance with such license, qualification or suitability requirements or such holder has been licensed, qualified, found suitable, or has obtained a waiver or exemption from such license, qualification, or suitability requirements.

To the extent a holder is not entitled to receive New Common Stock on the Effective Date as a result of applicable gaming laws and regulations, the Reorganized TER shall not distribute New Common Stock to such holder, unless and until such holder complies with applicable gaming laws and regulations. Until such holder has complied with applicable gaming laws and regulations, such holder shall not be a shareholder of Reorganized TER and shall have no voting rights or other rights of a stockholder of Reorganized TER.

If a holder is entitled to receive New Common Stock under the Plan and is required, under applicable gaming laws to undergo a suitability investigation and determination and such holder either (i) refuses to undergo the necessary application process for such suitability approval or (ii) after submitting to such process, is determined to be unsuitable to hold the New Common Stock or withdraws from the suitability determination prior to its completion, then, in that event, Reorganized TER shall hold the New Common Stock and (x) such holder shall only receive such distributions from Reorganized TER as are permitted by the applicable gaming authorities, and (y) the balance of the New Common Stock to which such holder would otherwise be entitled will be retained by the Reorganized Debtors as treasury stock, subject to compliance with any applicable legal requirements. In addition, in the event that the applicable gaming authorities object to the possible suitability of any holder, the New Common Stock shall be distributed only to such holder upon a formal finding of suitability. If a gaming authority subsequently issues a formal finding that a holder lacks suitability, or such holder withdraws from or does not fully cooperate with the suitability investigation, then the process for the sale of that holder's New Common Stock shall be as set forth in (x), (y), and (z) above.

## **ARTICLE IX.**

### **PROCEDURES FOR RESOLVING CLAIMS**

#### **9.1. *Objections to Claims.***

Any objections to Claims (other than Administrative Expense Claims) shall be served and filed on or before the later of: (i) the date that is one (1) year after the Effective Date; and (ii) such other date as may be fixed by the Bankruptcy Court, after notice and a hearing, with notice only to those parties entitled to notice in the Chapter 11 Cases pursuant to Bankruptcy Rule 2002, whether fixed before or after the date specified in clause (i) hereof. Any Claims filed after the Bar Date or Administrative Bar Date, as applicable, shall be deemed disallowed and expunged in their entirety without further notice to or action, order, or approval of the Bankruptcy Court or any action being required on the part of the Debtors or the Reorganized Debtors, unless the Person or entity wishing to file such untimely Claim has received Bankruptcy Court authority to do so. Notwithstanding any authority to the contrary, an objection to a Claim shall be deemed properly served on the claimant if the objecting party effects service in any of the following manners: (i) in accordance with Rule 4 of the Federal Rules of Civil Procedure, as modified and made applicable by Bankruptcy Rule 7004; (ii) by first class mail, postage prepaid, on the signatory on the proof of claim as well as all other representatives identified in the proof of claim or any attachment thereto; or (iii) if counsel has agreed to or is otherwise deemed to accept service, by first class mail, postage prepaid, on any counsel that has appeared on the claimant's behalf in the Chapter 11 Cases (so long as such appearance has not been subsequently withdrawn). From and after the Effective Date, the Reorganized Debtors may settle or compromise any Disputed Claim without further notice to or action, order, or approval of the Bankruptcy Court.

#### **9.2. *Amendment to Claims.***

From and after the Effective Date, no Claim may be filed to increase or assert additional claims not reflected in an already filed Claim (or Claim scheduled, unless superseded

by a filed Claim, on the applicable Debtor's schedules of assets and liabilities filed in the Chapter 11 Cases) asserted by such claimant and any such Claim shall be deemed disallowed and expunged in its entirety without further order of the Bankruptcy Court or any action being required on the part of the Debtors or the Reorganized Debtors unless the claimant has obtained the Bankruptcy Court's prior approval to file such amended or increased Claim.

### 9.3. *Disputed Claims.*

(a) No Distributions or Payments Pending Allowance. Except as provided in this Section 9.3, no Disputed Claim shall be entitled to any Plan Distribution unless and until such Claim becomes an Allowed Claim.

(b) Establishment of Disputed Priority Claims Reserve. On the Effective Date or as soon thereafter as is reasonably practicable, the Reorganized Debtors shall set aside and reserve, for the benefit of each holder of a Disputed Administrative Expense Claim, Disputed Priority Tax Claim, Disputed Priority Non-Tax Claim, and Disputed Other Secured Claim, Cash in an amount equal to (i) the amount of such Claim as estimated by the Bankruptcy Court pursuant to an Estimation Order, (ii) if no Estimation Order has been entered with respect to such Claim, the amount in which such Disputed Claim is proposed to be allowed in any pending objection filed by the Debtors, (iii) if no Estimation Order has been entered with respect to such Claim, and no objection to such Claim is pending on the Effective Date, (A) the amount listed in the Debtors' schedules of assets and liabilities filed in the Chapter 11 Cases (the "*Schedules*") or (B) if a timely filed proof of claim or application for payment has been filed with the Bankruptcy Court or Claims Agent, as applicable, the amount set forth in such timely filed proof of claim or application for payment, as applicable, or (iv) such amount as otherwise agreed to by the holder of such Claim and the Reorganized Debtors. The Reorganized Debtors, in their reasonable discretion, may increase the amount reserved as to any particular Disputed Claim. Such reserved amounts, collectively, shall constitute the "*Disputed Priority Claims Reserve*".

(c) Plan Distributions to Holders of Subsequently Allowed Claims. On each Distribution Date (or such earlier date as determined by the Reorganized Debtors or the Disbursing Agent in their sole discretion but subject to this Section 9.3), the Disbursing Agent will make distributions or payments from the Disputed Priority Claims Reserve on account of any Disputed Claim that has become an Allowed Claim since the occurrence of the previous Distribution Date. The Disbursing Agent shall distribute in respect of such newly Allowed Claims the Plan Distributions to which holders of such Claims would have been entitled under this Plan if such newly Allowed Claims were fully or partially Allowed, as the case may be, on the Effective Date, less direct and actual expenses, fees, or other direct costs of maintaining Plan Consideration on account of such Disputed Claims.

(d) Distribution of Reserved Plan Consideration Upon Disallowance. To the extent any Disputed Administrative Expense Claims, Disputed Priority Tax Claims, Disputed Priority Non-Tax Claims, or Disputed Other Secured Claims have become Disallowed in full or in part (in accordance with the procedures set forth in the Plan), any Plan Consideration held by the Reorganized Debtors on account of, or to pay, such Disputed Claims shall become the sole and exclusive property of Reorganized TER or its successors or assigns.

#### **9.4. *Estimation of Claims.***

The Debtors and/or Reorganized Debtors may request that the Bankruptcy Court enter an Estimation Order with respect to any Claim, pursuant to section 502(c) of the Bankruptcy Code, for purposes of determining the Allowed amount of such Claim regardless of whether any Person has previously objected to such Claim or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any Claim for purposes of determining the allowed amount of such Claim at any time. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim for allowance purposes, that estimated amount will constitute either the Allowed amount of such Claim or a maximum limitation on such Claim, as determined by the Bankruptcy Court. If the estimated amount constitutes a maximum limitation on such Claim, the objecting party may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the objection, estimation, settlement, and resolution procedures set forth in the Plan are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, resolved or withdrawn by any mechanism approved by the Bankruptcy Court.

### **ARTICLE X.**

#### **EXECUTORY CONTRACTS AND UNEXPIRED LEASES**

##### **10.1. *General Treatment.***

As of and subject to the occurrence of the Effective Date and the payment of any applicable Cure Amount, all executory contracts and unexpired leases identified on the Schedule of Assumed Contracts and Leases in the Plan Supplement shall be deemed assumed, and all other executory contracts and unexpired leases of the Debtors shall be deemed rejected, except that: (i) any executory contracts and unexpired leases that previously have been assumed or rejected pursuant to a Final Order of the Bankruptcy Court shall be treated as provided in such Final Order; and (ii) all executory contracts and unexpired leases that are the subject of a separate motion to assume or reject under section 365 of the Bankruptcy Code pending on the Effective Date shall be treated as is determined by a Final Order of the Bankruptcy Court resolving such motion. Subject to the occurrence of the Effective Date, entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of the assumptions and rejections described in this Section 10.1 pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed pursuant to this Section 10.1 shall revert in and be fully enforceable by the applicable Reorganized Debtor in accordance with its terms, except as modified by the provisions of the Plan, or any order of the Bankruptcy Court authorizing and providing for its assumption, or applicable federal law.

**10.2. *Claims Based on Rejection of Executory Contracts or Unexpired Leases.***

All Claims arising from the rejection of executory contracts or unexpired leases, if any, will be treated as General Unsecured Claims. All such Claims shall be discharged on the Effective Date, and shall not be enforceable against the Debtors, the Reorganized Debtors or their respective properties or interests in property. In the event that the rejection of an executory contract or unexpired lease by any of the Debtors pursuant to the Plan results in damages to the other party or parties to such contract or lease, a Claim for such damages, if not evidenced by a timely filed proof of claim, shall be forever barred and shall not be enforceable against the Debtors or the Reorganized Debtors, or their respective properties or interests in property as agents, successors or assigns, unless a proof of claim is filed with the Bankruptcy Court and served upon counsel for the Debtors and the Reorganized Debtors on or before the date that is thirty (30) days after the effective date of such rejection (which may be the Effective Date, the date on which the Debtors reject the applicable contract or lease as provided in Section 10.3(c) below, or pursuant to an order of the Bankruptcy Court).

**10.3. *Cure of Defaults for Assumed Executory Contracts and Unexpired Leases.***

(a) Except to the extent that less favorable treatment has been agreed to by the non-Debtor party or parties to each such executory contract or unexpired lease, any monetary defaults arising under each executory contract and unexpired lease to be assumed pursuant to the Plan shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the appropriate amount (the “***Cure Amount***”) in Cash on the later of thirty (30) days after: (i) the Effective Date; or (ii) the date on which any Cure Dispute relating to such Cure Amount has been resolved (either consensually or through judicial decision).

(b) No later than twenty-four (24) calendar days prior to the commencement of the Confirmation Hearing, the Debtors shall file a schedule (the “***Cure Schedule***”) in form and substance acceptable to the Consenting First Lien Lenders, setting forth the Cure Amount, if any, for each executory contract or unexpired lease to be assumed pursuant to Section 10.1 of the Plan, and serve such Cure Schedule on each applicable counterparty. Any party that fails to object to the applicable Cure Amount listed on the Cure Schedule within seven (7) business days before the Confirmation Hearing, shall be forever barred, estopped and enjoined from disputing the Cure Amount set forth on the Cure Schedule (including a Cure Amount of \$0.00) and/or from asserting any Claim against the applicable Debtor arising under section 365(b)(1) of the Bankruptcy Code except as set forth on the Cure Schedule.

(c) In the event of a dispute (each, a “***Cure Dispute***”) regarding: (i) the Cure Amount; (ii) the ability of the applicable Reorganized Debtor to provide “adequate assurance of future performance” (within the meaning of section 365 of the Bankruptcy Code) under the contract or lease to be assumed; or (iii) any other matter pertaining to the proposed assumption, the cure payments required by section 365(b)(1) of the Bankruptcy Code shall be made following the entry of a Final Order resolving such Cure Dispute and approving the assumption. To the extent a Cure Dispute relates solely to the Cure Amount, the applicable Debtor may assume and/or assume and assign the applicable contract or lease prior to the resolution of the Cure Dispute provided that such Debtor reserves Cash in an amount sufficient to pay the full amount asserted as the required cure payment by the non-Debtor party to such contract or lease (or such

smaller amount as may be fixed or estimated by the Bankruptcy Court or otherwise agreed to by such non-Debtor party and the Reorganized Debtors). To the extent the Cure Dispute is resolved or determined unfavorably to the applicable Debtor or Reorganized Debtor, as applicable, such Debtor or Reorganized Debtor, as applicable, may reject the applicable executory contract or unexpired lease after such determination.

(d) Assumption of any executory contract or unexpired lease pursuant to the Plan or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed executory contract or unexpired lease at any time before the date that the Debtors assume such executory contract or unexpired lease. Any Proofs of Claim Filed with respect to an executory contract or unexpired lease that has been assumed shall be deemed Disallowed and expunged, without further notice to or action, order, or approval of the Court.

#### **10.4. *Compensation and Benefit Programs.***

(a) All employment and severance policies (except as provided in Section 10.4(b) below), and all compensation and benefit plans, policies, and programs of the Debtors applicable to their respective employees, retirees and non-employee directors including, without limitation, all savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans, and life, accidental death and dismemberment insurance plans, including programs, plans and arrangements subject to sections 1113 and 1129(a)(13) of the Bankruptcy Code, entered into before the Petition Date and not since terminated or modified, shall on the Effective Date be terminated or treated as executory contracts under the Plan and rejected pursuant to the provisions of sections 365, 1113 and 1123 of the Bankruptcy Code, with such termination or rejection subject to the prior consent of the Consenting First Lien Lenders. On the Effective Date, the Reorganized Debtors shall enter into such new employment and severance policies and compensation and benefit plans, policies, and programs, on terms and conditions and in form and substance acceptable to the Consenting First Lien Lenders, as shall be set forth in the Plan Supplement.

(b) On the Effective Date, the Reorganized Debtors shall assume the Executive Severance Plan and the Executive Severance Benefits.

#### **10.5. *Assumption of Certain Collective Bargaining Agreements***

(a) On the Effective Date, unless previously assumed by the Debtors, the Reorganized Debtors shall assume the Taj Trade Collective Bargaining Agreements. Notwithstanding any other provision of this Plan, the cure obligations, if any, related to the assumption of each of the Taj Trade Collective Bargaining Agreements shall be satisfied by the Reorganized Debtors by payment in the ordinary course of all obligations arising under the Taj Trade Collective Bargaining Agreements.

(b) On the Effective Date, the Reorganized Debtors' sole obligations regarding the Local 54 Taj Collective Bargaining Agreement shall be as provided by the CBA Order.

**10.6. *Termination of Plaza Collective Bargaining Agreements***

Due to the closure of the Plaza Hotel and Casino, on the Effective Date, unless previously terminated, the Plaza Collective Bargaining Agreements shall be deemed terminated and shall no longer have any force or effect.

**10.7. *Assumption of Donnelly & Clark Agreement***

On the Effective Date, unless previously assumed by the Debtors, the Debtors or the Reorganized Debtors, as the case may be, pursuant to section 365 of the Bankruptcy Code, shall assume that certain Agreement for Legal Services, dated March 20, 2013, by and among the Debtors and Donnelly & Clark, as amended, modified or supplemented from time to time; provided, however, that the term of such agreement shall not be extended beyond March 31, 2015 without the prior written consent of the Consenting First Lien Lenders.

**10.8. *Employment Agreements.***

On the Effective Date, any and all existing employment agreements between any of the Debtors and any employee of the Debtors shall be deemed either terminated or treated as executory contracts under the Plan and rejected pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code, as determined by the Debtors, with such termination or rejection subject to the prior consent of the Consenting First Lien Lenders. Notwithstanding the foregoing, the termination or rejection of any existing employment agreements shall not be deemed, by itself, to be a termination of any employee or affect any rights or obligations of either the Debtors, the Reorganized Debtors or any employee (as applicable) arising under the Executive Severance Plan.

**10.9. *Insurance Policies.***

Insurance policies issued to, or insurance agreements entered into by, the Debtors prior to the Petition Date shall continue in effect after the Effective Date. To the extent that such insurance policies or agreements are considered to be executory contracts, then, notwithstanding anything to the contrary in the Plan, the Plan shall constitute a motion to assume or ratify such insurance policies and agreements and, subject to the occurrence of the Effective Date, (i) the entry of the Confirmation Order shall constitute approval of such assumption pursuant to section 365(a) of the Bankruptcy Code. Unless otherwise determined by the Bankruptcy Court pursuant to a Final Order or agreed to by the parties thereto prior to the Effective Date, no payments shall be required to cure any defaults of the Debtors existing as of the Effective Date with respect to each such insurance policy or agreement. To the extent that the Bankruptcy Court determines otherwise as to any such insurance policy or agreement, the Debtors reserve the right to seek the rejection of such insurance policy or agreement or other available relief.



**ARTICLE XI.**

**CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN**

**11.1. *Conditions Precedent to Confirmation.***

Confirmation of this Plan is subject to entry of the Confirmation Order in form and substance acceptable to the Debtors and Consenting First Lien Lenders and the satisfaction or waiver of each of the conditions precedent set forth in (a) below or the satisfaction or waiver of each of the conditions precedent set forth in (b) below:

(a) to the extent the Trump Taj Mahal Casino Resort hotel and casino complex shall remain open, satisfaction or waiver of each of the following:

- (i) the New Equity Investment Agreement having been executed and delivered, subject to any conditions contained therein;
- (ii) the Debtors having ceased any obligation to contribute to and withdrawn from the National Retirement Fund with respect to those employees of Trump Taj Mahal Associates, LLC that are members of Local 54 – UNITE HERE;
- (iii) the Bankruptcy Court having entered the CBA Order;
- (iv) the Cash Collateral Order shall be in full force and effect in accordance with its terms and no Event of Default (as defined in the Cash Collateral Order) shall have occurred and be continuing; and
- (v) the Debtors having received commitments from one or more of the City of Atlantic City, Atlantic County, the State of New Jersey or any agency, authority or quasi-governmental agency or instrumentality of any of the foregoing to provide a total of \$[175.0] million in financial support (which may include cash, tax credits, reductions or abatements, incentives, investments or other financial consideration) to the Reorganized Debtors during the five-year period immediately following consummation of the Plan, with a minimum of \$[55.0] million of such financial support to be received by the Debtors or the Reorganized Debtors (as the case may be) in conjunction with consummation of the Plan, in each case, upon terms and conditions that are acceptable, in form and substance, to the Consenting First Lien Lenders.

(b) to the extent each of the conditions in (a) above are not satisfied or waived, satisfaction or waiver of each of the following:

- (i) the Debtors having ceased any obligation to contribute to and withdrawn from all multi-employer pension plans; and

- (ii) the closure of the Trump Taj Mahal Casino Resort hotel and casino complex.

**11.2. *Conditions Precedent to the Effective Date.***

The occurrence of the Effective Date is subject to:

- (a) the Confirmation Order having become a Final Order;
- (b) any conditions contained the New Equity Investment Agreement (other than the occurrence of the Effective Date or certification by a Debtor that the Effective Date has occurred) having been satisfied or waived in accordance therewith;
- (c) the Plan Documents having been executed and delivered, and any conditions (other than the occurrence of the Effective Date or certification by a Debtor that the Effective Date has occurred) contained therein having been satisfied or waived in accordance therewith;
- (d) all material governmental, regulatory and third party approvals, authorizations, certifications, rulings, no-action letters, opinions, waivers and/or consents in connection with the Plan, if any, having been obtained and remaining in full force and effect, and there existing no claim, action, suit, investigation, litigation or proceeding, pending or threatened in any court or before any arbitrator or governmental instrumentality, which would prohibit the consummation of the Plan;
- (e) any person or entity entitled to receive New Common Stock under the Plan having been licensed, qualified, or found suitable to receive New Common Stock under any applicable gaming laws and regulations in the states in which the Debtors or Reorganized Debtors, as applicable, shall operate;
- (f) either (i) the Bankruptcy Court having estimated pursuant to section 502(c) of the Bankruptcy Code, or (ii) the Consenting First Lien Lenders having been satisfied in their sole discretion (based on such evidence as may be requested by the Consenting First Lien Lenders in their sole discretion), that any and all Administrative Expense Claims for the Debtors' withdrawal from the National Retirement Fund with respect to those employees of Trump Taj Mahal Associates, LLC that are members of Local 54 –UNITE HERE shall (to the extent the Trump Taj Mahal Casino Resort remains open) be less than [\$\_\_\_\_\_]; and
- (g) the aggregate amount of all Administrative Expense Claims filed on or before the First Administrative Bar Date totaling less than [\$\_\_\_\_\_], and the amount of Administrative Expense Claims reasonably estimated by the Debtors in good faith and with the Consenting First Lien Lenders' consent totaling less than [\$\_\_\_\_\_].

**11.3. *Waiver of Conditions Precedent and Bankruptcy Rule 3020(e) Automatic Stay.***

- (a) The Debtors, with the consent of the Consenting First Lien Lenders, shall have the right to waive any condition precedent set forth in Section 11.1 and 11.2 of this Plan at any time without leave of or notice to the Bankruptcy Court and without formal action other than

proceeding with consummation of the Plan. Further, the stay of the Confirmation Order, pursuant to Bankruptcy Rule 3020(e), shall be deemed waived by the Confirmation Order.

(b) If any condition precedent to the Effective Date is waived pursuant to this Section 11.3 and the Effective Date occurs, the waiver of such condition shall benefit from the “mootness doctrine,” and the act of consummation of this Plan shall foreclose any ability to challenge this Plan in any court.

**11.4. *Effect of Failure of Conditions.***

If all of the conditions to effectiveness and the occurrence of the Effective Date have not been satisfied or duly waived (as provided in Section 11.3 above) on or before the first Business Day that is more than sixty (60) days after the Confirmation Date, or by such later date as set forth by the Debtors in a notice filed with the Bankruptcy Court prior to the expiration of such period, then the Debtors may file a motion to vacate the Confirmation Order before all of the conditions have been satisfied or duly waived. Notwithstanding the filing of such a motion, the Confirmation Order shall not be vacated if all of the conditions to consummation set forth in Section 11.2 hereof are either satisfied or duly waived before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated pursuant to this Section 11.4, this Plan shall be null and void in all respects, the Confirmation Order shall be of no further force or effect, no distributions under this Plan shall be made, the Debtors and all holders of Claims and Interests in the Debtors shall be restored to the status quo ante as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred, and upon such occurrence, nothing contained in this Plan shall: (a) constitute a waiver or release of any Claims against or Interests in the Debtors; (b) prejudice in any manner the rights of the holder of any Claim against or Interest in the Debtors; or (c) constitute an admission, acknowledgment, offer or undertaking by any Debtor or any other entity with respect to any matter set forth in the Plan.

**ARTICLE XII.**

**EFFECT OF CONFIRMATION**

**12.1. *Binding Effect.***

Except as otherwise provided in section 1141(d)(3) of the Bankruptcy Code and subject to the occurrence of the Effective Date, on and after the Confirmation Date, the provisions of this Plan shall bind any holder of a Claim against, or Interest in, the Debtors and inure to the benefit of and be binding on such holder’s respective successors and assigns, whether or not the Claim or Interest of such holder is impaired under this Plan and whether or not such holder has accepted this Plan.

**12.2. *Vesting of Assets.***

On the Effective Date, pursuant to sections 1141(b) and (c) of the Bankruptcy Code, and except as otherwise provided in this Plan, the property of each Estate shall vest in the applicable Reorganized Debtor, free and clear of all Claims, Liens, encumbrances, charges, and

other Interests, except as provided herein or in the Confirmation Order. The Reorganized Debtors may operate their businesses and may use, acquire, and dispose of property free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules and in all respects as if there were no pending case under any chapter or provision of the Bankruptcy Code, except as provided herein.

**12.3. *Discharge of Claims Against and Interests in the Debtors.***

(a) Generally. Upon the Effective Date and in consideration of the distributions to be made hereunder, except as otherwise provided herein or in the Confirmation Order, each Person that is a holder (as well as any trustees and agents on behalf of such Person) of a Claim or Interest and any affiliate of such holder shall be deemed to have forever waived, released, and discharged the Debtors, to the fullest extent permitted by section 1141 of the Bankruptcy Code, of and from any and all Claims, Interests, rights, and liabilities that arose prior to the Effective Date (including, without limitation, any Claim related to any “withdrawal liability” arising from the Debtors’ withdrawal from the National Retirement Fund in connection with entry of the CBA Order). Except as otherwise provided herein, upon the Effective Date, all such holders of Claims and Interests and their affiliates shall be forever precluded and enjoined, pursuant to sections 105, 524, 1141 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim against or terminated Interest in any Debtor or any Reorganized Debtor.

(b) Claims Related to Non-Debtor Affiliates and Subsidiaries. Upon the Effective Date, all Claims and Causes of Action against any Debtor related to or arising from any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to a non-Debtor affiliate and/or Subsidiary of the Debtors, shall receive the classification and treatment provided for such Claims in the Plan and shall be discharged and all holders thereof forever precluded and enjoined, pursuant to sections 105, 524, 1141 of the Bankruptcy Code, from prosecuting or asserting any such discharged Claim and Cause of Action against any Reorganized Debtor.

**12.4. *Term of Pre-Confirmation Injunctions or Stays.***

Unless otherwise provided herein, all injunctions or stays arising prior to the Confirmation Date in accordance with sections 105 or 362 of the Bankruptcy Code, or otherwise, and in existence on the Confirmation Date, shall remain in full force and effect until the Effective Date.

**12.5. *Injunction Against Interference With Plan.***

Upon the entry of the Confirmation Order, all holders of Claims and Interests and other parties in interest, along with their respective present or former affiliates, employees, agents, officers, directors, or principals, shall be enjoined from taking any actions to interfere with the implementation or consummation of this Plan.

**12.6. *Injunction.***

(a) **Except as otherwise expressly provided in this Plan or the Confirmation Order, as of the Confirmation Date, but subject to the occurrence of the**

Effective Date, all Persons who have held, hold or may hold Claims against or Interests in the Debtors or the Debtors' Estates are, with respect to any such Claims or Interests, permanently enjoined after the Confirmation Date from: (i) commencing, conducting or continuing in any manner, directly or indirectly, any suit, action or other proceeding of any kind (including, without limitation, any proceeding in a judicial, arbitral, administrative or other forum) against or affecting the Debtors, the Reorganized Debtors, the Debtors' Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons or any property of any such transferee or successor; (ii) enforcing, levying, attaching (including, without limitation, any pre-judgment attachment), collecting or otherwise recovering by any manner or means, whether directly or indirectly, any judgment, award, decree or order against the Debtors, the Reorganized Debtors, or the Debtors' Estates or any of their property, or any direct or indirect transferee of any property of, or direct or indirect successor in interest to, any of the foregoing Persons, or any property of any such transferee or successor; (iii) creating, perfecting or otherwise enforcing in any manner, directly or indirectly, any encumbrance of any kind against the Debtors, the Reorganized Debtors, or the Debtors' Estates or any of their property, or any direct or indirect transferee of any property of, or successor in interest to, any of the foregoing Persons; (iv) acting or proceeding in any manner, in any place whatsoever, that does not conform to or comply with the provisions of this Plan to the full extent permitted by applicable law; and (v) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of this Plan; provided, however, that nothing contained herein shall preclude such Persons from exercising their rights, or obtaining benefits, pursuant to and consistent with the terms of this Plan.

(b) By accepting distributions pursuant to this Plan, each holder of an Allowed Claim or Interest will be deemed to have specifically consented to the Injunctions set forth in this Section.

### **12.7. Releases.**

(a) **Releases by the Debtors.** For good and valuable consideration, the adequacy of which is hereby confirmed, and except as otherwise provided in this Plan or the Confirmation Order, as of and subject to the occurrence of the Effective Date, the Debtors and Reorganized Debtors, in their individual capacities and as debtors in possession, on behalf of themselves and the Debtors' Estates, shall be deemed to conclusively, absolutely, unconditionally, irrevocably and forever release, waive and discharge all claims, interests, obligations, suits, judgments, damages, demands, debts, rights, remedies, Causes of Action and liabilities (other than the rights of the Debtors or Reorganized Debtors to enforce this Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder) that could have been asserted by or on behalf of the Debtors or their Estates or Reorganized Debtors, whether directly, indirectly, derivatively or in any representative or any other capacity, against the Released Parties (and each such Released Party shall be deemed forever released, waived and discharged by the Debtors and Reorganized Debtors), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing as of the Effective Date or thereafter arising, in law, equity or

otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, their affiliates and former affiliates, the Reorganized Debtors, the Chapter 11 Cases, the subject matter of, or the transactions or events giving rise to, any claim or equity interest that is treated in the Plan, the business or contractual arrangements between any Debtor and any Released Party, the restructuring of claims and equity interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of this Plan, the Disclosure Statement, the New Equity Investment Agreement, the Plan Documents or related agreements, instruments, or other documents; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) any Causes of Action expressly set forth in and preserved by the Plan or the Plan Supplement; (ii) any Causes of Action arising from fraud, gross negligence, or willful misconduct as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (iii) the rights of such Debtor or Reorganized Debtor to enforce the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of and subject to the occurrence of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any person and the Confirmation Order will permanently enjoin the commencement, prosecution or continuation by any person or entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this release.

(b) Releases by Holders of Claims and Interests. Except as otherwise provided in this Plan or the Confirmation Order, as of and subject to the occurrence of the Effective Date: (i) each of the Released Parties; (ii) each holder of a Claim (other than the Released Parties) entitled to vote on this Plan that did not “opt out” of the releases provided in Section 12.7 of the Plan in a timely submitted Ballot; (iii) each holder of a Claim deemed hereunder to have accepted this Plan; and (iv) to the fullest extent permissible under applicable law, as such law may be extended or interpreted subsequent to the Effective Date, all holders of Claims and Interests, in consideration for the obligations of the Debtors and Reorganized Debtors under this Plan, the New Common Stock, and other contracts, instruments, releases, agreements or documents executed and delivered in connection with this Plan, and each entity (other than the Debtors) that has held, holds or may hold a Claim or Interest, as applicable, will be deemed to have consented to this Plan for all purposes and the restructuring embodied herein and deemed to conclusively, absolutely, unconditionally, irrevocably and forever release, waive and discharge all claims, demands, debts, rights, Causes of Action or liabilities against the Released Parties (and each such Released Party shall be deemed forever released, waived and discharged by such holder), whether liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, existing as of the Effective Date or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, their affiliates and former affiliates, the Reorganized Debtors, the Chapter 11 Cases, the subject matter of, or the transactions or events giving rise to, any claim or equity interest that is treated in the Plan,

the business or contractual arrangements between any Debtor and any Released Party, the restructuring of claims and equity interests prior to or in the Chapter 11 Cases, the negotiation, formulation, or preparation of this Plan, the Disclosure Statement, the New Equity Investment Agreement, the Plan Documents or related agreements, instruments, or other documents; provided, however, that the foregoing provisions of this release shall not operate to waive or release (i) any Causes of Action expressly set forth in and preserved by the Plan or the Plan Supplement; (ii) any causes of action arising from fraud, gross negligence, or willful misconduct as determined by Final Order of the Bankruptcy Court or any other court of competent jurisdiction; and/or (iii) the rights of such holder to enforce the obligations of any party under the Plan and the contracts, instruments, releases and other agreements or documents delivered under or in connection with the Plan or assumed pursuant to the Plan or assumed pursuant to Final Order of the Bankruptcy Court. The foregoing release shall be effective as of and subject to the occurrence of the Effective Date without further notice to or order of the Bankruptcy Court, act or action under applicable law, regulation, order, or rule or the vote, consent, authorization or approval of any person and the Confirmation Order will permanently enjoin the commencement, prosecution or continuation by any person or entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action, or liabilities released pursuant to this release.

**12.8. *Exculpation and Limitation of Liability.***

None of the Released Parties shall have or incur any liability to any holder of any Claim or Interest or any other party in interest, or any of their respective agents, employees, representatives, financial advisors, attorneys, or agents acting in such capacity, or affiliates, or any of their successors or assigns, for any act or omission in connection with, or arising out of or related to any act taken or omitted to be taken in connection with the Debtors' restructuring, including without limitation, the formulation, negotiation, preparation, dissemination, implementation, confirmation and execution of this Plan, the Chapter 11 Cases, the Disclosure Statement, the New Equity Investment Agreement, the New Credit Agreement, the New First Lien Collateral Documents or any other contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other prepetition or postpetition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Debtors, including, without limitation, the solicitation of votes for and the pursuit of confirmation of this Plan, the consummation of this Plan, or the administration of this Plan or the property to be distributed under this Plan, including, without limitation, all documents ancillary thereto, all decisions, actions, inactions and alleged negligence or misconduct relating thereto and all activities leading to the promulgation and confirmation of this Plan except for fraud, gross negligence or willful misconduct, each as determined by a Final Order of the Bankruptcy Court or any other court of competent jurisdiction; provided, however, that each Released Party will be entitled to rely upon the advice of counsel concerning its duties pursuant to, or in connection with, the above referenced documents, actions or inactions; provided, further, however, that the foregoing provisions will not apply to any acts, omissions, Claims, Causes of Action or other obligations expressly set forth in and preserved by the Plan or Plan Supplement.

**12.9. *Injunction Related to Releases and Exculpation.***

**The Confirmation Order shall permanently enjoin the commencement, prosecution or continuation in any manner by any Person or entity, whether directly, derivatively or otherwise, of any claims, obligations, suits, judgments, damages, demands, debts, rights, remedies, equity interests, Causes of Action or liabilities released pursuant to this Plan, including but not limited to the claims, obligations, suits, judgments, damages, demands, debts, rights, remedies, equity interests, Causes of Action or liabilities released in Sections 12.7 and 12.8 of this Plan. By accepting distributions pursuant to the Plan, each holder of an Allowed Claim will be deemed to have specifically consented to this injunction.**

**12.10. *Termination of Subordination Rights and Settlement of Related Claims.***

(a) Except as expressly provided herein, the classification and manner of satisfying all Claims and Interests and the respective distributions, treatments and other provisions under the Plan take into account or conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal and equitable subordination rights relating thereto whether arising under general principles of equitable subordination, sections 510(a) and 510(b) of the Bankruptcy Code or otherwise, and any and all such rights are settled, compromised and released pursuant to the Plan. The Confirmation Order shall permanently enjoin, effective as of the Effective Date, all Persons and entities from enforcing or attempting to enforce any such contractual, legal and equitable rights satisfied, compromised and settled pursuant to the Plan. Any disagreement with the priorities or distributions set forth in the Plan and all issues with respect to contractual subordination not raised or resolved at the Confirmation Hearing shall be governed pursuant to the Plan or, if the decision of the Bankruptcy Court at the Confirmation Hearing differs from the Plan, then such decision shall govern. Notwithstanding anything herein to the contrary, no holder of an Equitably Subordinated Claim shall receive any distribution on account of such Equitably Subordinated Claim, and all Equitably Subordinated Claims shall be extinguished on the Effective Date.

(b) Pursuant to Bankruptcy Rule 9019 and in consideration of the distributions and other benefits provided under this Plan, the provisions of this Plan will constitute a good faith compromise and settlement of all claims or controversies relating to the subordination rights that a holder of a Claim or Interest may have or any distribution to be made pursuant to this Plan on account of such Claim or Interest. Entry of the Confirmation Order will constitute the Bankruptcy Court's approval, as of the Effective Date, of the compromise or settlement of all such claims or controversies and the Bankruptcy Court's finding that such compromise or settlement is in the best interests of the Debtor, the Reorganized Debtors, their respective properties, and holders of Claims and Interests, and is fair, equitable and reasonable.

**12.11. *Retention of Causes of Action/Reservation of Rights.***

Subject to Section 12.7 of this Plan, nothing contained in this Plan or the Confirmation Order shall be deemed to be a waiver or relinquishment of any rights, claims or Causes of Action, rights of setoff, or other legal or equitable defenses that the Debtors had immediately prior to the Effective Date on behalf of the Estates or of themselves in accordance



with any provision of the Bankruptcy Code or any applicable non-bankruptcy law. The Reorganized Debtors shall have, retain, reserve, and be entitled to assert all such claims, Causes of Action, rights of setoff, or other legal or equitable defenses as fully as if the Chapter 11 Cases had not been commenced, and all of the Debtors' legal and/or equitable rights respecting any Claim left unimpaired, as set forth in Section 4.2 herein, may be asserted after the Confirmation Date to the same extent as if the Chapter 11 Cases had not been commenced.

**12.12. Indemnification Obligations; Cooperation and Insured Current Director & Officer Claims.**

(a) Notwithstanding anything to the contrary contained herein, subject to the occurrence of the Effective Date, the obligations of the Debtors to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of directors or officers who were directors or officers of any of the Debtors at any time after the Petition Date, against any Causes of Action or Claims, remain unaffected thereby after the Effective Date and are not discharged. On and after the Effective Date, any and all directors and officers liability and fiduciary insurance or tail policies in existence as of the Effective Date shall be reinstated and continued in accordance with their terms and, to the extent applicable, shall be deemed assumed or assumed and assigned by the applicable Debtor or Reorganized Debtor, pursuant to section 365 of the Bankruptcy Code and the Plan. Each insurance carrier under such policies shall continue to honor and administer the policies with respect to the Reorganized Debtors in the same manner and according to the same terms and practices applicable to the Debtors prior to the Effective Date. None of the Reorganized Debtors shall terminate or otherwise reduce the coverage under any directors' and officers' insurance policies in effect on the Petition Date, and all directors and officers of the Debtors at any time after the Petition Date shall be entitled to the full benefits of any such policy for the full term of such policy, regardless of whether such director and/or officers remain in such positions after the Effective Date.

(b) From the Effective Date, the Debtors and the Reorganized Debtors shall cooperate with any Person that served as a director or officer of a Debtor at any time on and after the Petition Date, and make available to any such Person, subject to applicable confidentiality and privilege concerns, such documents, books, records or information relating to the Debtors' activities prior to the Effective Date that such Person may reasonably require in connection with the defense or preparation for the defense of any claim against such Person relating to any action taken in connection with such Person's role as a director or officer of a Debtor.

(c) On and after the Effective Date, any Person that served as a director or officer of a Debtor at any time on and after the Petition Date shall be entitled on a first-priority basis access to proceeds of any available insurance policy of the Debtors as set forth in Section 12.12(a) to the extent permissible by applicable law.

(d) Notwithstanding anything to the contrary contained herein, the obligations of each Debtor or Reorganized Debtor to indemnify any person who is serving or served as one of its directors, officers or employees on or as of the Petition Date by reason of such person's prior or future service in such a capacity or as a director, officer or employee of another corporation, partnership or other legal entity, to the extent provided in the applicable certificates of incorporation, by-laws or similar constituent documents, by statutory law or by written

agreement, policies or procedures of or with such Debtor, will be deemed and treated as executory contracts that are assumed by the applicable Debtor or Reorganized Debtor pursuant to the Plan and section 365 of the Bankruptcy Code as of the Effective Date. Accordingly, such indemnification obligations will survive and be unaffected by entry of the Confirmation Order, irrespective of whether such indemnification is owed for an act or event occurring before on or after the Petition Date.

### **ARTICLE XIII.**

#### **RETENTION OF JURISDICTION**

Pursuant to sections 105(c) and 1142 of the Bankruptcy Code and notwithstanding entry of the Confirmation Order and the occurrence of the Effective Date, on and after the Effective Date, the Bankruptcy Court shall retain exclusive jurisdiction, pursuant to 28 U.S.C. §§ 1334 and 157, over all matters arising in, arising under, or related to the Chapter 11 Cases for, among other things, the following purposes:

- (a) To hear and determine applications for the assumption or rejection of executory contracts or unexpired leases and the Cure Disputes resulting therefrom;
- (b) To determine any motion, adversary proceeding, application, contested matter, and other litigated matter pending on or commenced after the Confirmation Date;
- (c) To hear and resolve any disputes arising from or relating to (i) any orders of the Bankruptcy Court granting relief under Bankruptcy Rule 2004, or (ii) any protective orders entered by the Bankruptcy Court in connection with the foregoing;
- (d) To ensure that distributions to holders of Allowed Claims are accomplished as provided herein;
- (e) To consider Claims or the allowance, classification, priority, compromise, estimation, or payment of any Claim, including any Administrative Expense Claim;
- (f) To enter, implement, or enforce such orders as may be appropriate in the event the Confirmation Order is for any reason stayed, reversed, revoked, modified, or vacated;
- (g) To issue and enforce injunctions, enter and implement other orders, and take such other actions as may be necessary or appropriate to restrain interference by any Person with the consummation, implementation, or enforcement of this Plan, the Confirmation Order, or any other order of the Bankruptcy Court;
- (h) To hear and determine any application to modify this Plan in accordance with section 1127 of the Bankruptcy Code, to remedy any defect or omission or reconcile any inconsistency in this Plan, the Disclosure Statement, or any order of the Bankruptcy Court, including the Confirmation Order, in such a manner as may be necessary to carry out the purposes and effects thereof;
- (i) To hear and determine all Fee Claims;

(j) To resolve disputes concerning any reserves with respect to Disputed Claims or the administration thereof;

(k) To hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of this Plan, the Confirmation Order, any transactions or payments contemplated hereby, or any agreement, instrument, or other document governing or relating to any of the foregoing;

(l) To take any action and issue such orders, including any such action or orders as may be necessary after occurrence of the Effective Date and/or consummation of the Plan, as may be necessary to construe, enforce, implement, execute, and consummate this Plan, including any release or injunction provisions set forth herein, or to maintain the integrity of this Plan following consummation;

(m) To determine such other matters and for such other purposes as may be provided in the Confirmation Order;

(n) To hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;

(o) To hear and determine any other matters related hereto and not inconsistent with the Bankruptcy Code and title 28 of the United States Code;

(p) To resolve any disputes concerning whether a Person or entity had sufficient notice of the Chapter 11 Cases, the Disclosure Statement Hearing, the Confirmation Hearing, any applicable Bar Date, or the deadline for responding or objecting to a Cure Amount, for the purpose of determining whether a Claim or Interest is discharged hereunder, or for any other purpose;

(q) To recover all Assets of the Debtors and property of the Estates, wherever located; and

(r) To enter a final decree closing each of the Chapter 11 Cases.

#### **ARTICLE XIV.**

#### **MISCELLANEOUS PROVISIONS**

##### **14.1. *Exemption from Certain Transfer Taxes.***

To the fullest extent permitted by applicable law, all sale transactions consummated by the Debtors and approved by the Bankruptcy Court on and after the Confirmation Date through and including the Effective Date, including any transfers effectuated under this Plan, the sale by the Debtors of any owned property pursuant to section 363(b) of the Bankruptcy Code, and any assumption, assignment, and/or sale by the Debtors of their interests in unexpired leases of non-residential real property or executory contracts pursuant to section 365(a) of the Bankruptcy Code, shall constitute a “transfer under a plan” within the purview of

section 1146 of the Bankruptcy Code, and shall not be subject to any stamp, real estate transfer, mortgage recording, or other similar tax.

**14.2. [RESERVED]**

**14.3. *Payment of Fees and Expenses of First Lien Lenders and First Lien Agent***

On the Effective Date or as soon as reasonably practicable thereafter, to the extent not paid during the pendency of the Chapter 11 Cases and subject to the terms of the First Lien Credit Agreement, the Reorganized Debtors shall pay in full in Cash all outstanding reasonable and documented fees and expenses of the First Lien Lenders and the First Lien Agent and their counsel, including, without limitation, all prepetition and postpetition expenses incurred by the First Lien Lenders and the First Lien Agent and their counsel.

**14.4. *Dissolution of Creditors' Committee.***

The Creditors' Committee shall be automatically dissolved on the Confirmation Date and, on the Confirmation Date, each member (including each officer, director, employee or agent thereof) of the Creditors' Committee and each Professional Person retained by the Creditors' Committee shall be released and discharged from all rights, duties, responsibilities and obligations arising from, or related to, the Debtors, their membership on the Creditors' Committee, the Plan or the Chapter 11 Cases, *except* with respect to any matters concerning any Fee Claims held or asserted by any Professional Person retained by the Creditors' Committee.

**14.5. *Termination of Professionals.***

On the Effective Date, the engagement of each Professional Person retained by the Debtors and the Creditors' Committee, if any, shall be terminated without further order of the Bankruptcy Court or act of the parties; provided, however, such Professional Persons shall be entitled to prosecute their respective Fee Claims and represent their respective constituents with respect to applications for payment of such Fee Claims and the Reorganized Debtors shall be responsible for the fees, costs and expenses associated with the prosecution of such Fee Claims. Nothing herein shall preclude any Reorganized Debtor from engaging a Professional Person on and after the Effective Date in the same capacity as such Professional Person was engaged prior to the Effective Date.

**14.6. *Amendments.***

(a) *Plan Modifications.* This Plan may be amended, modified, or supplemented by the Debtors, subject to the consent of the Consenting First Lien Lenders, in the manner provided for by section 1127 of the Bankruptcy Code or as otherwise permitted by law, without additional disclosure pursuant to section 1125 of the Bankruptcy Code, except as otherwise ordered by the Bankruptcy Court. In addition, after the Confirmation Date, so long as such action does not materially and adversely affect the treatment of holders of Allowed Claims pursuant to this Plan, the Debtors may remedy any defect or omission or reconcile any inconsistencies in this Plan, the Plan Documents and/or the Confirmation Order, with respect to such matters as may be necessary to carry out the purposes and effects of this Plan, and any

holder of a Claim or Interest that has accepted this Plan shall be deemed to have accepted this Plan as amended, modified, or supplemented.

(b) *Other Amendments.* Prior to the Effective Date, the Debtors may make appropriate technical adjustments and modifications to this Plan without further order or approval of the Bankruptcy Court; provided, however, that, such technical adjustments and modifications do not adversely affect in a material way the treatment of holders of Claims or Interests under the Plan.

**14.7. *Revocation or Withdrawal of this Plan.***

The Debtors reserve the right to revoke or withdraw this Plan prior to the Effective Date. If the Debtors revoke or withdraw this Plan prior to the Effective Date as to any or all of the Debtors, or if confirmation or consummation as to any or all of the Debtors does not occur, then, with respect to such Debtors: (a) this Plan shall be null and void in all respects; (b) any settlement or compromise embodied in this Plan (including the fixing or limiting to an amount certain any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts or leases affected by this Plan, and any document or agreement executed pursuant to this Plan shall be deemed null and void; and (c) nothing contained in this Plan shall (i) constitute a waiver or release of any Claims by or against, or any Interests in, such Debtors or any other Person, (ii) prejudice in any manner the rights of such Debtors or any other Person or (iii) constitute an admission of any sort by the Debtors or any other Person.

**14.8. *Allocation of Plan Distributions Between Principal and Interest.***

To the extent that any Allowed Claim entitled to a distribution under the Plan consists of indebtedness and other amounts (such as accrued but unpaid interest thereon), such distribution shall be allocated first to the principal amount of the Claim (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claim, to such other amounts.

**14.9. *Severability.***

If, prior to the entry of the Confirmation Order, any term or provision of this Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court, at the request of the Debtors shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of this Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of this Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**14.10. *Governing Law.***

Except to the extent that the Bankruptcy Code or other federal law is applicable, or to the extent a Plan Document or exhibit or schedule to the Plan provides otherwise, the rights, duties, and obligations arising under this Plan and the Plan Documents shall be governed by, and construed and enforced in accordance with, the laws of the State of New York, without giving effect to the principles of conflict of laws thereof.

**14.11. *Section 1125(e) of the Bankruptcy Code.***

The Debtors have, and upon confirmation of this Plan shall be deemed to have, solicited acceptances of this Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, and the Debtors and the Consenting First Lien Lenders participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code in the offer, issuance, sale, solicitation and/or purchase of the securities offered and sold under this Plan, and therefore are not, and on account of such offer, issuance, sale, solicitation, and/or purchase will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of this Plan or offer, issuance, sale, or purchase of the securities offered and sold under this Plan.

**14.12. *Inconsistency.***

In the event of any inconsistency among the Plan, the Disclosure Statement, the Plan Documents, any exhibit to the Plan or any other instrument or document created or executed pursuant to the Plan, the provisions of the Plan shall govern.

**14.13. *Time.***

In computing any period of time prescribed or allowed by this Plan, unless otherwise set forth herein or determined by the Bankruptcy Court, the provisions of Bankruptcy Rule 9006 shall apply.

**14.14. *Exhibits.***

All exhibits to this Plan are incorporated and are a part of this Plan as if set forth in full herein.

**14.15. *Notices.***

In order to be effective, all notices, requests, and demands to or upon the Debtors shall be in writing (including by facsimile transmission) and, unless otherwise provided herein, shall be deemed to have been duly given or made only when actually delivered or, in the case of notice by facsimile transmission, when received and telephonically confirmed, addressed as follows:

Trump Entertainment Resorts, Inc.  
1000 Boardwalk  
Atlantic City, New Jersey 08401

Attn: Robert Griffin  
Chief Executive Officer

-and-

Stroock & Stroock & Lavan, LLP  
180 Maiden Lane  
New York, New York 10038  
Attn: Kristopher M. Hansen, Esq.  
Erez E. Gilad, Esq.  
Telephone: (212) 806-5400  
Facsimile: (212) 806-6006

Proposed Counsel to the Debtors

-and-

Young Conaway Stargatt & Taylor, LLP  
Rodney Square, 1000 North King Street  
Wilmington, Delaware 19801  
Attn: Matthew B. Lunn, Esq.  
Robert F. Poppiti, Jr. Esq.  
Telephone: (302) 571-6600  
Facsimile: (302) 571-1253

Proposed Counsel to the Debtors

**14.16. *Reservation of Rights.***

Except as expressly set forth herein, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. None of the filing of this Plan, any statement or provision contained herein, or the taking of any action by the Creditors' Committee, the Consenting First Lien Lenders or the Debtors with respect to this Plan shall be or shall be deemed to be, an admission or waiver of any rights of the Creditors' Committee, the Consenting First Lien Lenders or the Debtors with respect to any Claims or Interests prior to the Effective Date.

**14.17. *No Stay of Confirmation Order.***

The Debtors shall request that the Bankruptcy Court waive any stay of enforcement of the Confirmation Order otherwise applicable, including pursuant to Bankruptcy Rule 3020(e), 6004(h) and 7062.

*[Remainder of Page Intentionally Left Blank]*

Dated: \_\_\_\_\_  
Atlantic City, New Jersey

Respectfully submitted,

Trump Entertainment Resorts, Inc.  
on behalf of itself and its affiliated Debtors

By: \_\_\_\_\_  
Robert Griffin  
Chief Executive Officer

Counsel:

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