

**TRADEMARK ASSIGNMENT**

Electronic Version v1.1  
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<b>SUBMISSION TYPE:</b>	NEW ASSIGNMENT		
<b>NATURE OF CONVEYANCE:</b>	Bankruptcy Court Order for Termination and Release of Security Interest		
<b>CONVEYING PARTY DATA</b>			
<b>Name</b>	<b>Formerly</b>	<b>Execution Date</b>	<b>Entity Type</b>
Fleet National Bank, as Administrative Agent		10/31/2003	Bank:
<b>RECEIVING PARTY DATA</b>			
<b>Name:</b>	Transworld Systems, Inc.		
<b>Street Address:</b>	5880 Commerce Boulevard		
<b>City:</b>	Rohnert Park		
<b>State/Country:</b>	CALIFORNIA		
<b>Postal Code:</b>	94928		
<b>Entity Type:</b>	CORPORATION: CALIFORNIA		
<b>PROPERTY NUMBERS Total: 4</b>			
<b>Property Type</b>	<b>Number</b>	<b>Word Mark</b>	
Registration Number:	1783991	CDIS	
Registration Number:	1726248	TSI	
Registration Number:	1473504	CMS	
Registration Number:	1312616	TRANSWORLD SYSTEMS INC.	
<b>CORRESPONDENCE DATA</b>			
<b>Fax Number:</b>	(215)832-5363		
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<b>ATTORNEY DOCKET NUMBER:</b>	101358-00100		

CH \$115.00 1783991

NAME OF SUBMITTER:	Jennifer L. Stefanski
Signature:	/Jennifer L. Stefanski/
Date:	02/01/2008

**Total Attachments: 143**

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**IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION**

IN THE MATTER OF:

UNION FINANCIAL SERVICES GROUP, INC.  
OUTSOURCING SOLUTIONS INC.,  
RWC CONSULTING GROUP, LLC,  
GREYSTONE BUSINESS GROUP, LLC,  
COAST TO COAST CONSULTING, LLC,  
PAE LEASING, LLC,  
PACIFIC SOFTWARE CONSULTING, LLC,  
UNIVERSITY ACCOUNTING SERVICE, LLC,  
NORTH SHORE AGENCY, INC.,  
OSI PORTFOLIO SERVICES, INC.,  
PERIMETER CREDIT L.L.C.,  
GULF STATE CREDIT, L.L.C.,  
OSI SUPPORT SERVICES, INC.,  
OSI COLLECTION SERVICES, INC.,  
JENNIFER LOOMIS & ASSOCIATES, INC.,  
ASSET RECOVERY & MANAGEMENT CORP.,  
GRABLE, GREINER & WOLFF, INC.,  
INDIANA MUTUAL CREDIT ASSOCIATION, INC.,  
QUALINK, INC.,  
PROFESSIONAL RECOVERIES INC.,  
PAYCO AMERICAN INTERNATIONAL CORP.,  
OSI OUTSOURCING SERVICES INTERNATIONAL, LTD.,  
THE UNION CORPORATION,  
OSI OUTSOURCING SERVICES, INC.,  
TRANSWORLD SYSTEMS INC.,  
AMERICAN RECOVERY COMPANY, INCORPORATED,  
C.S.N. CORP.,  
GENERAL CONNECTOR CORPORATION,  
U.C.O. – M.B.A. CORPORATION,  
UCO PROPERTIES, INCORPORATED,  
UNION-SPECIALTY STEEL CASTING CORPORATION,

Debtors.

) In Proceedings Under Chapter 11

)  
) Case No. 03-45870-399  
) Case No. 03-46349-399  
) Case No. 03-46352-399  
) Case No. 03-46337-399  
) Case No. 03-46336-399  
) Case No. 03-46334-399  
) Case No. 03-46347-399  
) Case No. 03-46346-399  
) Case No. 03-46343-399  
) Case No. 03-46342-399  
) Case No. 03-46339-399  
) Case No. 03-46332-399  
) Case No. 03-46330-399  
) Case No. 03-46327-399  
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) Case No. 03-46331-399  
) Case No. 03-46333-399  
) Case No. 03-46335-399  
) Case No. 03-46338-399  
) Case No. 03-46340-399  
) Case No. 03-46341-399  
)

) **HONORABLE BARRY S. SCHERMER**  
) **UNITED STATES BANKRUPTCY JUDGE**

**FINDINGS OF FACT, CONCLUSIONS  
OF LAW AND ORDER CONFIRMING DEBTORS'  
AMENDED AND RESTATED JOINT PLAN OF  
REORGANIZATION, AS MODIFIED**

The Debtors<sup>1</sup> having proposed the Debtors' Third Amended Joint Plan of Reorganization, dated July 31, 2003 as modified on September 16, 2003, September 30, 2003, and by the Debtors' Amended And Restated Third Amended Joint Plan of Reorganization, as filed with the Court (collectively, the "Modifications") (the plan and the modifications and any subsequent modifications authorized in this Order, being collectively referred to herein as the "Plan"); the Court having entered an order (the "Disclosure Statement Order"), dated August 1, 2003, approving the Debtors' Amended Disclosure Statement in Connection with the Plan ( the "Disclosure Statement") under Section 1125(b) of the Bankruptcy Code; the Court having considered the Plan, the Disclosure Statement, the Debtors' Memorandum of Law in Support of Confirmation of the Plan (the "Confirmation Memorandum"), and all objections and responses to confirmation; the Court having heard at the hearing on confirmation before the Court commencing on September 30, 2003 (the "Confirmation Hearing") the statements of counsel in support of and in opposition to confirmation of the Plan, the Court having considered all testimony presented and evidence admitted at the Confirmation Hearing; the Court having considered the credibility of the witnesses and their sometimes conflicting testimony; the Court having considered the proceedings to date in the Reorganization Cases; and the Court finding that (a) notices of the Confirmation Hearing and the opportunity of any party in interest to object to Confirmation were fair, adequate and appropriate as to all parties to be affected by the Plan and the transactions contemplated thereby and (b) the legal and factual bases set forth in the

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<sup>1</sup> Unless otherwise specified, capitalized terms and phrases used herein have the meanings assigned to them in the Plan (as such term is defined below). In addition, in accordance with the Plan, any term used in the Plan or this Confirmation Order that is not defined in the Plan or this Confirmation Order, but that is used in the Bankruptcy Code or the Bankruptcy Rules, shall have the meaning assigned to that term in the Bankruptcy Code or the Bankruptcy Rules.



Confirmation Memorandum and presented at the Confirmation Hearing establish just cause for the relief granted herein; the Court hereby makes the following Findings of Fact, Conclusions of Law and Order:<sup>2</sup>

## **FINDINGS OF FACT**

### **Introduction**

1. Union Financial Services Group, Inc., a subsidiary of Outsourcing Solutions Inc., filed its voluntary petition under Chapter 11 of the Bankruptcy Code on May 2, 2003. Outsourcing Solutions Inc., and its remaining 29 subsidiaries (collectively, with Union Financial Services Group, Inc., the “Debtors” or the “Company”) filed their voluntary petitions on May 12, 2003. The Debtors have continued in possession of their properties and have operated and managed their businesses as debtors in possession pursuant to the provisions of Sections 1107 and 1108 of the Bankruptcy Code. Keleghan Narrative, Ex. B.1.; Docket No. 1.

### **The Debtors’ Business**

2. The Debtors are, together, one of the largest providers of business process outsourcing receivables services in the United States with unaudited 2002 revenues of approximately \$596.4 million. Keleghan Narrative, Ex. B.5; Weller Narrative, Ex. B.3.

3. The Debtors’ business generally is the collection of receivables for other parties, i.e., handling other people’s money. Keleghan Narrative, ¶ 7. The Debtors provide receivables management services that allow clients to outsource management of the entire credit-to-cash cycle to achieve maximum recoveries at the lowest net cost. Keleghan Narrative, B.5; Weller Affidavit, Ex. B.3. Calabrese Narrative, ¶ 7. Most of the Debtors’ third-party business is

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<sup>2</sup> This Confirmation Order constitutes the Court’s findings of fact and conclusions of law under Fed. R. Civ. P. 52, as made applicable by Bankruptcy Rules 9014 and 7052. Any and all findings of fact shall constitute findings of fact even if they are stated as conclusions of law, and any and all conclusions of law shall constitute conclusions of law even if they are stated as findings of fact.

subject to immediate termination in the event a customer chooses to transfer its business.

Keleghan Narrative, ¶ 7.

4. The Debtors have three principal lines of business:

(a) The outsourcing services business, which consists of accounts receivable management, billing, calling, and letter writing services for clients;

(b) The recovery (or collections) services business, which consists of a full range of contingent fee services provided to consumer creditors to collect past-due accounts; and

(c) The portfolio purchasing business (the “Portfolio Business”), which consists of purchasing portfolios of non-performing debt from creditor grantors.

Portfolios are typically purchased at a deep discount from the aggregate principal values of the accounts. Once purchased, the Debtors use traditional collection techniques to obtain payment.

Keleghan Narrative, ¶ 6 and Ex. B.5; Weller Narrative, Ex. B.3.

5. The Debtors’ business is highly competitive. It is estimated that there are approximately 6,500 accounts receivable firms in the United States, with the 10 largest agencies accounting for less than 20% of industry revenues. Keleghan Narrative, ¶ 6 and Ex. B.5; Weller Narrative, Ex. B.3. Large-volume customers that outsource accounts receivables typically employ more than one accounts receivable management firm at a time so as not to allow excess concentration of accounts at any one firm. Keleghan Narrative, ¶ 6 and Ex. B.5; Weller Narrative, Ex. B.3.; Calabrese Narrative, ¶ 7.

6. Any interruption of the Debtors’ services would have a severe impact on a customer’s operations. Customer concerns about the potential inability of the Debtors to remit

collected funds, due to bankruptcy or for other reasons, represent a serious threat to the Debtors' customer relationships. Keleghan Narrative, ¶ 7; Calabrese Narrative, ¶ 7.

7. The business is self-liquidating by nature, such that the Debtors' business declines if the customer does not continue to transfer receivables to the Debtors for handling. These business lines depend heavily on personal relationships which, if lost, are not easily recovered. Keleghan Narrative, ¶ 7.

8. The Debtors' Portfolio Business requires substantial available capital, as well as credibility in the marketplace, because sellers of portfolios can choose to whom they wish to sell, and buyers of portfolios can choose from whom they wish to buy. Keleghan Narrative, ¶ 8. Participants in the market want to do business with financially strong companies capable of standing behind the representations and warranties which can be associated with portfolio sale transactions. Keleghan Narrative, ¶ 8. Since participants in this market may potentially be liable for the actions of the buyer, trust and financial stability are also critical for this business sector. Keleghan Narrative, ¶ 8.

#### **Timely Emergence from Bankruptcy is Critical to the Debtors' Success**

9. While the Debtors were able to maintain revenues from its three principal lines of business at or even slightly above budget until the Chapter 11 proceedings began, the drop-off since the Petition Date has been dramatic and sustained. Weller Narrative, ¶¶ 21-22; Keleghan Narrative, ¶ 36; Debtors Ex. 127.

10. Since the Chapter 11 proceedings began, the Debtors have also lost nearly 40 customers representing annual revenues of as much as \$43 million. Keleghan Narrative, ¶ 43; Weller Narrative, ¶ 22; Debtors Ex. 37, 136. In addition, the Debtors have

gained no new outsourcing business (the Debtors' largest and most strategically important business segment). Weller Narrative, ¶ 22.

11. As of the Petition Date, the Debtors employed approximately 6,500 employees. Since May 31, 2003, the Debtors have terminated 840 positions (including a number of "key" employees), and closed two locations. Keleghan Narrative, ¶ 21.

12. The Debtors' value has declined as a result of the Chapter 11 proceedings, and a continuation in Chapter 11 will likely lead to further deterioration of the Debtors' enterprise and value through the loss of customers and employees. Keleghan Narrative, ¶¶ 21, 43-44; Weller Narrative, ¶ 22; Calabrese Narrative, ¶24.

13. The Debtors' management's forecast on the effect of an additional 30 days in bankruptcy is that a loss of an additional \$10 to \$12 million in annual revenues will result. Keleghan Narrative, ¶ 44. Any delay and uncertainty creates additional instability and risks of loss of key people. Keleghan Narrative, ¶ 44.

**Events Leading to the Commencement of the Chapter 11 Cases  
(October 1998 - December 2002)**

14. The Debtors' Portfolio Business depends upon having continuous access to a source of financing for portfolio purchases ("conduit financing"). Keleghan Narrative, Ex. B.8; Weller Narrative, Ex. B.6.

15. In October 1998, the Debtors, through a bankruptcy-remote entity, established a financing arrangement (the "Old Warehouse Facility") with an institutional financing source ("MBIA") to support its Portfolio Business. Weller Narrative, ¶ 12.

16. On December 10, 1999, the Company effected a recapitalization (the "Recapitalization"). Weller Narrative, Ex. B.11. As part of the Recapitalization, Madison Dearborn Capital Partners and its affiliates ("MDP") invested approximately \$170 million in the

Company and acquired approximately 70% of its outstanding common stock. Weller Narrative, Ex. B.11.

17. Under the terms of the Old Warehouse Facility, MBIA had discretion to refuse financing for any portfolio purchase sought. Weller Narrative, ¶ 13.

18. In 2000, shortly after consummation of the Recapitalization, the Company began searching for a supplemental financing vehicle to finance its Portfolio Business. Weller Narrative, ¶ 13.

19. During 2000 and 2001, the Company contacted and engaged in discussions with approximately 20 potential sources of supplemental portfolio financing. Debtors' Ex. 25. The Company was unsuccessful in obtaining any attractive offers. Weller Narrative, ¶ 13.

20. In August 2001, MBIA indicated to the Company that it would only continue to provide financing to the Old Warehouse Facility through October 2003. Weller Narrative ¶ 14. The Company obtained MBIA's permission to explore financing to replace (in whole or in part) or supplement the Old Warehouse Facility with a new facility. Weller Narrative, ¶ 15.

21. Over the next several months, the Company contacted a number of potential sources of financing for the Portfolio Business, including insurance companies, alternative finance companies and commercial banks. Weller Narrative ¶ 15. No suitable replacement for MBIA was found. Weller Narrative, ¶15 and Ex. B.20.

22. In December 2001, MBIA began refusing to finance additional portfolio purchases, effectively eliminating the Company's source for funding of the Portfolio Business

and the Company's ability to buy portfolios. Weller Narrative, ¶ 18. The Portfolio Business was essentially shut down once MBIA ceased extending loans. Keleghan Narrative, ¶ 9.

23. In February 2002, during the 2001 year-end audit of the Company conducted by PriceWaterhouseCoopers, the Debtors' management discovered certain accounting discrepancies between the detailed account records and general ledger at one of the Company's subsidiaries, North Shore Agency, Inc. ("NSA"). Weller Narrative, ¶ 6 and Ex. B.12; Wood Narrative, Ex. B.2. After the Debtors' management was notified of the account discrepancies, the controller of NSA admitted that he had falsified records and inaccurately reported certain transactions. Weller Narrative, ¶ 6.

24. An independent investigation concluded that certain assets were intentionally overstated, while trade accounts payable were intentionally understated through falsification of records and inaccurate financial reporting over a two-year period. Weller Narrative, ¶ 7 and Ex. B.12; Wood Narrative, Ex. B.2. Certain NSA personnel no longer with the Debtors were involved in the financial misreporting, and no current employees of the Debtors were involved. Weller Narrative, ¶¶ 7-8.

25. In April 2002, as a result of the accounting irregularities, the Company restated its financial statements for the year ended December 31, 2000, as well as the unaudited consolidated quarterly results for the quarter ended September 30, 2001. Weller Narrative, ¶ 9.

26. The cumulative effect of the NSA financial misreporting on the Debtors' balance sheet through December 31, 2001, was approximately \$15 million. Weller Narrative, ¶ 9.

27. The restatement of the Debtors' financial results put the Debtors into default under the Old Warehouse Facility with MBIA. Weller Narrative, ¶ 10.

28. In early Spring 2002, in connection with a marketing call by Merrill Lynch on MDP, Merrill Lynch agreed to look into the opportunity of providing replacement portfolio financing to the Company. Wood Narrative, Ex. B.3.

29. During April and May 2002, Merrill Lynch gave initial indications of interest and conducted due diligence on the Company. Wood Narrative, Ex. B.3.

30. During the Spring and Summer of 2002, the Company also commenced efforts to sell its Portfolio Business and other selected Company businesses. Weller Narrative, Ex. B.20; Wood Affidavit, Ex. B.3. The Company contacted over 60 separate entities as part of these efforts. Debtors' Ex. 140. The Company ultimately sold the remaining portfolios held by the Portfolio Business for a gross purchase price of \$62.5 million in October of 2002. Weller Narrative, Ex. B.20; Wood Narrative, Ex. B.3.

31. In June 2002, Merrill Lynch delivered a preliminary term sheet to provide replacement portfolio financing to the Company. Wood Narrative, Ex. B.3. Merrill Lynch subsequently declined to provide financing for the Company's Portfolio Business due to a variety of factors. Wood Narrative, Ex. B.3.

32. In August 2002, as a result of MDP's close relationship and historical business dealings with Merrill Lynch, MDP convinced Merrill Lynch to resume discussions and conduct due diligence to provide replacement portfolio financing to the Company. Wood Narrative, Ex. B.3. In the Fall of 2002, Merrill Lynch delivered another draft term sheet to provide replacement portfolio financing to the Company. Wood Narrative, Ex. B.3.

33. The declines in the Company's revenue and earnings from the loss of conduit financing and the problems caused by the restatement of its financial statements cumulatively contributed to impending defaults under the Company's credit agreement dated

November 30, 1999, as amended (the “Existing Credit Agreement”), and under the indenture governing the Company’s 11% senior subordinated note due 2006 (the “Subordinated Notes Indenture”). Weller Narrative, ¶ 10. As of the Petition Date, the Debtors were indebted to the Senior Secured Lenders under the Existing Credit Agreement in the amount of approximately \$480 million. Siffer Narrative, ¶ 12; Keleghan Narrative, ¶ 12. Final DIP Financing Order, ¶ D. The Amounts borrowed by the Debtors under the Existing Credit Agreement are secured by valid, perfected, enforceable, first priority liens and security interests granted by the Debtors in favor of the Senior Secured Lenders upon and in substantially all of the Debtors’ assets and property. Final DIP Financing Order, ¶ E.

34. In September 2002, the Company began a series of lengthy negotiations with principal creditor constituencies to restructure its financial obligations. Wood Narrative, Ex. B.4.

35. Early in September 2002, the Company notified the agents under its Existing Credit Agreement (the “Managing Agents”) of recent developments, including: (i) the departure of the Company’s President and Chief Executive Officer, Timothy Beffa, in August 2002; (ii) the failure to obtain any attractive offers for the Portfolio Business; (iii) the loss of financing for the Portfolio Business; and (iv) the determination that it was likely not to be in compliance with certain covenants as of the end of the third quarter of 2002. Wood Narrative, Ex. B.4.

36. The Company also reported to the Managing Agents that it was working with a new institution as a possible source of financing for the Portfolio Business. Wood Narrative, Ex. B.4.



37. At the Managing Agents' request, in September 2002, the Company retained The Recovery Group ("TRG") to serve as restructuring advisors and to assist the Company in considering alternatives for addressing the impending covenant defaults. Calabrese Narrative, ¶ 8.

38. In late September 2002, the Company made a presentation to the entire group of lenders under its Existing Credit Agreement (the "Lenders"), describing the current situation and outlining a plan for addressing the impending defaults. Wood Narrative, Ex. B.4.

39. Shortly thereafter, the Company commenced discussions with the Senior Subordinated Noteholders. Wood Narrative, Ex. B.4. Certain of these holders formed a "Steering Committee" and retained the law firm of Kramer Levin Naftalis & Frankel LLP at the Company's expense. Wood Narrative, Ex. B.4.

40. Commencing in September 2002 (and continuing through February 2003), the Company implemented management reorganizations, personnel reassignments and reductions in its workforce and closed several of its office locations. Weller Narrative, Ex. B.22; Wood Narrative, Ex. B.4.

41. On October 3, the Managing Agents notified the Company that events of default had occurred under the Existing Credit Agreement as a result of, among other things, the Company's failure to comply with the financial covenants under the Existing Credit Agreement. Weller Narrative, Ex. B.24.

42. On October 15, the Company failed to, among other things, pay principal and interest due under the Existing Credit Agreement. Weller Narrative, Ex. B.24

43. On October 29, the Company entered into a Forbearance Agreement and Sixth Amendment to the Existing Credit Agreement (collectively, the "Forbearance Agreement")

with the Senior Secured Lenders to permit the Company's business operations to continue while discussions on a viable restructuring plan could proceed. Weller Narrative, Ex. B.24.

44. Pursuant to the Forbearance Agreement, the Lenders agreed to forbear from taking certain remedial action with respect to the defaults to provide stability while the parties explored possible restructuring alternatives. Weller Narrative, Ex. B.24.

45. On November 12, the Company made a presentation to the Lenders with respect to its business plan, a central feature of which was the need to obtain replacement financing for the Portfolio Business. Wood Narrative, Ex. B.4. It was clear that management regarded conduit financing as a key component of its business plan for the Portfolio Business in particular, and for achieving the highest values for the overall Company. Siffer Narrative, ¶ 7.

46. In December 2002, the Company provided the Managing Agents with a revised business plan, which was based on obtaining financing for the Portfolio Business. Weller Narrative, Ex. B.22; Keleghan Narrative, Ex. B. 19; Wood Narrative, Ex. B.4.

47. Also in December 2002, the Company retained Kevin T. Keleghan to serve as the new President, Chief Executive Officer and Chief Restructuring Officer of the Company. Weller Narrative, Ex. B.22; Keleghan Narrative, Ex. B.19; Wood Narrative, Ex. B.4.

48. By the end of 2002, the Company was in a crisis position. Rumors, both in the marketplace and within the Company, were rampant that the Debtors would not survive. Keleghan Narrative, ¶ 9. Cash was extremely tight, and there were concerns about the Company's ability to meet payroll. Keleghan Narrative, ¶ 9. New business was almost impossible to obtain since customers knew that the Debtors were in default on its bank loans and they were waiting to see how the Debtors proposed to effect a rescue before entrusting the Company with additional receivables. Keleghan Narrative, ¶ 9.

49. The Debtors' inability to obtain acceptable financing for its Portfolio Business was a major factor in the financial decline of the Company. Weller Narrative, ¶ 16. Because the Company could not obtain acceptable financing for portfolio purchases, the Company experienced a material decline in revenues and operating earnings from the Portfolio Business from 2001 to 2002. Weller Narrative, ¶ 16. Historically, the Portfolio Business had been a very profitable business segment for the Debtors. Weller Narrative, ¶ 16.

50. As a result, the Company's adjusted operating earnings for the Company's Portfolio Business declined from \$16.7 million for the year ended December 31, 2001, to a loss of \$5.9 million for the year ended December 31, 2002. Keleghan Narrative, Ex. B.2; Weller Narrative, Ex. B.2.

#### **Development of the Restructuring Plan (December 2002 – April 2003)**

51. In December 2002, at the request of the Senior Lenders, the Company retained the investment banking services of Merrill Lynch to assist in considering strategic alternatives, and to provide a one-time valuation of the Company, assuming various scenarios. Siffer Narrative, ¶ 8. Weller Narrative, Ex. B.23; Wood Narrative, Ex. B.5.

52. In January 2003, Merrill Lynch delivered an analysis to the Company board of directors, and subsequently to the Managing Agents. The analysis indicated that the Company could maximize value for its stakeholders by obtaining replacement financing for the Portfolio Business, rather than selling the Company. Siffer Narrative, ¶ 9.

53. During this time, the Managing Agents and their counsel retained an independent financial advisor, FTI Consulting ("FTI"), to prepare its own valuations of the Debtors. Siffer Narrative, ¶ 10; Nicastro Narrative, ¶ 8. Based on its own forecasts and

analyses, FTI independently concluded that Merrill Lynch's recommendation was reasonable.

Siffer Narrative, ¶ 10; Nicastro Narrative, ¶ 8.

54. On January 9, 2003, Merrill Lynch executed a term sheet to provide a \$90 million non-recourse portfolio purchasing facility to replace the Old Warehouse Facility (the "ML Conduit"). Keleghan Narrative, Ex. B.18.

55. From January through May 2003, Merrill Lynch and the Company negotiated the ML Conduit. Keleghan Narrative Ex. B.18.

56. On January 16, the Company and Managing Agents agreed to submit to Standard & Poor's ("S&P") for review and a tentative rating five alternative proposals in order to further the process of reaching agreement on a reorganization plan. Weller Narrative, Ex. B.22; Keleghan Narrative, Ex. B.19; Wood Narrative, Ex. B.4.

57. S&P did not ultimately provide a rating of any of the five alternative plans. However, the discussions with S&P indicated that the reorganized Company could not carry more than approximately \$175 million in restructured indebtedness in order for the Debtors to reacquire a Select Servicer Rating ("SSR") from S&P. Keleghan Narrative, ¶ 23; Siffer Narrative, ¶ 11.

58. The SSR is the equivalent of the "good housekeeping" seal of approval in the Debtors' industry. Keleghan Narrative, ¶ 23; Calabrese Narrative, ¶ 11. The lack of an SSR had put the Debtors' at a competitive disadvantage in obtaining new business in products, such as asset-backed servicing ("ABS"), that are important to their future business and value. Calabrese Narrative, ¶ 11.

59. Based upon the forecasts and analyses provided to the Lenders, the Lenders concluded that there was no possibility of recovering the entire amount of secured debt,

which was approximately \$480 million. In order to facilitate a restructuring at the desired debt level, a significant majority of the Lenders came to the view that it would be necessary to write off a significant amount of the outstanding secured debt as part of the restructuring plan. Siffer Narrative, ¶ 12.

60. From February through April 2003, the Company, the Managing Agents and/or the steering committee of Senior Secured Lenders met on numerous occasions to negotiate the terms of a restructuring plan, which were based on a restructuring of the Debtors with Merrill Lynch providing the ML Conduit (facilitated by MDP), along with the Senior Secured Lenders' forgiveness of approximately \$300 million in secured debt. Keleghan Narrative, Ex. B.19; Wood Narrative, Ex. B.4.

61. Following months of protracted, intense, arm's length negotiations, the Company, with the assistance of MDP, ultimately reached agreement with Lenders representing an aggregate of approximately 77% of the Senior Secured Lender Claims, and constituting approximately 70% by numerical count (the "Consenting Lenders") for a voluntary restructuring transaction (the "Restructuring Plan") through Chapter 11 of the Bankruptcy Code, whereby: (i) Senior Secured Lenders would receive 72.5% common stock equity in Newco, (ii) the Debtors' management would receive 7.5% common stock equity in Newco; (iii) MDP would contribute \$10 million to Newco in exchange for receiving preferred stock convertible into 20% of the equity of Newco; (iv) Senior Secured Lenders would write down their secured debt of approximately \$475 million to \$175 million; and (v) Merrill Lynch would provide the ML Conduit facility to Newco in the amount of \$90 million. Keleghan Narrative, ¶ 22; Disclosure Statement, pp. 54-56; Plan Article III; Siffer Narrative, ¶ 13. As part of the Restructuring Plan, the Company expected to re-obtain a "Select Servicer Rating" from S&P. Id. The ML Conduit

was a vital component to the success of the Company's restructuring efforts and the viability of the Plan. But for MDP's participation in the Plan, Merrill Lynch would not make the ML Conduit available to the Company. Cary Testimony, Confirmation Hearing Transcript, Vol. II, p. 251-52.

62. On April 30, 2003, the Consenting Lenders approved and executed a "Lock Up Agreement", outlining the principal terms of the restructuring plan and the reorganized Debtors' capital structure. Keleghan Narrative, ¶ 22 and Ex. B.19; Weller Narrative, Ex. B.22; Wood Narrative, Ex. B.4.

63. Under the Lock Up Agreement, the Consenting Lenders agreed to support and commit their vote in favor of the Restructuring Plan, subject to certain conditions, including but not limited to, the receipt of bankruptcy court approval of the Disclosure Statement, the effectiveness of the ML Conduit and the participation of MDP in the Restructuring Plan process. Keleghan Narrative, ¶ 63; Debtors Ex. 1, Lock Up Agreement, Section 2.

64. Under the Lock Up Agreement, the Lenders retained the ability to determine whether to "unlock" the agreement between the Lenders and MDP. The economic reality was that if the Lenders "unlocked" the Lock Up Agreement, they would lose the ability to access MDP's \$10 million investment in Newco and would also lose the ML Conduit. In other words, the Lenders wanted a binding agreement with MDP, but also wanted to be able to unlock the MDP agreement and transition seamlessly into an improved, but equally binding arrangement with a superior bidder if one arose and presented a higher and better offer. Siffer Narrative, ¶ 16; Debtors Ex. 1, Lock Up Agreement, Section 2.

**The Solicitation and Review Process for Alternate Bids to Purchase the Company  
(April 2003 – July 2003)**

65. The Lock Up Agreement was not an obstacle to testing the market to determine whether a better alternative than the Restructuring Plan might have been available. Keleghan Narrative, ¶ 20. The Lock Up Agreement provided the Company with stability and permitted the Debtors to manage their customer relationships effectively during the bankruptcy process. Keleghan Narrative, ¶ 20. In fact, the Lock Up Agreement was advantageous to the Company. With the Lock Up Agreement, the Company could tell customers that it had firm deadlines and that it had a Restructuring Plan which was approved by its Lenders. This provided a “calming effect” on most of the Debtors’ customers. Keleghan Narrative, ¶ 20.

66. The Company received several unsolicited non-binding offers or indications of interest from different investor groups to purchase either the Company, a portion of the Company or all of the bank debt. Wood Narrative, Ex. B.5; Weller Narrative, Ex. B.23.

67. On April 3, 2003, the Debtors received an unsolicited, detailed indication of interest from a group of investment funds (collectively referred to as “Bear Stearns”) with a stated valuation greater than that of prior offers or indications of interest. Calabrese Narrative, ¶ 13; Weller Narrative, Ex. B.23; Wood Narrative, Ex. B.5; Debtors Ex. 43.

68. The Managing Agents viewed Bear Stearns’s offer as a credible indication of interest and were interested in pursuing this offer and the ML Conduit simultaneously, and pressured the Debtors to pursue Bear Stearns’s offer. Calabrese Narrative, ¶ 13; Wood Narrative, Ex. B.5.

69. As a result, the Debtors decided to pursue the Bear Stearns offer at which time MDP withdrew its offer to purchase preferred stock from Newco. Calabrese Narrative, ¶ 13.

70. Throughout the negotiations of the ML Conduit and the Restructuring Plan, Merrill Lynch maintained that its provision of the ML Conduit was contingent upon, among other conditions, MDP's significant involvement as both a significant equity owner and leader of the reorganized Company and its reorganized subsidiaries at the board of directors level. Wood Narrative, ¶ 14 and Ex. B.5.; Cary Testimony, Confirmation Hearing Transcript, Volume II, pp. 251-52.

71. Upon the receipt of Bear Stearns's proposal, the Debtors' management requested that Merrill Lynch provide the ML Conduit without the involvement of MDP. Wood Narrative, Ex. B.5; Keleghan Narrative, Ex. B.20. Jonathan Cary of Merrill Lynch advised the Debtors that MDP's involvement was a precondition to Merrill's willingness to make the ML Conduit available. Cary Testimony, Confirmation Hearing Transcript, Volume II, pp. 251-52.

72. Also in April 2003, the Debtors contacted another party from which they had earlier obtained a preliminary term sheet to determine if the other party could develop an alternative to the ML Conduit. Weller Narrative, Ex. B.23; Keleghan Narrative, Ex. B.20; Wood Narrative, Ex. B.5. That party indicated that it would be willing to discuss a transaction, but on substantially less attractive terms. Weller Narrative, Ex. B.23; Keleghan Narrative, Ex. B.20; Wood Narrative, Ex. B.5.

73. In mid-April 2003, MDP (after receiving numerous requests from the Debtors and TRG because the Debtors could not receive a conduit on their own, and thus could not reasonably restructure) renewed its offer to invest in order to make it possible for the Debtors to obtain the ML Conduit and complete the Restructuring Plan. Wood Affidavit, ¶ 13 and Ex. B.5.



74. Mr. Keleghan, the Debtors' Chief Executive Officer, has also confirmed that MDP's continued sponsorship of the Debtors has material value to the Debtors' estates in his ability to protect the Debtors' business and to maintain their employees. Keleghan Testimony, Vol. II, pp. 106-107.

75. The Debtors' senior management viewed the ML Conduit as indispensable for several reasons: (i) the ML Conduit represented a confirmation to the market that a prominent source of capital had confidence in the Debtors; (ii) the substantial sum of \$90 million was to be immediately available; and (iii) the ML Conduit was not subject to any of the volatility that would exist if the Debtors were simply relying on cash flows generated from their own business. Keleghan Narrative, ¶ 40; Wood Narrative, ¶ 12. Management did not believe that the Company could maintain a successful Portfolio Business without a significant source of financing such as the ML Conduit. Keleghan Narrative, ¶ 34; Wood Narrative, ¶12.

76. The details of MDP's renewed offer to purchase 20% of Newco's preferred equity were outlined in the Lock Up Agreement's Summary of Process and Procedure (the "Summary"). Debtors Ex. 33.

77. The Summary also outlined the provisions by which the Debtors' board would solicit alternative bids for the Company or a portion of the Company. Debtors Ex. 33. The purpose of the Summary's process and procedure was to ensure that "higher and better" restructuring proposals, other than that set forth in the Restructuring Plan, were explored. Wood Narrative, Ex. B.5. Consequently, the Debtors were required to explore alternatives to the Restructuring Plan. Siffer Narrative, ¶ 14.

78. The Summary provided for an alternative bidding process, rather than an auction, because an open auction would have had a negative impact on the Company, given the

characteristics of the Debtors' industry. Keleghan Narrative, ¶ 36; Resnick Narrative, ¶ 39. An open auction would have highlighted the Debtors' distressed financial condition, announced to customers and employees that there was no way to predict the future, and displayed that there was no likely stability in the Debtors' ongoing business operations. Keleghan Narrative, ¶ 36. The significant risk of customer loss would have most likely resulted in reducing the value of the Company and in a lower recovery for stakeholders. Keleghan Narrative, ¶ 36; Siffer Narrative, ¶ 16; Calabrese Narrative, ¶ 15; Resnick Narrative, ¶ 39.

79. The Summary provided that the Debtors' board would appoint one or more new directors to a newly-constituted Sales Process and Procedures Committee (the "Special Committee"), to which the Debtors' board would delegate all of its duties in connection with the due diligence and bidding procedures for potential Alternative Transactions (defined below). Debtors Ex. 33.

80. The Summary provided that in the event that the Consenting Lenders terminated the Lock Up Agreement to pursue an Alternative Transaction, the Company would, upon the occurrence of any "Liquidity Event," pay MDP and Merrill Lynch a fee equal to \$6 million (the "Break Up Fee").<sup>3</sup> Debtors Ex. 33.

81. To effectuate such process and bidding procedures, the Summary also provided that the Special Committee would vest TRG with the authority and responsibility of overseeing and implementing the due diligence and bidding procedures in connection with a potential Alternative Transaction. Calabrese narrative, ¶ 14; Debtors Ex. 33.

82. The Summary provided that the Debtors would immediately, upon the execution of confidentiality agreements, permit "Investor Groups" to commence due diligence

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<sup>3</sup> According to the Summary, a "Liquidity Event" means (i) the consummation of any Alternative Transaction(s), or (ii) the forfeiture of any deposit submitted in connection with any Binding Offer.

reviews, pursuant to a review process designed by the Special Committee. Debtors Ex. 33. This due diligence period would run for no longer than three weeks from the date such Investor Group signed a confidentiality agreement. Calabrese Narrative, ¶ 17; Debtors Ex. 33.

83. At the conclusion of the due diligence period, any Investor Group interested in pursuing an Alternative Transaction was required to deliver its bid. Debtors Ex. 33. The Summary provided that after the Effective Date of the Lock Up Agreement, the Debtors would not be required to commence the due diligence process with any Investor Group that did not, in good faith, deliver (or had not previously delivered) a “Qualifying Bid.” Debtors Ex. 33. The Summary defined a “Qualifying Bid” as a bid for a transaction that would provide a net value to the Debtors’ estates of at least \$250, million plus \$6 million in cash to cover the Break Up Fee. This \$250 million figure was not a valuation, but instead meant to simply be the “threshold” amount above which the Lenders were allowed to consider “unlocking” the MDP offer. Debtors Ex. 33; Calabrese Testimony, Confirmation Hearing Transcript, Volume III, pp. \_\_\_. The bidder was required to be a third party investor financially capable of consummating the Alternative Transaction. A bid meeting these criteria was to be considered a “Binding Offer.” Debtors Ex. 33; Calabrese Testimony, Confirmation Hearing Transcript, Volume III, pp. \_\_\_. The Summary defined an “Alternative Transaction” as an alternative plan of reorganization or similar transaction, including, without limitation, a transaction under Sections 363 and 365 of the Bankruptcy Code, whether through a sale of capital stock, or assets, a merger, consolidation or other business combination or any similar transaction. Debtors Ex. 33; Calabrese Testimony, Confirmation Hearing Transcript, Volume III, pp. \_\_\_. The Summary provided for the Restructuring Transactions to remain subject to the submission of Binding Offers by “Qualified Investors” for an Alternative Transaction during the period of the Effective

Date of the Lock Up Agreement to the date that was the earlier of (i) the date that is 45 days after the Commencement Date and (ii) the date that the Bankruptcy Court enters an order approving the Disclosure Statement. Debtors Ex. 33; Calabrese Testimony, Confirmation Hearing Transcript, Volume III, pp. \_\_\_.

84. Because the Company voluntarily filed its Chapter 11 petitions on May 12, 2003 (the "Commencement Date"), the deadline for submission of bids was June 26, 2003. Debtors Ex. 33; Calabrese Testimony, Confirmation Hearing Transcript, Volume III, pp. \_\_\_.

85. The Summary provided that to the extent that the Consenting Lenders were presented with a Binding Offer constituting a "higher and better" valuation than the Restructuring Plan, the Consenting Lenders had the right to terminate the Lock Up Agreement upon the affirmative vote of at least two-thirds in amount of the claims held by the Consenting Lenders. Debtors Ex. 33. The Summary provided that the determination of whether the value of a Binding Offer is "higher and better" than the value of the Restructuring Plan would be determined jointly by the Special Committee and TRG, on the one hand, and FTI (as designee of the Managing Agents on behalf of the Consenting Lenders) on the other hand. Debtors' Ex. 33. If there was a disagreement between the Special Committee and TRG and FTI, the Summary provided that the Debtors were to retain a nationally recognized investment banking firm mutually satisfactory to the Debtors and the Managing Agents to opine whether an Alternative Transaction constituted a "higher and better" offer than the Restructuring Transactions. Debtors Ex. 33.

86. In April 2003, the Debtors' board conducted a search process for new, independent directors to serve on the Special Committee. Keleghan Narrative, Ex. B.20; Wood Narrative, Ex. B.5.

87. On April 28, the Company entered into a confidentiality agreement with Lightyear Capital ("Lightyear"). Morgan Narrative, Ex. B.1.

88. On April 29, the Debtors' board elected two new, independent directors (Mark M. Morgan and Thomas J. Minich) to the newly-formed Special Committee. Keleghan Narrative, Ex. B.20; Wood Affidavit, Ex. B.4; Morgan Narrative, ¶ 6.

89. Some time thereafter, Tom Minich resigned and was replaced by Ray Weber. Morgan Narrative, ¶ 6; Weber Narrative, ¶ 6.

90. On April 30, the Debtors expanded the engagement agreement with TRG so that TRG would provide business advice and consultation to the Debtors during the process of negotiating terms for the restructuring. Calabrese Narrative, ¶ 14. This also called for TRG to assist the Debtors in evaluating proposed bids for the Company under the Summary, as noted above. Morgan Narrative, ¶ 8; Calabrese Narrative, ¶ 14.

91. On May 1, the Debtors entered into a confidentiality agreement with Bear Stearns. Morgan Narrative, Ex. B.1.

92. During the week of May 5, 2003, both Bear Stearns and Lightyear commenced due diligence with the Debtors' management presentations and trips to the Debtors' data room. Morgan Narrative, Ex. B.1.

93. On May 9, Merrill Lynch executed transaction documents for the ML Conduit. Keleghan Narrative, Ex. B.18.

94. On May 13, the Special Committee appointed Johnson & Colmar as legal counsel to the Special Committee. Morgan Narrative, ¶ 7.

95. On May 21, the Debtors entered into a confidentiality agreement with Ares Management and MidOcean Capital (“Ares/MidOcean”). Morgan Narrative, Ex. B.1.

96. During the week of May 26, Ares/MidOcean commenced due diligence with the Debtors’ management presentations and with on-site visits to the Debtors’ data room. Morgan Narrative, Ex. B.1.

97. On May 30, Lightyear submitted an offer with respect to an alternative plan for reorganization and acquisition of the Company. Morgan Narrative, Ex. B.1.

98. On June 2, the Debtors entered into a confidentiality agreement with JLL Partners (“JLL”). Morgan Narrative, Ex. B.1.

99. On June 7, the Special Committee indicated to Lightyear that its bid was not a Binding Offer, and that, even if it were a Binding Offer, it was not a Qualifying Bid having a higher and better value to the Debtors’ Estates. Morgan Narrative, Ex. B.1. The Special Committee encouraged Lightyear to improve its proposal and offered to facilitate additional due diligence if that would be helpful to Lightyear in submitting an improved offer. Morgan Narrative, Ex. B.1.

100. On June 13, Bear Stearns submitted a proposal. On the same day, the Special Committee responded to Bear Stearns that its bid was not a Qualifying Bid having a higher and better value to the Debtors’ Estates. Morgan Narrative, Ex. B.1. The Special Committee encouraged Bear Stearns to improve its proposal and offered to facilitate additional due diligence. Morgan Narrative, Ex. B.1.

101. During June 2003, the Special Committee received inquiries from six other potential bidders or bidder groups. Morgan Narrative, Ex. B.1. Each of these potential bidders participated in varying degrees in the alternate sale process. Morgan Narrative, Ex. B.1.

102. The Special Committee's due diligence procedures provided potential bidders with requested information while protecting the Debtors' valuable customer data and confidential information in a fair and reasonable manner. Weber Narrative, ¶ 3; Calabrese Narrative, ¶ 17. The Special Committee provided all interested parties with a detailed bid procedures letter to assist them in the due diligence process. Morgan Narrative, ¶ 15.

103. On June 19, the Special Committee sent letters to all of the bidder groups that had expressed an interest in the alternate sales process, reminding them that the last date on which the Lock Up Agreement remained subject to the submission of binding offers for an Alternate Transaction was June 26, 2003 and advising all potential bidders to submit their bids on or before that date. Weber Narrative, ¶ 3; Morgan Narrative, Ex. B.1.

104. On June 26, Lightyear and Bear Stearns both submitted new proposals, while Ares/ MidOcean and JLL submitted a joint proposal. Weber Narrative, ¶ 3; Morgan Narrative, ¶ 16 and Ex. B.1; Debtors Ex. 39-41.

105. Also on June 26, NCO Group (a publicly-traded competitor of the Debtors) submitted a proposal without signing a confidentiality agreement or performing due diligence. Weber Narrative, ¶ 3; Morgan Narrative, ¶ 16, and Ex. B.1; Debtors Ex. 42.

106. From June 26 through July 7, 2003, the Special Committee and TRG evaluated the four proposals (one each from Lightyear and Bear Stearns, one proposal submitted jointly by Ares/ MidOcean and JLL, and one from competitor NCO Group). Weber Narrative, ¶ 3; Morgan Narrative, ¶ 16; Calabrese Narrative, ¶ 19. The Special Committee determined that

none of the proposals constituted a Binding Offer that would give the Consenting Lenders the right to terminate the Lock Up Agreement. Weber Narrative, ¶ 3; Morgan Narrative, ¶ 16, and Ex. B.1; Calabrese Narrative, ¶ 19.

107. Even though none of the four proposals constituted a Binding Offer, the Special Committee requested TRG to value each of the proposals to determine whether, if each of them had been a Binding Offer, it would have constituted a “higher and better” valuation than the Restructuring Transactions.<sup>4</sup> Calabrese Narrative, ¶ 19.

108. TRG valued the Lightyear proposal at \$255 million, the Bear Stearns proposal at \$261 million, the joint Ares/ MidOcean and JLL proposal at \$258 million, and the NCO Group proposal at \$250 million. TRG concluded (and the Special Committee concurred) that none of the proposals would have constituted a “higher and better” valuation than the Restructuring Transactions. Calabrese Narrative, ¶ 19; Debtors Ex. 44.

109. All four of these valuations used assumptions favorable to the bidder, and a more rigorous analysis with more realistic assumptions would likely have lowered the valuations. Calabrese Narrative, ¶ 19.

110. FTI also reviewed the proposals and concurred that none of the proposals was a Qualifying Bid. Nicastro Narrative, ¶¶ 13-14.

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<sup>4</sup> For comparability purposes, TRG used a midpoint value of \$320 million from the range of \$310-\$331 million for its valuation of the Restructuring Transactions as described in the Debtors’ Disclosure Statement. Of this \$320 million, \$175 million was debt and \$145 million was equity. Because the Lenders were entitled to 72.5% of the equity under the Plan, TRG valued the benefit to the Debtors’ Estates under the Restructuring Transactions at \$280 million ( $\$175 \text{ million} + (72.5\%)(\$145 \text{ million})$ ). In its separate valuation, the Special Committee used the high end of that range – \$331 million – for the Restructuring Transactions. Therefore, the Special Committee valued the benefit to the Debtors’ Estates under the Restructuring Transactions at \$288.1 million ( $\$175 \text{ million} + (72.5\%)(\$156 \text{ million})$ ).



111. On July 7, 2003, the four bidders were notified of the Special Committee's decision that none of the proposals was a Binding Offer. Weber Narrative, ¶ 3; Morgan Narrative, Ex. B.1.

**The Additional Solicitation and Review Process for Alternate Bids  
to Purchase the Preferred Stock and Conduit Financing Package  
(July 2003 – September 2003)**

112. On July 1, MDP notified the Debtors of its willingness to allow other parties to replace it as the purchaser of preferred stock convertible into 20% of the equity of Newco. Weber Narrative, ¶ 3; Morgan Narrative, ¶ 22 and Ex. B.1.

113. In correspondence filed with the Bankruptcy Court on July 8, MDP proposed that any qualified person or institution, including all holders of senior claims with respect to the Debtors, be permitted to participate in an extension of the bidding process until August 1. Docket No. 384; Weber Narrative, ¶ 3; Morgan Narrative, ¶ 22 and Ex. B.1.

114. In this same correspondence, MDP offered to support an amendment to the Lock Up Agreement to authorize an alternative investor to replace this "Preferred Stock and Conduit Financing" package if a series of conditions were satisfied prior to the expiration of the extended non-exclusivity period (i.e., by August 1, 2003). Docket No. 384. These conditions included:

- (a) The new investor had to make a Binding Offer for a complete replacement of both the preferred stock investment and the conduit components of the Preferred Stock and Conduit Financing package;
- (b) The terms and conditions of the executed, definitive agreements with respect to each component of the package had to be higher and better than the terms of the MDP and Merrill Lynch Preferred Stock and Conduit Financing package (as defined in the Lock Up Agreement's Summary of Process and Procedure);

- (c) The substitute Preferred Stock and Conduit Financing package had to be a component of a reorganization plan, all components of which were substantially the same as the Reorganization Plan;
- (d) Except for supplanting MDP's and Merrill Lynch's right to make the Preferred Stock and Conduit Financing investments, conditions, rights and remedies included in the Debtors' Restructuring Transactions and Reorganization Plan could not be changed; and
- (e) the Debtors and required Consenting Lenders had to approve an amendment to the Lock Up Agreement in accordance with the terms thereof to replace the Preferred Stock and Conduit Financing package with the substitute package and to add the new investor as a party thereto, treating the substitute package as an Alternate Transaction that terminated the original Lock Up Agreement.

115. After receiving MDP's July 1 correspondence, the Special Committee began a solicitation process for the Substitute Preferred Stock and Conduit Financing package.

Weber Narrative, ¶ 3; Morgan Narrative, ¶¶ 22-23 and Ex. B.1.

116. On July 9, the Special Committee's role was expanded by the Debtors' board and extended through August 1, to oversee the process and marketing the Newco Preferred Stock and Conduit Financing opportunity, as well as to evaluate any other unsolicited offers for the Debtors' businesses. Weber Narrative, ¶ 3; Morgan Narrative, ¶ 22 and Ex. B.1.

117. On July 10, the Special Committee sent letters to the four bidders from which it had received proposals on June 26 for an Alternative Transaction, informing them of MDP's offer to permit Qualified Bidders to submit Binding Offers to provide a Substitute Preferred and Conduit Financing package, on terms and conditions that were higher and better than the terms and conditions of the Preferred Stock and Conduit Financing set forth in the Restructuring Proposal. Weber Narrative, ¶ 3; Morgan Affidavit, ¶ 23 and Ex. B.1.

118. On July 11, the Special Committee sent letters to all current known holders of Senior Claims, bondholders, and preferred stockholders announcing the opportunity to

provide Substitute Preferred and Conduit Financing on terms higher and better than the current proposal. Weber Narrative, ¶ 3; Morgan Affidavit, ¶ 23 and Ex. B.1.

119. Also on July 11, the Special Committee sent the same letter to approximately 30 entities that the Debtors had approached over the previous several years for conduit financing. Weber Narrative, ¶ 3; Morgan Affidavit, ¶ 23 and Ex. B.1.

120. During the week of July 11, the Special Committee communicated this opportunity to all parties that had expressed an interest in the alternate sale process as well. Weber Narrative, ¶ 3; Morgan Affidavit, ¶ 23 and Ex. B.1.

121. In all of these communications, the Special Committee explained that MDP's offer to support an amendment to the Lock Up Agreement authorizing a Substitute Preferred and Conduit Financing was subject to the conditions described above on or before August 1, 2003. Morgan Affidavit, ¶ 23 and Ex. B.1.

122. The time permitted for the submission of bids was reasonable and fair given the circumstances. Resnick, Vol. III, pg. 80. It was possible to secure a fully committed, documented conduit facility in "3 to 4 weeks." Ruban Report, p. 9, DSC Ext. 50.

123. On July 14, Delaware Street Capital Master Fund, L.P. ("DSC", a potential bidder that held a portion of the Senior Claims not subject to the Lock Up Agreement), contacted the Special Committee expressing interest in the Substitute Preferred and Conduit Financing. Weber Narrative, ¶ 3; Morgan Narrative, Ex. B.1.

124. On July 18, the Debtors executed a confidentiality agreement with DSC and provided a substantial amount of non-public information to DSC. Weber Narrative, ¶ 3; Morgan Narrative, Ex. B.1.

125. On July 21, July 25, and August 1, the Special Committee received letters from Lightyear expressing a proposal that included certain elements of a Substitute Preferred and Conduit Financing. Weber Narrative, ¶ 3; Morgan Narrative, Ex. B.1.

126. On July 23, DSC representatives visited the Debtors and received a presentation by the Debtors' senior management and interviewed other management personnel. Weber Narrative, ¶ 3; Morgan Narrative, Ex. B.1.

127. On July 25, the Special Committee announced that as a result of various marketing efforts, the Special Committee had received and responded to at least 17 requests for additional information. Weber Narrative, ¶ 3; Morgan Narrative, Ex. B.1.

128. On July 31, Ares/MidOcean submitted an offer for the Debtors' preferred stock portion of the package. In its proposal, Ares/MidOcean proposed that the conduit would be provided by Merrill Lynch or one of its affiliates. Morgan Narrative, ¶ 25; Debtors Ex. 46.

129. On August 1, DSC proposed a restructuring transaction rather than a bid for the Preferred Stock and Conduit Financing package. Morgan Narrative, ¶ 25; Debtors Ex. 47.

130. Also on August 1, Lightyear forwarded to the Debtors a letter from CDC Mortgage Capital ("CDC") announcing that CDC was prepared to provide a facility under substantially similar terms and conditions as the ML Conduit. Debtors Ex. 49.

131. Also on August 1, Parthenon Capital and Arrow Financial Services (Parthenon/Arrow) submitted a proposal for the Preferred Stock and Conduit Financing package. Morgan Narrative, ¶ 25; Debtors Ex. 51.

132. The Special Committee ultimately received four proposals (Lightyear, Parthenon, and Ares/MidOcean proposals for the Preferred Stock and Conduit Financing package and DSC's August 1, 2003 proposal for a restructuring transaction) to review. Morgan Narrative, ¶ 25.

133. On August 7, after reviewing the proposals, TRG sent a letter to the Special Committee announcing its conclusion that none of the four proposals met the requirements of MDP's offer to support an amendment to the Lock Up Agreement because none of the four proposals constituted a Binding Offer. Calabrese Narrative, ¶ 21; Debtors Ex. 45.

134. The DSC proposal was rejected because this proposal, as noted above, included changes to the debt structure and included no preferred stock or conduit facility. Its significant changes to the terms and conditions of the Restructuring Transaction also caused it not to be in conformity with the terms of the MDP agreement to support an amendment to the Lock Up Agreement. In addition, the proposal stated that it was non-binding, meaning that it was not a valid Binding Offer. Morgan Narrative, ¶ 30; Calabrese Narrative, ¶ 20;

135. Lightyear's proposal was not a Binding Offer because the proposal referenced a previous proposal that was subject to additional due diligence and involved the use of several professional firms at a cost to the Debtors of up to \$500,000, thus indicating the non-binding nature of the proposal. The letter from CDC attached to Lightyear's proposal was not a commitment for a conduit financing facility. Morgan Narrative, ¶ 29; Calabrese Narrative, ¶ 21;

136. The Ares/MidOcean proposal was rejected because of the reference to Merrill Lynch providing a conduit, when no evidence was provided that Merrill Lynch would provide such a conduit without the participation of MDP. The proposed change in the Break Up

Fee was not in conformity with the terms of the MDP agreement to support an amendment to the Lock Up Agreement. Morgan Narrative, ¶ 28; Calabrese Narrative, ¶ 21.

137. The Parthenon/Arrow proposal was rejected because (like the DSC proposal) the proposal included significant changes to the terms and conditions of the Restructuring Transaction, causing it not to be in conformity with the terms of the MDP agreement to support an amendment to the Lock Up Agreement. Morgan Narrative, ¶ 31; Calabrese Narrative, ¶ 21. In addition, the proposal did not provide a term sheet for the conduit, making it impossible to assess the nature of the conduit. Finally, the proposal was non-binding until the completing of additional due diligence, meaning that it was not a valid Binding Offer. Morgan Narrative, ¶ 31; Calabrese Narrative, ¶ 21.

138. On August 8, FTI also sent a memo to the Special Committee concurring that none of the four proposals constituted a Binding Offer for a Substitute Preferred and Conduit Financing. Nicastro Narrative, ¶¶ 13-14.

139. Also on August 8, the Debtors' board extended the authority of the Special Committee to continue until the date of confirmation of a Plan of Reorganization. Morgan Narrative, ¶ 33.

140. On August 8, Parthenon/Arrow submitted a revised proposal which expired August 13. Morgan Narrative, ¶ 33. On August 14, Parthenon/Arrow submitted a revised proposal which expired August 20, 2003.

141. On August 20, the Special Committee responded to the Parthenon/Arrow August 8 and August 14 proposals, stating that on the basis of its review, the Special Committee was not in a position to recommend to the Debtors' board that it should seek

an amendment to the Lock Up Agreement in order to further pursue the Parthenon/Arrow proposal. Morgan Narrative, ¶ 36.

142. On August 23, DSC sent a letter to the Debtors revising its offer. Morgan Narrative, ¶ 36.

143. Until the date of the Confirmation Hearing, the Special Committee continued to receive and review any new bids (whether for the entire Company or for the Preferred Stock and Conduit Financing package) or any expression of interest from any potential bidder. Morgan Narrative, ¶ 37.

144. Since beginning the process and in an effort to explore all plausible restructuring alternatives, the Debtors engaged in discussions with well over 100 separate entities. Debtors' Ex. 140.

#### **ADDITIONAL FINDINGS OF FACT AS TO THE PLAN**

145. Notice of the following was adequate and appropriate under the circumstances:

- (a) The date set for the hearing on confirmation of the Plan;
- (b) The last date and time to file and deliver objections to confirmation of the Plan;
- (c) The last date and time for receipt of ballots;
- (d) The last date and time to file and deliver objections and claims relating to the assumption, assumption and assignment or rejection of executory contracts and unexpired leases to be assumed or rejected under the Plan; and
- (e) The Debtors' rejection of the executory contracts and unexpired leases designated for rejection in the Plan Supplement.

146. The Plan has a reasonable likelihood of success and is not likely to be followed by liquidation or the need for further financial reorganization. Keleghan Narrative, ¶

28. In particular, Newco, the Reorganized Subsidiaries, Union Trust, Union LLC, and Residual Union LLC will be solvent and adequately capitalized on the Effective Date. Keleghan Narrative, ¶ 28.

147. The Senior Secured Lenders participated actively in all phases of the negotiations preceding submission of the Plan, had economic interests contrary to those of the Debtors and MDP, were represented by experienced and competent legal and financial advisors, were led by a senior bank officer with 22 years of experience in banking and significant experience in the work-out and restructuring of troubled debt. The Senior Secured Lenders had no incentive to collude or concede anything to MDP if they did not conclude that such concessions would serve their interests by maximizing value to the estates. Siffer Narrative.

148. Pursuant to Sections 1122(a) and 1123(a)(1) of the Bankruptcy Code, the Plan designates separate Classes of Claims and Interests, other than Administrative Expense Claims and Priority Tax Claims, each of which contains only Claims or Interests that are substantially similar to the other Claims or Interests within that Class. Plan Article II. In accordance with Section 1122(b) of the Bankruptcy Code, the Plan provides for a Class of allowed general unsecured Claims of \$5,000 or less for each Debtor. Plan Article II.D.5.a. These Classes are reasonable and necessary for administrative convenience.

149. Pursuant to Section 1123(a)(2) of the Bankruptcy Code, the Plan specifies each Class of Claims or Interests that is not impaired under the Plan. Plan Article II.

150. Pursuant to Section 1123(a)(3) of the Bankruptcy Code, the Plan specifies the treatment of each Class of Claims or Interests that is impaired under the Plan. Plan Article II. Each holder of Class 5A is entitled to be considered for designation as a Critical Business Claim and to be assigned a portion of the consideration that would otherwise be



payable to the DIP Lenders and Senior Secured Lenders. Plan Article II.D.5.a.; Plan Article I.A.31.

151. Pursuant to Section 1123(a)(4) of the Bankruptcy Code, the Plan provides the same treatment for each Claim or Interest within a particular Class. Plan Article II.D.

152. Articles III and VII and various other provisions of the Plan provide adequate means for the Plan's implementation.

153. Section III.I.1 of the Plan provides that the Newco Charter and the certificate of incorporation or formation documents, as the case may be, of each of the Reorganized Subsidiaries shall be amended to satisfy the provisions of the Bankruptcy Code, including the requirements of Section 1123(a)(6) of the Bankruptcy Code. The Plan provides for an appropriate distribution of voting power among the classes of securities possessing voting power.

154. Section III.I.2 of the Plan provides that, pursuant to Sections 1129(a)(5)(A)(i), (ii) of the Bankruptcy Code, the initial directors and officers shall be appointed as provided in the Plan, which method is in a manner consistent with the interests of the holders of Claims and Interests and public policy.

155. The Plan provides for the assumption, assumption and assignment or rejection of the executory contracts and unexpired leases of the Debtors not previously assumed, assumed and assigned or rejected pursuant to Section 365 of the Bankruptcy Code and appropriate authorizing orders of the Court. Plan Article VIII.

156. As authorized by Section 1123(b)(3) of the Bankruptcy Code, Section IX.H of the Plan provides that, except as provided in the Plan, all causes of action recoverable

under Chapter 5 of the Bankruptcy Code, all claims against third parties, and all other causes of action owed to or in favor of the Debtors, are preserved and retained for enforcement solely and exclusively by and in the entities designated in Section IX.H.

157. Article X.D.1 of the Plan provides for the release of a number of claims of the Debtors against various parties. The releases are based upon consideration by the Debtors and the Senior Secured Lenders of theoretical claims, including those investigated and raised by the Committee, and the legal and factual analyses for those claims. The probability of success of any such claim is highly problematic, uncertain and would necessarily require substantial costs, expenditures and delays. In addition, the releases are an integral element of the overall Plan. Most significantly, as evidenced by the extensive record in these Chapter 11 proceedings, the Official Unsecured Creditors' Committee performed an in-depth and wide ranging investigation (including numerous and extensive depositions and the production of hundreds of thousands of pages of documents) of causes of actions that might be available to the Debtors, including possible claims against the Released Parties (defined below). Based upon its independent investigation, the Committee asserted those claims in its objections to the Plan and in litigation that was filed against the Senior Secured Lenders in this Court. The Committee has resolved all of its objections to the Plan, including the Releases proposed in the Plan, and now fully supports and endorses the Plan. Confirmation Hearing Transcript, Vol I, pp. 15-18.

158. The lone remaining objector, DSC, has submitted no proof as to any even theoretical value of the claims being released.

159. There is no evidence that any person or entity being released by the estates committed wrongful acts that would justify a future claim.

160. Considering the probability of success in litigation; the difficulties to be encountered in the matter of collection; the complexity of the litigation involved and the expense, inconvenience and delay necessarily attending it; the Committee's endorsement of the plan, including the releases, following the Committee's extensive independent investigation and consideration of possible claims, and the paramount interests of the Debtors and creditors and a proper deference to their reasonable views, the settlements and compromises embodied in the Plan, including Article X thereof, and implemented through this Confirmation Order and various releases and injunctions, including those in Sections X.B-G of the Plan, are fair, equitable, reasonable and in the best interests of the Debtors, and their respective estates and creditors. Resnick Narrative, ¶ 44; Siffer Testimony, Confirmation Hearing Transcript, Volume II, pp. \_\_\_\_; Wood Testimony, Confirmation Hearing Transcript, Volume II, pp. \_\_\_\_.

161. As noted, the Committee has announced its wholehearted and full support of confirmation of the Plan and has withdrawn all objections and dismissed all litigation (including resolving all objections and claims). Confirmation Hearing Transcript, Volume I, pp. 15-18. This support resulted from the good faith negotiations among the Debtors, the Committee, the Senior Secured Lenders and MDP. These negotiations led to a modification of the Plan at the start of the Confirmation Hearing to include a Pro Rata allocation among Classes 5A and 6A (excluding certain claims) of (i) 5% of Newco Common Stock; (ii) \$500,000; and (iii) the exchange of corresponding mutual releases between and among the Debtors, Senior Secured Lenders, the Committee Members, EOS Partners, and MDP, and including, but not limited to, releases regarding and dismissal of pending lender liability and securities fraud litigation. The 5% of Newco Common Stock will be comprised of a 3 1/2% reduction and a

1 1/2% reduction in the Newco Common Stock otherwise to be received by the Senior Secured Lenders and MDP, respectively. Confirmation Hearing Transcript, Volume II, p. \_\_\_.

162. The Plan includes additional appropriate provisions that are not inconsistent with applicable provisions of the Bankruptcy Code, including: (i) the provisions of Article VIII of the Plan governing the assumption, assumption and assignment or rejection of executory contracts and unexpired leases; (ii) the provisions of Articles VI and VII of the Plan governing distributions on account of Allowed Claims, particularly as to the timing and calculation of amounts to be distributed; and (iii) the provisions of Article V of the Plan establishing procedures for resolving Disputed Claims and making distributions on account of such Disputed Claims once resolved.

163. Pursuant to the Disclosure Statement Order, the Debtors timely mailed or caused to be mailed, by first class mail, postage prepaid, to each creditor entitled to receive, a solicitation package containing, among other things:

- (a) written notice of (i) the Court's approval of the Disclosure Statement, (ii) the time fixed for filing objections to and the hearing on, confirmation of the Plan, and (iii) related matters described in the Disclosure Statement Order;
- (b) the Plan;
- (c) the Disclosure Statement (excluding unattached exhibits described in paragraph 8 of the Disclosure Statement Order);
- (d) a solicitation letter from the Debtors;
- (e) a letter from the committee; and
- (f) a ballot and a ballot envelope (collectively, the "Full solicitation Package"). Docket Nos. 920-928.

164. Pursuant to the Disclosure Statement Order, the Debtors timely mailed to all creditors entitled to receive the following:

- (a) notice that such Classes are unimpaired under the Plan;
- (b) the name and address of the person from whom the Plan and the Disclosure Statement may be obtained;
- (c) the time fixed for filing objections to, and the hearing on, confirmation of the Plan. Docket Nos. 920-928.

165. Pursuant to the Disclosure Statement Order, the Debtors timely mailed to all holders of interests classified in Classes 18, 19 and 20 the following:

- (a) an abridged Disclosure Statement and a copy of the Plan (the “Summary Disclosure Statement”); and
- (b) written notice of (i) the time fixed for filing objections to and the hearing on, confirmation of the Plan; (ii) the name and address of the person from whom the unabridged Disclosure Statement may be received; (iii) certain related matters (collectively, the “Summary Mailing”). Docket Nos. 920-928.

166. Pursuant to the Disclosure Statement Order, the Debtors also timely published the notice concerning the Confirmation Hearing in the following publications:

- (a) The Wall Street Journal (National Edition); and
- (b) St. Louis Post-Dispatch. Docket No. 739.

167. The Debtors proposed the Plan in good faith and not by any means forbidden by law. Keleghan Testimony, Confirmation Hearing Transcript, Volume II, pp. \_\_\_\_; Weller Testimony, Confirmation Hearing Transcript, Volume II, pp. \_\_\_\_; Wood Testimony, Confirmation Hearing Transcript, Volume II, pp. \_\_\_\_; Resnick Narrative, ¶ 42. In addition, there is no allegation or evidence that the Senior Secured Lenders or MDP acted in bad faith; in fact, those parties, while vigorously negotiating the underlying transactions consistent with their legal responsibilities, acted in good faith throughout the transactions. Consistent with the overriding purpose of Chapter 11, the Plan is designed to allow the Debtors to reorganize by providing them with a capital structure that will allow them to satisfy their pre-petition

obligations with sufficient liquidity and capital resources to conduct their businesses. Moreover, the Plan itself, and the process leading to its formulation, provide additional and independent evidence of the Debtors' good faith.

168. The lone objector, DSC, has expressly acknowledged that the Senior Secured Lenders acted in good faith.

169. Pursuant to Standing Order No. 2 and Articles I.A.115 and II.B. of the Plan, Professionals or other entities requesting compensation or reimbursement of expenses for services rendered before the Effective Date shall file with the Court an application for final allowance of compensation and reimbursement of expenses, which the Court will review for reasonableness under Sections 328 and 330 of the Bankruptcy Code and any applicable case law and for payment in accordance with the Final DIP Financing Order. Pursuant to Section 331 of the Bankruptcy Code and Standing Order #2, the Court has authorized the monthly payment of certain of the fees and expenses of Professionals incurred in connection with the Reorganization Cases. All such fees and expenses, however, are subject to further review by the Court and further remain subject to final review by the Court for reasonableness and compliance with the Final DIP Order, the Bankruptcy Code and the Plan.

170. The Debtors have disclosed the identity and affiliations of proposed directors of the Reorganized Debtors, the manner in which the additional directors will be chosen and the identity and compensation of insiders who will be employed or retained by the Reorganized Debtors. Docket No. 960. The Debtors also have disclosed their officers. Docket No. 960. In general, the Debtors will retain current management post-Confirmation. Keleghan Narrative, Ex. B.16; Docket No. 960. The appointment or continuance of the proposed directors

and officers is consistent with the interests of the holders of Claims and Interests and public policy.

171. The Debtors' businesses do not involve the establishment of rates over which any regulatory commission has or will have jurisdiction after Confirmation.

172. With respect to each impaired Class of Claims or Interests for each Debtor, each holder of a Claim or Interest in such Class has accepted the Plan or will receive or retain under the Plan on account of such Claim or Interest property of a value, as of the Effective Date, that is not less than the amount that such holder would receive or retain if the applicable Debtor were liquidated on the Effective Date under Chapter 7 of the Bankruptcy Code.

Calabrese Narrative, ¶ 10, Ex. B. 5-6.

173. As indicated in Article II of the Plan, Classes 2A, 4A, and 9A are unimpaired. The holders of Allowed Claims in Class 2B, if any, will receive on the Effective Date property of a value equal to the allowed amount of such Claim. Except with respect to Class 6A, all other impaired Classes of Claims that voted on the Plan have accepted the Plan, pursuant to Sections 1126(c) and (d) of the Bankruptcy Code.<sup>5</sup> Docket No. 918. Because the Plan provides that the holders of Allowed Claims and Interests in Classes 7A, 8A, 10A, 5B, 6B, 8B, 9B and 10B will not receive or retain any property on account of these Interests and because Class 6A has not voted to accept the Plan, these Classes are deemed not to have accepted the Plan pursuant to Section 1126(g) of the Bankruptcy Code.

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<sup>5</sup> As part of the resolution of the Committee's objections to the Plan, the Committee members, including its Chairman, EOS Partners, support and accept confirmation of the Plan. This would result in acceptance of the Plan by Class 6A. However, whether Class 6A accepted or rejected the Plan is not of consequence, as the Plan is confirmable under either scenario.

174. The Plan provides for the treatment of Administrative Expense Claims, Priority Tax Claims and Claims entitled to priority pursuant to Section 507(a) of the Bankruptcy Code in the manner required by Section 1129(a)(9) of the Bankruptcy Code. Plan Article II.B.

175. All fees payable under 28 U.S.C. §1930 shall be paid as soon as reasonably practicable following the Effective Date in cash equal to the amount of such fees. Plan Article XII.A.

176. From and after the Effective Date, the Reorganized Debtors will continue to provide for the payment of all retiree benefits (as such term is defined in Section 1114 of the Bankruptcy Code), if any. Plan Article XIII.D.

177. The Plan does not discriminate unfairly and is fair and equitable with respect to the holders of the Claims and Interests classified in Classes 5A, 6A, 7A, 8A, 10A, 5B, 6B, 8B, 9B and 10B.

178. With respect to holders of Claims against or Interests in Union, the Plan is fair and equitable. Article III.E. of the Plan provides that the existing Equity Securities and Interests in the Debtors and Union LLC will be cancelled and all related obligations discharged. Plan Article III.C.5; Plan Article III.E.3. Old OSI will receive no distribution on account of its equity Interest in Union or Union LLC, and no class junior to the dissenting classes will receive a distribution on account of their Claims and Indentures. Plan Article III.E.3.

179. Except as to the Senior Secured Lender claims, the modifications to the Plan do not adversely change the treatment of the Claim of any creditor or interest of any equity security holder. Both the Senior Secured Lenders and MDP have accepted the modifications. Confirmation Hearing Transcript, Volume I, pp. 17-18.



180. The objections of the holders of the Environmental Claims have been fully resolved by the modifications to the Plan and in accordance with the corresponding Term Sheet. Debtors' Ex. 143.

181. As a result of these compromises and settlements, the several objections of the holders of Environmental Claims have been withdrawn and those parties support confirmation of the Plan. Confirmation Hearing Transcript, Volume III, p. \_\_\_\_

182. All other objections to confirmation, except the objections of DSC, have been resolved or withdrawn. Id.; Confirmation Hearing Transcript, Volume I, pp. 17.

183. Each of the conditions precedent to the entry of this Confirmation Order, as set forth in the Plan, has been or is reasonably expected to be satisfied prior to the Effective Date.

#### **CONCLUSIONS OF LAW**

C1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. §§157(a) and 1334 and Local District Court Rule 9.01(b)(1).

C2. This Court upholds the admissibility of all 10 of the narrative direct testimonies with exhibits and other referenced documents, to the extent the Court has not previously sustained objections to specific portions thereof.

C3. This is a core proceeding pursuant to 28 U.S.C. §157(b).

C4. Each of the Debtors was and is qualified to be a debtor under Section 109 (a) of the Bankruptcy Code.

C5. Venue in the Eastern District of Missouri was proper as of the Petition Date and continues to be proper under 28 U.S.C. §1408.

C6. The Debtors have complied with all applicable provisions of the Bankruptcy Code and Bankruptcy Rules.

C7. The specification of impairment and nonimpairment under the Plan complies with Section 1124 of the Bankruptcy Code.

C8. The notice provided by the Debtors of the Plan and any modifications to the Plan was adequate and appropriate under the circumstances.

C9. The modifications to the Plan comply in all respects with Section 1127 of the Bankruptcy Code, Bankruptcy Rule 3019 and all other provisions of the Bankruptcy Code, including Sections 1122 and 1123, and do not adversely change the treatment under the Plan of any Claims or Interests.

C10. In light of the nature and extent of the modifications to the Plan, no additional disclosure or solicitation under Section 1125 of the Bankruptcy Code is required with respect to the modifications.

C11. Pursuant to Section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all holders of Claims and Interests that previously have accepted the Plan are deemed to have accepted the Plan, as amended by the modifications.

C12. Solicitation of acceptances of the Plan and the elections set forth in the Ballots by the Debtors comply with Sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rule 3018, the Disclosure Statement Order and all other applicable law.

C13. The Disclosure Statement, the Ballots and the Disclosure Statement Order comply with the provisions of the Bankruptcy Code and Bankruptcy Rules, including, but not limited to, Section 1125 of the Bankruptcy Code and Bankruptcy Rules 3017 and 3018.

C14. Pursuant to Section 1125(e) of the Bankruptcy Code, the Debtors' transmittal of Plan solicitation packages, solicitation of acceptances of the Plan and participation in the issuance and distribution of any securities pursuant to the Plan shall not cause the Debtors to be liable, on account of such solicitation or participation, for violation of any applicable law, rule or regulation governing solicitation of acceptance of a plan of reorganization or the offer, issuance, sale, or purchase of securities.

C15. Pursuant to Section 1145(a)(1) of the Bankruptcy Code, the offering, issuance and distribution of any securities issuable pursuant to the Plan in respect of Claims or Interests shall be exempt from Section 5 of the Securities Act and any state or local law requiring registration prior to the offering, issuance, distribution or sale of securities.

C16. Pursuant to Section 1145(a)(2) of the Bankruptcy Code, the offering, issuance and distribution of Newco Common Stock shall be exempt from Section 5 of the Securities Act and any state or local law requiring registration prior to the offering, issuance, distribution or sale of securities.

C17. Pursuant to and to the fullest extent permitted under Section 1145 of the Bankruptcy Code, the resale of any securities issuable pursuant to the Plan in respect of Claims or Interests shall be exempt from Section 5 of the Securities Act and any state or local law requiring registration prior to the offering, issuance, distribution or sale of securities.

C18. Pursuant to Section 1146(c) of the Bankruptcy Code, the issuance, transfer or exchange of any security under the Plan or the making or delivery of any instrument or transfer pursuant to, in implementation of, or as contemplated by the Plan or the revesting, transfer or sale of any real or personal property of the Debtors pursuant to, in implementation of, or as contemplated by the Plan; the creation, modification, consolidation or recording of any

mortgage, deed of trust or other security interest, the securing of additional indebtedness by such means or by other means or the additional securing of existing indebtedness by such means or by other means; the making, assignment or recording of any lease or sublease; or the making, delivery or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or other similar tax, mortgage tax, real estate transfer tax, mortgage recording tax or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall be, and hereby are, directed to accept for filing and recordation any of the foregoing instruments or other documents.

C19. The Plan complies with the applicable requirements of the Bankruptcy Code and Bankruptcy Rules, including Sections 1123 and 1129.

C20. In accordance with Section 1129(a)(2) the Debtors have complied with the applicable provisions of the Bankruptcy Code.

C21. As discussed further below, in accordance with Section 1129(a)(3), the Plan has been proposed in good faith and not by any means forbidden by law.

C22. In accordance with Section 1129(a)(4), any payment made or to be made by the Debtors and Newco for services or for costs and expenses in connection with these Chapter 11 cases and the Plan has been approved by or subject to the approval of the Bankruptcy Court as reasonable.

C23. The Debtors have disclosed all of the information required by Section 1129(a)(5), including the identity and affiliations of the individuals proposed to serve as directors and officers of Newco and the Reorganized Subsidiaries and the nature of compensation of those parties.

C24. Section 1129(a)(6) does not apply to the Debtors.

C25. With respect to Section 1129(a)(7), each impaired class of Claims or Interests will receive or retain under the Plan on account of such Claim or Interest property of a value as of the Effective Date that is not less than the amount that such holder would so receive or retain if the Debtors were liquidated under Chapter 7.

C26. With respect to each class of Claims and Interests, such class has accepted or is not impaired under the Plan.

C27. Class 3A has accepted the Plan in accordance with Section 1126(c) of the Bankruptcy Code. Accordingly, all holders of Claims in Class 3A, including the only remaining objector to the Plan, DSC, is bound by that vote and the acceptance of the Plan by Class 3A.

C28. The Plan provides that the holders of the types of Claims described in Section 1129(a)(9) will be treated in accordance with that Section and will receive the consideration required thereunder.

C29. At least one class of Claims that is impaired under the Plan has accepted the Plan, excluding insiders.

C30. Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of any of the Debtors, Newco, the Reorganized Subsidiaries, or the Union Trust.

C31. The Plan provides for the payment of all fees payable under Section 1930 of Title 28 on the Effective Date, as such fees may be determined by the Court at the Confirmation Hearing.

C32. The Plan provides for the continuation after the Effective Date of payment of all retiree benefits as required by Sections 1114 and 1129(a)(13) of the Bankruptcy Code.

C33. Provided the ML Conduit is consummated pursuant to the terms and conditions approved herein, the assets and liabilities of Portfolio Acquisitions, LLC, the special purpose entity formed for the sole purpose of acting as the borrower under the ML Conduit, shall be considered at all time to be legally separate from the assets and liabilities of Newco and the Reorganized Subsidiaries.

### **Good Faith**

C34. The Plan meets the requirement of Section 1129(a)(3) of the Bankruptcy Code that a plan be proposed “in good faith and not by any means forbidden by law.”

C35. A plan is proposed in good faith “if there is a likelihood that the Plan will achieve a result consistent with the standards prescribed under the Plan.” Hanson v. First Bank of South Dakota, 828 F.2d 1310, 1313 (8<sup>th</sup> Cir. 1987). “Generally, a plan is proposed in good faith if there is a likelihood that the plan will achieve a result consistent with the standards prescribed under the Code.” In re Leslie Fay Cos., 207 B.R. 764, 781 (Bankr. S.D.N.Y. 1997) (quoting In re Texaco, Inc., 84 B.R. 893, 907 (Bankr. S.D.N.Y. 1988), appeal dismissed, 92 B.R. 38 (S.D.N.Y. 1988) (internal quotations omitted)). The focus under Section 1129(a)(3) is on whether the proposal of a plan is consistent with the objectives of the Bankruptcy Code. See In re Madison Hotel Assocs., 749 F.2d 410 (7th Cir. 1984) (“the important point of inquiry is the plan itself and whether such plan will fairly achieve a result consistent with the objectives and purposes of the Bankruptcy Code.”); In re PPI Enters. (U.S.), Inc., 228 B.R. 339, 347 (Bankr. D. Del. 1998).

C36. The Debtors have met the obligation to propose a plan in good faith under the Bankruptcy Code. The Plan was proposed for the purpose of reorganizing the Debtors, preserving the value of the Debtors’ estates, and distributing that value to the Debtors’ creditors.

C37. Prior to proposing the Plan, the Debtors were assisted by their professional advisors in conducting extensive analyses of the various reorganization strategies available to them under the circumstances. The Debtors analyzed the relevant information and assessed their particular circumstances in agreeing to the restructuring embodied in the Plan.

C38. The treatment of each class under the Plan accomplishes the rehabilitative goals of Chapter 11 by restructuring the debt obligations of the Debtors and providing the means through which the Debtors will operate a viable business going forward. The Plan allows creditors to realize fair and reasonable recoveries under the circumstances.

C39. The Plan is the result of extensive arm's-length, good faith negotiations between the Debtors and the primary interested parties. Faced with the loss of a conduit financing facility for its Portfolio Business, the NSA accounting irregularities, and multiple defaults under its secured credit facility, the Debtors spent over two years attempting to find a solution to an increasingly deteriorating business. The Debtors negotiated in good faith with a number of parties, resulting in a Restructuring Plan acceptable to its existing secured lenders and other constituents. As a result of these arm's length negotiations, the Plan provides fair value for creditors.

C40. The Supreme Court has recognized that “[t]he fundamental purpose of reorganization is to prevent a debtor from going into liquidation, with an attendant loss of jobs and possible misuse of economic resources.” In re Drexel Burnham Lambert Group, Inc., 138 B.R. 723, 760 (Bankr. S.D.N.Y. 1992) (quoting NLRB v. Bildisco & Bildisco, 465 U.S. 513, 528 (1984)). The Plan meets this primary objective underlying a Chapter 11 bankruptcy as well, by preserving approximately 6,500 jobs and realizing a prompt distribution of value to creditors.

The Plan provides the Debtors with a sound, restructured balance sheet and the legal and financial mechanisms to implement and effectuate prompt distributions to creditors.

C41. The Restructuring Plan requires continued participation of both pre-petition secured creditors and equity holders. Given the particular context of these Debtors, the pre-petition secured creditors and equity holders are the only parties that are able and willing to provide the best opportunity for the Debtors to survive. The Debtors, in evaluating all of their options, determined that this Plan provides it with the best chance at a fresh start.

C42. The various actions by the Debtors to explore possible restructuring alternatives are further indicia of the Debtors' good faith. The sales processes and alternative sales processes that were employed in connection with the Plan exposed the company and the proposed restructuring, including the Newco Preferred Stock and ML Conduit, to the market and ensured that full value was received by the Debtors and the other constituent groups. Notwithstanding the extensive marketing process, no party offered a superior restructuring proposal

C43. The Debtors' Senior Secured Lenders are substantially undersecured. Thus, no other unsecured creditor would be entitled to a distribution under a liquidation scenario. The Senior Secured Lenders and MDP have acted in good faith in supporting the Plan. Nevertheless, the Plan provides substantial recoveries and distributions to the unsecured creditors. The Unsecured Creditors' Committee fully supports and endorses confirmation of the Plan. This is further evidence that the Plan has been proposed in good faith.

C44. A large number of general unsecured creditors will receive payment in full of their claims through assignment of cash collateral by the Senior Secured Lenders, who would otherwise be entitled to payment of all of that cash collateral. Plan Article III.O.; Article II.D.5.



Similar assignments of collateral by secured creditors have been approved by this Court and other courts. See In re SPM Manufacturing Corp., 984 F.2d 1305 (1st Cir. 1993); In re Interco Incorporated, Case Nos. 91-00442-BKC (Bankr. E.D., Mo. Order, June 29, 1992). Secured creditors are generally free to assign their collateral as they see fit. In this case, the Senior Secured Lenders are voluntarily providing a distribution to creditors who otherwise would receive nothing.

C45. The Debtors and the other plan proponents, including the Senior Secured Lenders and MDP, have met their good faith obligations under section 1129(a)(3) of the Bankruptcy Code.

#### **Confirmation Over Objecting Dissenting Classes**

##### **A. General Requirements**

C46. The Plan satisfies the requirements under Section 1129(b) of the Bankruptcy Code for confirmation of the Plan with respect to its acceptance by Classes 5A, 6A, 7A, 8A, 10A, 2B, 5B, 6B, 8B, 9B and 10B.

C47. Section 1129(b) of the Bankruptcy Code provides that a plan of reorganization may be confirmed where the plan has not been accepted by all impaired classes of claims or equity interests (known as “cramdown”). Section 1129(b) provides in pertinent part:

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

11 U.S.C. § 1129(b)(1). Therefore, a plan may be confirmed over the dissenting vote of an impaired class or classes of claims and interests so long as the plan does not “discriminate

unfairly” and is “fair and equitable” with respect to such dissenting class or classes. The plan proponent bears the burden of proof by a preponderance of the evidence. See In re Cellular Info. Sys., Inc., 171 B.R. 926, 937 (Bankr. S.D.N.Y. 1994). The Debtors have satisfied confirmation of the Plan pursuant to section 1129(b) as to Classes 5A, 6A, 7A, 8A, 10A, 5B, 6B, 8B, 9B and 10B.

**B. The Plan Does Not Discriminate Unfairly**

C48. Section 1129(b)(1) does not prohibit discrimination between classes, but rather prohibits only discrimination that is unfair. See In re Apex Oil Co., 118 B.R. 683, 710-711 (Bankr. E.D. Mo. 1990); See also In re 11,111, Inc., 117 B.R. 471, 478 (Bankr. D. Minn. 1990). A plan unfairly discriminates in violation of section 1129(b) of the Bankruptcy Code only if similar claims are treated differently without a reasonable basis for the disparate treatment. See, e.g., In re Kennedy, 158 B.R. 589, 599 (Bankr. D.N.J. 1993); In re Resorts Int'l Inc., 145 B.R. 412, 481 (Bankr. D.N.J. 1990); In re Buttonwood Partners, Ltd., 111 B.R. 57 (Bankr. S.D.N.Y. 1990); In re Future Energy Corp., 83 B.R. 470 (Bankr. S.D. Ohio 1988); In re Johns-Manville Corp., 68 B.R. 618 (Bankr. S.D.N.Y. 1986), *aff'd in part, rev'd in part on other grounds*, 78 B.R. 407 (S.D.N.Y. 1987), *aff'd sub nom Kane v. Johns-Manville Corp.* 843 F.2d 636 (2d Cir. 1988).

C49. There is no unfair discrimination if the classes are comprised of dissimilar claims or interests. See, e.g., In re Johns-Manville Corp., 68 B.R. at 636. Likewise, there is no unfair discrimination if, taking into account the particular facts and circumstances of the case, there is a reasonable basis for such disparate treatment. See, e.g., In re Buttonwood Partners, Ltd., 111 B.R. at 63; In re Rivera Echevarria, 129 B.R. 11, 13 (Bankr. D.P.R. 1991).

C50. Although the Plan provides for differing treatments among the Claims in Classes 5A, 5B, 6A and 6B, the treatment is not unfair. A four-part test applies when determining whether a Plan discriminates unfairly:

- i) whether the discrimination has a reasonable basis;
- ii) whether the debtor can carry out the plan without discrimination;
- iii) whether the discrimination proposed is in good faith; and
- iv) whether the degree of discrimination is directly related to the basis or rationale for the discrimination, i.e., does the basis for discrimination demand that this degree of differential treatment be imposed.

In re Apex Oil, 118 B.R. at 711 (citing In re Wolff, 22 B.R. 510, 512 (B.A.P. 9th Cir. 1982));

See also Internet Navigator Inc., 2003 Bankr. LEXIS 46 (Bankr. N.D. Iowa, January 22, 2003).

C51. This Plan does not “discriminate unfairly” with respect to the unsecured Claims that voted to reject the Plan, as Article II.D.5. of the Plan provides:

[W]ithin 30 days after the Effective Date from consideration otherwise due to the DIP Lenders and Senior Secured Lenders as a result of their Class 1A and Class 3A Claims, (i) Critical Business Claims shall be paid in full, without interest, from and by Cash that, but for its voluntary assignment hereunder by the DIP Lenders and Senior Secured Lenders to and for the sole benefit of the assignees designated pursuant to the Plan, would otherwise be required to be paid to the DIP Lenders and Senior Secured Lenders, subject to an aggregate cap of \$4,600,000, plus the amount necessary to satisfy Allowed Utilities Claims, which is also subject to an aggregate cap of \$2,800,000, and (ii) De Minimis Claims shall be paid in full without interest, subject to an aggregate cap of \$2,000,000, or, if the Claims exceed the caps described in clauses (i) or (ii), an amount approved by the Majority Consenting Lenders.

Article III.O. of the Plan provides as follows:

The Senior Secured Lenders and DIP Lenders have agreed to contribute to Newco a portion of the DIP Funds to pay Holders of certain Allowed Critical Business Claims, Allowed Utilities Claims and Allowed De Minimis Claims in Class 5A, in accordance with the terms of this Plan and the Summary Term Sheet. The DIP Funds represent assets and

distributions, in which the Debtors have no right, title or interest, pursuant to the Forbearance Agreement, and, which would otherwise be required by applicable law to be paid directly to the Senior Secured Lenders and the DIP Lenders. Accordingly, within 30 days after the Effective Date, Holders of those certain Critical Business Claims, Utilities Claims and De Minimis Claims in Class 5A shall be paid directly from the DIP Funds, in accordance with Article II from and by Cash that, but for its voluntary assignment hereunder by the DIP Lenders and Senior Secured Lenders to and for the sole benefit of the assignees designated pursuant to the Plan, would otherwise be required to be paid to the DIP Lenders and Senior Secured Lenders.

Under the terms of the Plan, all unsecured creditors are eligible for consideration of a possible assignment of cash collateral payments from the Senior Secured Lenders; that eligibility is uniform, it is wholly non-discriminatory. The Debtors have estimated that the Senior Secured Lenders will designate for cash collateral assignment approximately (i) 1,604 De Minimis Claims in the amount of \$1,059,000, (ii) 249 Critical Business Claims in the amount of \$4,394,000, and (iii) 21 Allowed Utilities Claims in the amount of \$1,897,000.

C52. Within 30 days after the Effective Date, Critical Business Claims, Allowed Utilities Claims and De Minimis Claims will be paid in full, from cash collateral otherwise payable to the Senior Secured Lenders.

C53. The First Circuit in In re SPM Manufacturing Corp., 984 F.2d 1305 (1st Cir. 1993), approved the assignment and “carve out” by a secured creditor from proceeds of its collateral into a fund to pay general unsecured creditors. In SPM, as here, the debtor’s assets were worth substantially less than the value of the secured creditor’s blanket liens. Id. at 1307. In In re Genesis Health Ventures, 266 B.R. 591 (Bankr. D. Del. 2001), the court followed SPM and recognized that creditors are “generally free to do whatever they wish with the bankruptcy dividends they receive, including to share them with other creditors.” 266 B.R. at 602. This

Court has approved similar assignments of collateral by senior secured lenders. See In re Interco Inc., Ch. 11 Case Nos. 91-00442-BKC-JJB (Bankr. E.D., Mo. Order, June 29, 1992).

C54. The payment of Critical Business Claims, Allowed Utilities Claims and De Minimis Claims will be made from funds that are earmarked and assigned by the Senior Secured Lenders and DIP Lenders as a voluntary assignment of their cash collateral. Plan Article III.O. The terms and conditions, including any required releases, for the payments by the Senior Secured Lenders to the particular recipients of the cash collateral assignments shall be a matter of separate negotiation and contract between and among the Senior Secured Lenders and those parties. There is no unfair discrimination in a Plan provision that allows the Senior Secured Lenders and the DIP Lenders voluntarily to assign to unsecured creditors cash collateral proceeds that otherwise would rightfully belong to the secured creditors, particularly in the context of a reorganization where continued relations with those unsecured creditors are important to future business of the reorganized Debtors.

**B. The Plan Is Fair and Equitable**

C55. Section 1129(b) of the Bankruptcy Code provides that a plan is “fair and equitable” with respect to a class of unsecured claims or a class of interests that will not receive full payment under the plan if (i) no class senior is paid more than in full and (ii) no class junior will receive or retain any interest in property under the Plan. See 11 U.S.C. §§ 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii). See also Bank of America National Trust & Savings Assoc. v. 203 North LaSalle Street Partnership, 526 U.S. 434 (1999); Westpointe L.P. v. Franke (In re Westpointe L.P.), 234 B.R. 431 (E.D. Mo. 1999); In re MCorp. Fin. Inc., 137 B.R. 219, 235 (Bankr. S.D. Tex. 1992). The second of these requirements is commonly known as the “absolute priority rule.”

C56. The first prong of the “fair and equitable” test has not been contested and has been met under the Plan.

C57. Under the Plan, no distribution will be made to Classes 7A, 8A, 10A, 5B, 6B, 8B, 9B and 10B, and the Claims in Classes 3A and 3B will not be paid in full. See 11 U.S.C. §1129(b). With respect to those Classes that will not receive a distribution under the Plan, the Plan complies with the requirements of Sections 1129(b)(2)(B)(ii) and 1129(b)(2)(C)(ii). With respect to Classes 5B, 6B, 8B, 9B and 10B, the Plan meets the requirements of Sections 1129(b)(2)(B)(ii) because no holder of a claim or interest junior to these Classes will receive or retain any property on account of such claim or interest.

**C. Absolute Priority Rule**

C58. The absolute priority rule generally requires that no party in a class junior in priority may receive a distribution unless all classes senior to such party are paid in full. Therefore, equity holders of a debtor generally may not retain an interest in the reorganized entity on account of their prepetition interest in the debtor, unless all creditors and other interests above them in priority are paid in full. In the present case, MDP will receive an equity position in the reorganized Debtors; however, that interest is being received on account of the substantial “new value” that MDP is providing.

C59. An exception to the absolute priority rule exists where the junior creditor or interest holder contributes sufficient “new value” to the debtor’s estate in exchange for the interest it retains or receives. The Supreme Court has recognized that an old equity holder may obtain an interest in the reorganized debtor, so long as it does not acquire such interest without “competition and without benefit of market valuation...” 203 North LaSalle Street, 526 U.S. at 458. In other words, provided that the new contribution that old equity provides for the consideration that it is to receive under a Plan is subjected to a reasonable “market test” of the value of that consideration, the new value exception to the absolute priority rule is satisfied.

C60. To test the price contribution by old equity for the consideration to be secured by old equity, either (i) the exclusive period for a debtor to file a plan of reorganization must be terminated; or (ii) the consideration that the old equity holder will receive must be offered or exposed to a market test to ensure that the old equity holder is providing fair value for that consideration. The Supreme Court did not define precisely how that market test was to be determined. See id. at 458 (indicating that the old equity holder’s contribution should be tested by “some form of market valuation”).

C61. Under the Plan, MDP will contribute (i) \$10 million in cash to Newco, and (ii) arrange for Newco to receive the vital ML Conduit; in exchange for MDP's receipt of the Newco Preferred Stock.

C62. The views of experts in financing as to the value provided by MDP's securing and facilitating the ML Conduit differed at the Confirmation Hearing. The Court finds that the views of Mr. David Resnick, who is the head of restructuring at Rothschild & Co. and is extremely experienced and well-qualified in the area of corporate financial restructuring and has personally been engaged in over 50 significant restructurings and bankruptcies, is entitled to substantial weight. Resnick, ¶ 6. Mr. Resnick concluded that MDP offered significant value to the Debtors in the form of providing access to a conduit which would not otherwise be available, and in providing the estates with financial and management counseling, support and participation. Mr. Resnick also concluded that MDP's continued relationship with the Debtors' estates provides immediate and current financial value to the estates inasmuch as this is a materially significant factor in persuading customers that the Debtors have continued viability.

C63. The evidence was undisputed that the ML Conduit would not be available to the Debtors without MDP's continued active involvement and participation. Merrill Lynch's relationship partner, Jonathan Cary, so testified. Mr. Cary had contemporaneously confirmed this fact to many individuals involved in the restructuring negotiations, including Mr. Wood of MDP, Mr. Keleghan of the Debtors (who spoke to Mr. Cary at the request of the Senior Secured Lenders), and Mr. Morgan of the Special Committee. The terms of the ML Conduit confirm that Merrill Lynch required continued equity participation by MDP. The Court finds this ML Conduit offers significant value to the Debtors' estates, reasonably estimated at enhancing enterprise value by approximately \$100 million.



C64. The Court rejects the contention that such a conduit is readily available and is of no particular value. The absence of any fully financed and binding conduit proposal by any other party during the more than two years such a facility was being sought after by not only the Debtors and MDP, but also by the 35 members of the Senior Secured Lenders, confirms that the ML Conduit is a precious asset, not readily available, and in the current circumstances of this particular Chapter 11 proceeding has value of significant magnitude.

C65. MDP's role in providing the ML Conduit is not the equivalent of a mere guarantee. It is not a promise to take a future action that may or may not occur. MDP has procured the ML Conduit, and delivery of it at closing is a condition of the Plan.

C66. MDP's role in providing the ML Conduit and participation in the affairs of the Debtors is not the equivalent of "sweat equity" as maintained by DSC. MDP's contribution is concrete, objectively unique, and enhances value to the Debtors' estates in a manner that has been reasonably measured by the difference between enterprise value with and without the ML Conduit.

C67. Through the Special Committee and its advisors the Debtors simultaneously carried out two separate solicitations for the equity of the Debtors. The first involved a solicitation for the sale of the entire OSI business enterprise. The second solicitation involved the preferred stock and conduit package offered by MDP. The marketing efforts were carried out by the Special Committee in accordance with the Lock Up Agreement and related documents.

C68. The process utilized by the Debtors in marketing the business enterprise and the MDP preferred stock and conduit package was a reasonable and fair market test. The Debtors and MDP began testing the market for possible alternative transactions for more than

two years prior to the filing of this Chapter 11 proceeding, including exploring possible transactions with over 100 firms during that time period in respect to all plausible alternatives to bankruptcy. The methodologies and processes used in the marketing and alternative sales processes were specifically designed to test the market for both of those items, while protecting the Debtors' business and enterprise value. These processes were appropriate and adequate under the circumstances to test the market for both the enterprise value and the MDP package. An auction or other method of marketing the company (e.g., a Section 363 sales process or auction, sealed bids or otherwise) would not have been appropriate under the circumstances. In fact, those alternatives likely would have had significant negative effects on the value of the Debtors' businesses and assets. Notably, even DSC did not challenge the inappropriateness of a broader marketing and open auction process. These conclusions were additionally validated through testimony of Mr. David Resnick, of Rothschild Inc. Mr. Resnick is highly qualified and experienced in complex financial transactions and restructurings, including marketing and sales of distressed businesses, both within Chapter 11 and otherwise. His expert opinion testimony was clear and unequivocal – the process utilized in this matter was fair; it was appropriate; and it satisfied the requirement of 203 North LaSalle.

C69. In addition, the lone objector -- DSC -- has stipulated that the alternative bid process was appropriately limited in its scope so as not to materially and adversely affect the Debtors' business and that an open auction M&A process would have been significantly detrimental to the Debtors' estates.

C70. DSC has also acknowledged that there was no need for a formal "book" (as would ordinarily be prepared by an investment banker) in connection with the alternative bid process.

C71. As described in detail above, independent directors managed the marketing process with the assistance of independent counsel and professional financial advisors. The Special Committee was flexible and accommodating to parties requesting information or otherwise wishing to participate in the process. The proposals and offers that were submitted to the Special Committee during the marketing process were not binding, superior offers to the restructuring plan embodied in the Plan, which includes the Newco Preferred Stock and conduit package. No higher or better offer was made for either the MDP “piece” of the deal or the Debtors’ entire enterprise. The Lock Up Agreement in place throughout the marketing and solicitation process did not adversely affect or otherwise hinder the marketing process. In fact, the process contemplated by the Lock Up Agreement exposed the proposed sale to the market and created a competitive bidding environment that operated to test the market, and, in particular, the consideration provided by MDP for the Newco Preferred Stock. The requirement that bidders provide conduit financing for the Portfolio Business as part of their bids for the Newco Preferred Stock was necessary. The Debtors need such financing in order to maximize the value of their business on an ongoing basis. Bids that did not include committed conduit financing would not have been appropriate under the circumstances.

C72. The timelines and deadlines imposed under the Lock Up Agreement and used in the marketing process were fair and necessary to ensure a timely restructuring by the Debtors and to ensure that there was an adequate market test of the restructuring and the elements of the restructuring.

C73. The Debtors have complied with the letter and spirit of 203 North LaSalle Street. They offered an opportunity to submit competing bids for the Restructuring Plan as a “whole” as well as the right to bid for the MDP package. The marketing process sought bids

from (i) parties previously expressing interests in acquiring the Debtors, (ii) companies providing financing and capital investments, (iii) existing lenders, and (iv) competitors. The marketing process included (i) establishing a data room, (ii) disseminating sales data, (iii) management presentations and follow-ups regarding specific due diligence concerns and (iv) flexibility in the due diligence process and timing for submission of offers. Bids that were received were reviewed by an independent Special Committee, TRG, financial advisors to the Debtors, and FTI, financial advisors to the Senior Secured Lenders. No bids constituted higher and better offers for the Debtors as a “whole,” and no party offered to pay a “premium” over the price offered by MDP for the Newco Preferred Stock/ML Conduit.

C74. The Debtors solicited bids from alternative purchasers for the MDP participation in the Plan from 137 firms, including most of the country’s leading equity, financial services and investment banking firms. DSC identified no plausible alternative bidder who was not contacted and solicited to submit a bid. The time permitted for the submission of bids was reasonable and fair given the circumstances. Thus, the market had a reasonable opportunity to outbid MDP.

C75. In summary, the appropriateness of any “market test” for the new value exception to the absolute priority rule must be evaluated on a case by case basis. The marketing process utilized by the Debtors with respect to the Debtors overall and the additional processes used to offer the MDP component of the Plan were more than sufficient to ensure that a true market test occurred in accordance with the requirements of 203 North LaSalle Street as to both the business as a whole, and the Newco Preferred Stock/ML Conduit to be received as provided by MDP.

### Feasibility

C76. Section 1129(a)(11) of the Bankruptcy Code provides that a plan of reorganization may be confirmed if “[c]onfirmation of the plan is not likely to be followed by the liquidation, or the need for further financial reorganization, of the debtor or any successor to the debtor under the plan, unless such liquidation or reorganization is proposed in the plan.” 11 U.S.C. § 1129(a)(11). This requirement encompasses two related, but independent determinations: (i) that the debtor is able to consummate the provisions of the plan and (ii) if consummated, the plan will enable the debtor to emerge from bankruptcy as a viable entity. See In re Lakeside Global II, Ltd., 116 B.R. 499, 506 (Bankr. S.D. Tex. 1989) (“This definition [of feasibility] has been slightly broadened and contemplates whether [(i)] the debtor can realistically carry out its plan, . . . and [(ii)] whether the plan offers a reasonable prospect of success and is workable.” (citation omitted)); In re Rolling Green Country Club, 26 B.R. 729, 734 (Bankr. D. Minn. 1982) (“The court assumes that the word ‘confirmation’ in [§ 1129(a)(11)] contemplates . . . execution or consummation of the plan, the real [intention] of the subsection being to avoid confirmation of plans which even if consummated are fruitless as an instrument to reorganization.”).

C77. The feasibility test requires the Court to determine whether the Plan is workable and has a reasonable likelihood of success. See United States v. Energy Resources Co., 495 U.S. 545, 549 (1990). The key element of feasibility is whether there exists a reasonable probability that the provisions of the Plan can be performed. See In re Clarkson, 767 F.2d 417, 420 (8<sup>th</sup> Cir. 1985) (“The test is whether the things which are to be done after confirmation can be done as a practical matter.”) (citation omitted).

C78. The purpose of the feasibility test is to protect against visionary or speculative plans. As noted by the Ninth Circuit:

The purpose of section 1129(a)(11) is to prevent confirmation of visionary schemes which promise creditors and equity security holders more under a proposed plan than the debtor can possibly attain after confirmation.

Travelers Ins. Co. v. Pikes Peak Water Co. (In re Pikes Peak Water Co.), 779 F.2d 1456, 1460 (10th Cir. 1985) (quoting Pizza of Haw., Inc. v. Shakey's, Inc. (In re Pizza of Haw., Inc.), 761 F.2d 1374, 1382 (9th Cir. 1985)).

C79. The mere prospect of financial uncertainty cannot defeat confirmation on feasibility grounds. See In re Leslie Fay Cos., 207 B.R. at 789.

C80. The corporate structure changes and transactions and the new financing arrangements to be executed and completed as part of the Plan will allow the Debtors to continue as viable entities and to fulfill their obligations under the Plan. The Debtors have shown that they will be able to meet their obligations in respect of such changes and the Plan itself.

C81. The Plan provides for a workable reorganization of the Debtors' businesses and capital structure that is based upon a realistic business plan. The requirements of Section 1129(a)(11) of the Bankruptcy Code are satisfied.

### **Releases**

C82. Article X.D.1 of the Plan provides for the release of claims against a number of persons and entities (collectively, the "Release Parties").

C83. The releases granted under the Plan to the Release Parties are an important component of the consideration "package" for the Senior Secured Lenders' agreement to substantially impair their Claims under the Plan, write down \$300 million of debt, take a 69% equity interest in Newco and provide exit financing. The releases are also part of an integrated

transaction between and among the Debtors and their primary creditors. As such, they are part of the price of the deal, and the Restructuring Plan could not have been accomplished without such a provision.

C84. There is no evidence of malfeasance by any of the Release Parties, and the Debtors are not forsaking any known meritorious claims against the Release Parties. The costs of exploring further whether any purely speculative or unknown causes against such parties might exist greatly outweigh the benefit that has been achieved by the Debtors through the Restructuring Plan. Most notably, claims already investigated and asserted by the Committee against the Release Parties are being voluntarily dismissed, with prejudice, by the Committee as part of its support of the Plan. The Debtors need the Plan, and they could only achieve consummation of the Plan by including the releases.

C85. In effect, more value will inure to their estates by granting the releases and receiving the benefits of the Plan than pursuing any hypothetical or speculative causes of action against the Release Parties. See In re Apex Oil, 92 B.R. at 868.

C86. The Senior Secured Lenders considered the releases an integral part of the restructuring package. As they are the parties that stand to benefit from any valuable causes of action, the Senior Secured Lenders have no motivation to provide releases in the face of any actual misconduct by the Debtors' officers and directors.

C87. No party in interest has provided evidence that any worthwhile causes of action against any of the Release Parties exist.

C88. Releases such as those contained in Article X.D.1 of Debtors' Plan and under the circumstances of this Case, are customary and reasonable in large Chapter 11 cases.

C89. In furtherance of such releases, courts may permanently enjoin lawsuits against the Release Parties for the Claims (hypothetical or otherwise) that are being released, provided that the injunctions are an important part of the debtor's reorganization plan. Where the success of the reorganization is premised in substantial part on such releases, and failure to obtain releases means the loss of a critical financial contribution to the debtor's plan that is necessary to the plan's feasibility, such releases should be granted.

C90. In this case, the releases are necessary and appropriate given the circumstances of these cases. The Plan was negotiated at arm's length and in good faith. As a result of these negotiations, a financing and restructuring package was developed which provides a great benefit to the Debtors and their estates. As part of the price for this deal, and in order for the Plan to work, the specified releases are necessary.

C91. The release provisions contained in Article XD.1 of the Plan comply with the requirements of the Bankruptcy Code.

Accordingly, IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

O1. All objections and responses to, and statements and comments in opposition to, the Plan, other than those withdrawn prior to, or on the record at, the Confirmation Hearing, shall be, and hereby are overruled.

O2. The Plan and each of its provisions are confirmed.

O3. The terms of the Plan shall be binding upon each of the Debtors, their successors, Newco, the Reorganized Subsidiaries, Union Trust, any and all affected persons, entities and governmental units, any and all holders of Claims or Interests (irrespective of whether such Claims or Interests are impaired under the Plan or whether the holders of such Claims or Interests accepted or are deemed to have accepted the Plan), any and all non-Debtor



parties to executory contracts and unexpired leases with any of the Debtors and the respective heirs, executors, administrators, successors or assigns, if any, of any of the foregoing.

O4. Except as provided in the Plan, each Debtor shall continue to exist as of the Effective Date as a separate legal entity.

O5. The Debtors, Newco, the Reorganized Subsidiaries, Union Trust, CSFB who is authorized to act on behalf of the new Senior Secured Lenders, and all other parties are authorized to enter into, execute, deliver and implement the Agreements and other promissory notes, documents and instruments substantially consistent therewith and any amendments to such Agreements as therein provided, to prepare and attach all requisite schedules and exhibits to such Agreements, and to take such other steps and perform such other acts as may be necessary to implement and effectuate the Plan and/or the Agreements. The liens securing the New Obligations shall be effective without the necessity of filing UCC Financing Statements.

O6. Except as otherwise provided in the Plan, the agreements executed pursuant to the Plan or this Confirmation Order, on and after the Effective Date each Debtor may operate its businesses and may use, acquire and dispose of property and compromise or settle any Claims or Interests.

O7. On and after the Effective Date, any portfolio receivables and other assets sold or transferred to Portfolio Acquisitions, LLC by Newco or any of the Reorganized Subsidiaries shall be deemed to be sold or transferred to Portfolio Acquisitions, LLC free and clear of any security interest, lien or encumbrance of any creditor of the Debtors, Newco or any of the Reorganized Subsidiaries, including, without limitation, any security interest, lien or encumbrance of the Senior Secured Lenders, so long as such sale or transfer is made in compliance with the terms and conditions of the ML Conduit.

O8. So long as the ML Conduit is consummated pursuant to the terms and conditions herein approved, Portfolio Acquisitions, LLC, the special purpose entity formed for the sole purpose of acting as the borrower under the ML Conduit, shall not be liable or responsible for any obligations, claims or other indebtedness of Newco or the Reorganized Subsidiaries, and the assets and liabilities of Portfolio Acquisitions, LLC shall be deemed factually and legally separate at all times from the assets and liabilities of Newco and the Reorganized Subsidiaries.

O9. Except as provided below, requests for payment of Administrative Expense Claims must be filed with the Bankruptcy Court and served on the Debtors no later than 60 days after the Effective Date. Holders of Administrative Expense Claims that are required to file with the Bankruptcy Court a request for the payment of such Claims and that do not file and serve a request by the applicable bar date shall be forever barred from asserting such Claims against the Debtors, the Reorganized Debtors or their respective property.

O10. Notwithstanding any provision to the contrary in Standing Order #2, Professionals or other entities requesting compensation or reimbursement of expenses pursuant to Sections 327, 328, 330, 331, 503, 506 and 1103 of the Bankruptcy Code (including compensation or reimbursement requested pursuant to Section 503(b)(4) of the Bankruptcy Code by any Professional or other entity for making a substantial contribution in any Reorganization Case) shall file and serve on the Master Service List an application for final allowance of compensation and reimbursement of expenses no later than 60 days after the Effective Date; provided, however, that any Professional who receives compensation or reimbursement of expenses pursuant to Standing Order #2 may continue to receive such compensation, including payment of any current or prior unpaid 20% hold-back amounts, and reimbursement of expenses

for services rendered before the Effective Date, so long as those payments otherwise comply with Standing Order #2 and the terms of the Final DIP Financing Order. Objections to applications of Professionals or other entities for compensation or reimbursement of expenses must be filed and served on the appropriate Reorganized Debtors and the requesting party in accordance with the terms of Standing Order #2.

O11. Holders of Administrative Expense Claims based on liabilities incurred by a Debtor in the ordinary course of its business (including Administrative Expense Claims of governmental units for taxes) shall not be required to file or serve any request for payment of such Claims.

O12. The executory contract and unexpired lease provisions of the Plan and the distribution provisions of Article VIII of the Plan shall be, and hereby are, specifically approved.

O13. Pursuant to the Plan, Article VIII, all executory contracts and unexpired leases of the Non-Union Debtors not designated in the Plan Supplement for rejection shall be deemed assumed by the Debtors pursuant to Section 365 of the Bankruptcy Code as of the Effective Date (with the exception of the Existing Options (as defined in the Plan) which shall be deemed rejected as of the Effective Date), unless otherwise (i) expressly rejected pursuant to an order of this Court prior to the Confirmation Date, or (ii) subject to a pending motion for approval of the rejection of such contract or lease filed on or before the Confirmation Date. Such executory contracts and unexpired leases shall be assumed as they exist on the Confirmation Date, including any and all postpetition amendments or modifications thereto entered into by the Debtors and the respective counterparties. The entry of this Confirmation Order shall constitute an order approving such assumptions pursuant to Section 365 of the Bankruptcy Code, effective as of the Effective Date. Each executory contract and unexpired lease assumed pursuant to this

Confirmation Order shall revert in and be fully enforceable by Newco or the applicable Reorganized Subsidiary in accordance with its terms, except as modified by agreement of the parties thereto, the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or applicable federal law. Any executory contract or unexpired lease that is assumed after the Effective Date as a result of a withdrawn motion for approval of rejection shall be deemed assumed as of the date of withdrawal of such motion for approval of rejection.

O14. Notwithstanding anything in this Confirmation Order to the contrary, the following executory contracts or unexpired leases shall not be deemed assumed as of the Effective Date: (i) any executory contract or unexpired lease that has been rejected pursuant to an order of the Bankruptcy Court entered before the Confirmation Date; (ii) any executory contract or unexpired lease as to which a motion for approval of the rejection of such executory contract or unexpired lease has been Filed and has not been withdrawn or decided by a Final Order as of the Confirmation Date; (iii) any executory contract or unexpired lease designated in the Plan Supplement for rejection and (iv) any executory contract, unexpired lease, or other obligation of the Union Debtors.

O15. Within 30 days following the Confirmation Date, the Debtors shall serve a notice (the "Assumption Notice") upon all non-customer counterparties whose executory contracts and unexpired leases are assumed through the Plan. The Assumption Notice shall inform such counterparties of the assumption of the relevant contract or lease and the applicable cure amount to be paid on the Effective Date in respect of any defaults thereunder pursuant to Bankruptcy Code Section 365(b)(1). The counterparties to the assumed contracts and leases shall have 20 days from the service of the Assumption Notice to notify the Debtors of any

objection to (i) the assumption of the relevant contract or lease, (ii) the proposed cure amount in respect thereof, or (iii) any other matter pertaining to the assumption of the lease, including the Debtors' ability to provide adequate assurance of future performance (within the meaning of Bankruptcy Code Section 365(b)(1)). Any such objection must be communicated in writing so as to be received by counsel for the Debtors, Bryan Cave LLP, 211 N. Broadway, Suite 3600 - OSI, St. Louis, Missouri 63102, Attention: Gregory D. Willard, Esq., no later than 20 days after service of the Assumption Notice. If no objection to assumption is timely communicated to the Debtors, such assumption, including the relevant cure amount as set forth in the Assumption Notice, shall be final and binding for all purposes, and not subject to further review. Upon receipt of any timely filed objections, the Debtors shall promptly contact the relevant contract or lease counterparty to attempt to resolve such objection. If the parties are unable to resolve any such objection, the Debtors shall schedule a hearing before the Court for a final determination of any remaining issues with respect to the proposed assumption, including the applicable cure amount required pursuant to Bankruptcy Code Section 365(b)(1). The Debtors shall retain the right not to assume any contract or lease as to which consensual resolution of the proposed assumption, including any applicable cure amount, cannot be reached.

O16. All executory contracts and unexpired leases (i) of the Non-Union Debtors designated in the Plan Supplement for rejection and (ii) of the Union Debtors (other than those specifically assumed by the Debtors on or before the Effective Date), shall be deemed rejected by the Debtors as of the Confirmation Date. The Confirmation Order shall constitute an Order approving such rejections as of the Confirmation Date. If the rejection by a Debtor of an executory contract or unexpired lease pursuant Article VIII.C. of the Plan gives rise to a Claim by a counterparty to such contract or lease, such Claim shall be forever barred and shall not be

enforceable against the Debtors, the Reorganized Debtors, their respective successors or their respective properties unless a proof of Claim is filed and served on the applicable Reorganized Debtor no later than 30 days after the Confirmation Date. Such Claims as are allowed in respect of the rejection of an executory contract or unexpired lease shall be treated as General Unsecured Claims under the Plan. The Debtors shall have the right to file an objection to any filed proof of Claim in accordance with Article V of the Plan.

O17. Except as otherwise expressly provided hereunder, all employment and severance policies and all compensation and benefit plans, policies and programs of the Non-Union Debtors applicable to their employees, retirees and non-employee directors or members of the board of directors and the employees and retirees of their subsidiaries, including, without limitation, all indemnification obligations and programs, savings plans, retirement plans, deferred compensation plans, healthcare plans, disability plans, severance benefit plans, incentive plans and life, accidental death and dismemberment insurance plans, shall be treated as executory contracts under the Plan and on the Effective Date shall be assumed pursuant to the provisions of Sections 365 and 1123 of the Bankruptcy Code. All employment contracts assumed pursuant to this Confirmation Order shall be deemed modified such that the transactions contemplated by the Plan shall not be a “change of control” or “sale of the business,” as defined in the relevant employment contracts.

O18. All directors’ and officers’ liability insurance policies maintained by the Debtors are hereby assumed by the relevant Debtors. Entry of this Confirmation Order shall constitute approval of such assumptions pursuant to subsection 365(a) of the Bankruptcy Code. Newco, the Reorganized Subsidiaries and the Union Trust shall maintain for a period of not less than six years from the Effective Date, coverage for the individuals covered, as of the Petition

Date, by such policies at levels and on terms no less favorable to such individuals than the terms and levels provided for under the policies existing on the Petition Date and assumed pursuant to the Plan. Solely with respect to directors and officers of any of the Debtors who served in any such capacity at any time on or after the Petition Date, the Debtors shall be deemed to assume, as of the Effective Date, their respective obligations to indemnify such individuals (and only such individuals) with respect to or based upon any act or omission taken or omitted on or before such Effective Date in any of such capacities, or for or on behalf of any Debtor, pursuant to and to the extent provided by the Debtors' respective articles of incorporation, certificates of formation, corporate charters, bylaws, operating agreements and similar governing documents, as in effect as of the Petition Date. Notwithstanding anything to the contrary contained herein, such assumed indemnity obligations shall not be discharged, impaired or otherwise modified by the confirmation of the Plan and shall be deemed and treated as executory contracts that have been assumed by the Debtors pursuant to this Plan, as to which no proof of Claim need be filed.

O19. Debtors shall have 90 days from the Effective Date to object to any proofs of claim filed by the Missouri Department of Revenue. If Debtors fail to object to any such claims within this time period, the claims will be deemed Allowed.

O20. As of or following the time at which the conditions to the occurrence of the Effective Date set forth in the Plan are satisfied or duly waived, pursuant to the appropriate provisions of applicable state business corporation laws and of the Bankruptcy Code, the Debtors shall be, and hereby are, authorized, as contemplated by the Plan, and in each case in accordance with applicable terms of the Plan, and this Confirmation Order, to amend and restate their Charter and by-laws.

O21. After the Effective Date, Newco and the Reorganized Subsidiaries may further amend and restate certificates of incorporation, articles of incorporation, by-laws or similar charter documents, including LLC and trust agreements, as permitted by said charter documents or applicable state law.

O22. Pursuant to Section 1142(b) of the Bankruptcy Code and appropriate provisions of applicable state business corporation laws, the appropriate Debtors, Newco and the Reorganized Subsidiaries shall be, and hereby are, authorized to effectuate the Plan, the transactions contemplated by the Plan and this Confirmation Order, and to take any proceedings or actions provided for or contemplated by the Plan or this Confirmation Order, all without further action by their respective directors or stockholders, and with like effect as if such actions had been taken by unanimous action of the respective directors and stockholders

O23. The President, any Executive Vice President, any Senior Vice President, and any Vice President and the Secretary or any Assistant Secretary of each Debtor, Newco or the Reorganized Subsidiaries (the "Responsible Officers") shall be, and hereby are, authorized to execute, deliver, file and have recorded the applicable charter documents, as the case may be, and to take such other actions on behalf of such entity as such person may determine to be required under appropriate provisions of applicable state business corporation laws or any other applicable law in connection with the filing of such documents and, without limiting the generality or effect of the foregoing, the Secretary or any Assistant Secretary of each such entity shall be, and hereby is, authorized to certify or attest to any of the foregoing actions. The execution of any such document or the taking of any such action shall be, and hereby is, deemed conclusive evidence of the authority of such person so to act.



O24. Pursuant to Section 1142(b) of the Bankruptcy Code and appropriate provisions of applicable state business corporation laws, without further action by the Court or the stockholders or (except as otherwise provided herein) board of directors or similar body of Newco or the Reorganized Subsidiaries, and without limiting the power or authority of any of them following the Effective Date to take any and all such actions as may be permitted or required by applicable nonbankruptcy law, Newco and the Reorganized Subsidiaries shall be, and hereby are authorized to implement the New Management Equity Incentive Program.

O25. Without limiting the generality or effect of any of the foregoing paragraphs, and consistent with the Plan, Newco and the Reorganized Subsidiaries shall be, and hereby are, authorized to enter into or modify employment, retirement, severance, change-in-control, indemnification and other agreements with their active directors, officers and employees, and to implement or modify retirement income plans, welfare benefit plans and other plans for active employees and take any and all such other actions as may be necessary or appropriate to perform and effectuate such agreements and plans and otherwise make available the benefits contemplated by such agreements and plans. Nothing in this paragraph shall limit or impair the rights, powers or duties of the boards of directors or stockholders of Newco, the Reorganized Subsidiaries with respect to such matters.

O26. Pursuant to Section 1142(b) of the Bankruptcy Code and Section 303 of the Delaware General Corporation Law, the Debtors shall be, and hereby are, authorized and directed to execute, deliver, and perform their obligations under, the Newco Charter and Newco By-Laws, and to take all such other actions and execute, deliver, record and file all such other agreements, instruments and other documents as any of their Responsible Officers may determine are necessary or appropriate in connection with the issuance and distribution of the

Newco Common Stock and Newco Preferred Stock under the Plan (collectively, the “Documentation”), all without further action by their directors or stockholders, and with like effect as if such actions had been taken by unanimous action of the directors and stockholders of such Debtor or Newco. The Documentation shall be substantially in the respective forms thereof submitted to the Court prior to the Effective Date.

O27. Pursuant to Section 1142(b) of the Bankruptcy Code and Section 303 of the Delaware General Corporation Law, the Debtors shall be, and hereby are, authorized and directed to execute, deliver, and perform their obligations under, those Agreements described in the Plan and this Confirmation Order and to take all such other actions and execute, deliver, record and file all such other agreements, instruments and other documents as any of their Responsible Officers may determine are necessary or appropriate in connection with the consummation of the Plan.

O28. Distributions to holders of Claims shall be made in accordance with the provisions of the Plan.

O29. The approvals and authorizations specifically set forth in this Confirmation Order are nonexclusive and are not intended to limit the authority, under other applicable law, of any Debtor, Newco and Reorganized Subsidiary to take any and all actions necessary or appropriate to implement, effectuate and consummate the Plan, this Confirmation Order and the respective transactions contemplated thereby. Without limiting the generality or effect of any other provision of this Confirmation Order, the appropriate Debtors, Newco and the Reorganized Subsidiaries shall be, and hereby are, specifically authorized and empowered to take any and all such actions as any of their respective officers may determine are necessary or appropriate to implement, effectuate and consummate the Plan, this Confirmation Order and the

transactions respectively contemplated thereby and hereby, all in accordance with the terms of the Plan, this Confirmation Order and otherwise applicable law.

O30. Each of the Responsible Officers of each Debtor, Newco, Reorganized Subsidiaries and Union Trust shall be, and hereby is, authorized to execute, deliver, file or record such contracts, instruments, releases, indentures, mortgages, deeds, assignments, leases or other agreements or documents and take such other actions as such officer, under otherwise applicable law, may determine are necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan, this Confirmation Order and the transactions respectively contemplated thereby and hereby, and whether or not such actions or documents are specifically referred to in the Plan, the Plan Supplement, the Disclosure Statement, the Disclosure Statement Order, this Confirmation Order or the Exhibits to any of the foregoing, and the Secretary or any Assistant Secretary of each such entity shall be, and hereby is, authorized to certify or attest to any of the foregoing actions.

O31. Pursuant to Section 303 of the Delaware General Corporation Law or any other applicable state law, with respect to any of the actions described in the Plan or this Confirmation Order which would otherwise require the consent or approval of the directors or stockholders of any Debtor, Newco or Reorganized Subsidiary, this Confirmation Order shall constitute such consent or approval, and such actions shall be, and hereby are, deemed to have been taken by unanimous action of the directors and stockholders of the appropriate entity.

O32. The rights afforded under the Plan and the treatment of Claims and Interests under the Plan shall be and are in exchange for and in complete satisfaction, discharge and release, as of the Effective Date, of all Claims, all Allowed Claims, all Disputed Claims,

debts, liens, security interests and encumbrances and termination of all Interests that arose before Confirmation, including any interest accrued on Claims from and after the Petition Date.

O33. The Debtors shall be, and hereby are, discharged from all Claims, all Allowed Claims, Environmental Claims (including all future response costs), all Disputed Claims and any other debts, liabilities or obligations of whatever nature and type that arose before the Confirmation Date, including any Claim for interest accruing after the Petition Date and prior to the Effective Date, and all debts, liabilities or obligations of whatever nature and type of the kind, including those specified in Sections 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not: (i) a proof of Claim based on such debt is filed or deemed filed pursuant to Section 501 of the Bankruptcy Code; (ii) a Claim based on such debt is allowed pursuant to Section 502 of the Bankruptcy Code; or (iii) the holder of a Claim (whether an Allowed Claim or a Disputed Claims) based on such debt has accepted the Plan.

O34. Except as provided in the Plan, entry of this Confirmation Order shall be, and hereby is, deemed to terminate all Interests and other rights of equity security holders in each of the Debtors to the extent provided by the Plan.

O35. In accordance with the Article X.B. of the Plan and Section 1141(d)(1) of the Bankruptcy Code, as of the Confirmation Date, all non-Debtor entities, persons, governmental units and individuals shall be, and hereby are, permanently enjoined and precluded from asserting against the Debtors, Newco, the Reorganized Subsidiaries, their respective successors or their respective property, any other or further Claims, Environmental Claims (including all future response costs), debts, rights, causes of action, obligations, liabilities or Interests based upon any act, omission, transaction or other activity of any kind or nature that occurred prior to the entry of this Confirmation Order. In accordance with the foregoing, except

as otherwise provided in the Plan or this Confirmation Order, this Confirmation Order shall be, and hereby is, deemed to constitute this Court's determination of discharge of all such claims against, and other debts, liabilities, obligations and rights of Interest Holders in, the Debtors and termination of all such Interests and other rights of equity security holders in the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator, and the Union Trust pursuant to Sections 524 and 1141 of the Bankruptcy Code, and such discharge shall be, and hereby is, deemed to void any judgment obtained against the Debtors at any time, to the extent that such judgment relates to a claim discharged or Interest terminated pursuant to the Plan or this Confirmation Order. In particular, the Committee and EOS Partners shall dismiss, with prejudice, all pending litigation and appeals involving the Debtors and any of the Release Parties, including, but not limited to, the Committee's appeals of the Final DIP Financing Order pending in the United States District Court for the Eastern District of Missouri, and EOS's pending litigation against MDP and Messrs. Wood and Hurd. The Committee's pending adversary proceeding against the Senior Secured Lenders is hereby dismissed with prejudice.

O36. As of the Confirmation Date, all non-Debtor entities and individuals that have held, currently hold or may hold a Claim or other debt, liability or other obligation that is discharged or an Interest or other right of an equity security holder that is terminated, pursuant to the terms of the Plan or this Confirmation Order shall be, and hereby are, permanently enjoined from taking any of the following actions on account of any such discharged Claims, Environmental Claims (including all future response costs), debts, liabilities or other obligation or terminated Interests or rights, including, but not limited to the following: (i) commencing or continuing, in any manner or in any place, any action or other proceeding against the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator, the Union Trust or

the Estates or their respective property; (ii) enforcing, attaching, collecting or recovering, in any manner or in any place, any judgment, award, decree or order against the Debtors, Newco or the Reorganized Subsidiaries, Administrator Holdco, Administrator, the Union Trust or the Estates or their respective property; (iii) creating, perfecting or enforcing any lien or encumbrance against the Debtors, Newco or the Reorganized Subsidiaries, Administrator Holdco, Administrator, the Union Trust or the Estates or their respective property; (iv) asserting a right of setoff, subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator, the Union Trust or the Estates or their respective property; and (v) commencing or continuing any action, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan and this Confirmation Order.

O37. All settlements and compromises of claims and causes of action of the Debtors against non-Debtor entities that are embodied in the Plan, which are approved herein as fair, equitable, reasonable and in the best interests of the Debtors and their respective estates and creditors, are effective and binding on all persons and entities who, prior to the filing of these Chapter 11 cases, may have had a claim or standing to assert such claims or causes of action, and no person or entity shall possess such claim or have standing to assert such claims or causes of action after the Effective Date.

O38. All non-Debtor entities shall be, and hereby are, permanently enjoined from commencing or continuing any action or other proceeding, in any manner or in any place, whether directly, derivatively or otherwise, on account of or respecting any claim, debt, right, cause of action or liability released or to be released pursuant to any provision, including Article X.D.1, of the Plan.

O39. On the Effective Date, all statutory committees, including the Committee, appointed in these Chapter 11 Cases, shall dissolve.

O40. Notwithstanding the entry of this Confirmation Order or the occurrence of the Effective Date, this Court shall retain such jurisdiction over the Reorganization Cases as is legally permissible.

O41. Pursuant to Bankruptcy Rules 2002 and 3020, the Debtors shall serve a notice of the entry of this Confirmation Order, (the "Confirmation Notice"), on the current Master Service List, and the Master Notice List, no later than 10 days after the Confirmation Date. The form of Confirmation Notice shall first be submitted to the Court for its review and approval and shall provide conspicuous notice of all deadlines set forth herein including all deadlines to file claims or requests for payment.

O42. The Debtors shall publish the Confirmation Notice in the following publications no later than 15 days after the Confirmation Date:

1. The Wall Street Journal (National Edition); and
2. The St. Louis Post-Dispatch;

Such publication shall be sufficient notice to all holders of Interests as may be required by Bankruptcy Rule 2002.

O43. The Debtors shall serve copies of the Confirmation Order on each party identified on the current Master Service List, and on each party who filed an objection to the Plan, no later than 10 days after the entry of the Confirmation Order.

O44. The Record Date is approved.

O45. This Order shall be effective upon entry.

Therefore,

IT IS ORDERED that the Debtors' Amended and Restated Joint Plan of Reorganization, as modified, is CONFIRMED.

Dated: October 15, 2003

/s/ Barry S. Schermer  
Barry S. Schermer  
United States Bankruptcy Judge

Copy to:

Gregory D. Willard  
Bryan Cave LLP  
One Metropolitan Square  
211 North Broadway, Suite 3600  
St. Louis, MO 63102-2750



UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

In re: )  
 ) Case No. 03-45870-399  
UNION FINANCIAL SERVICES )  
GROUP, INC., et al., ) Chapter 11  
 )  
Debtors. ) Jointly Administered

**ORDER APPROVING NOTICE OF CONFIRMATION**

This matter is before the Court pursuant to paragraph O41 of the Findings of Fact, Conclusions of Law, and Order Confirming the Debtors' Amended and Restated Joint Plan of Reorganization, as Modified ("Confirmation Order") which requires this Court's approval of a notice of entry of the confirmation order and of certain deadlines set forth therein. The Court hereby APPROVES the attached notice and directs the Debtor to serve and publish it in accordance with the provisions of the confirmation order.

/s/ Barry S. Schermer  
Barry S. Schermer  
United States Bankruptcy Judge

October 21, 2003  
St. Louis, Missouri

Copy to:

Gregory D. Willard  
Lloyd A. Palans  
Bryan Cave, LLP  
One Metropolitan Square, Suite 3600  
St. Louis, MO 63102-2750

United States Trustee  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, Room 6353  
St. Louis, MO 63102  
314-539-2990

UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

IN THE MATTER OF:

UNION FINANCIAL SERVICES GROUP, INC.,  
OUTSOURCING SOLUTIONS INC.,  
RWC CONSULTING GROUP, LLC,  
GREYSTONE BUSINESS GROUP, LLC,  
COAST TO COAST CONSULTING, LLC,  
PAE LEASING, LLC,  
PACIFIC SOFTWARE CONSULTING, LLC,  
UNIVERSITY ACCOUNTING SERVICE, LLC,  
NORTH SHORE AGENCY, INC.,  
OSI PORTFOLIO SERVICES, INC.,  
PERIMETER CREDIT L.L.C.,  
GULF STATE CREDIT, L.L.C.,  
OSI SUPPORT SERVICES, INC.,  
OSI COLLECTION SERVICES, INC.,  
JENNIFER LOOMIS & ASSOCIATES, INC.,  
ASSET RECOVERY & MANAGEMENT CORP.,  
GRABLE, GREINER & WOLFF, INC.,  
INDIANA MUTUAL CREDIT ASSOCIATION, INC.,  
QUALINK, INC.,  
PROFESSIONAL RECOVERIES INC.,  
PAYCO AMERICAN INTERNATIONAL CORP.,  
OSI OUTSOURCING SERVICES INTERNATIONAL, LTD.,  
THE UNION CORPORATION,  
OSI OUTSOURCING SERVICES, INC.,  
TRANSWORLD SYSTEMS INC.,  
AMERICAN RECOVERY COMPANY, INCORPORATED,  
C.S.N. CORP.,  
GENERAL CONNECTOR CORPORATION,  
U.C.O. - M.B.A. CORPORATION,  
UCO PROPERTIES, INCORPORATED,  
UNION-SPECIALTY STEEL CASTING CORPORATION,

Debtors.

) In Proceedings Under Chapter 11

)  
) Case No. 03-45870-399  
) Case No. 03-46349-399  
) Case No. 03-46352-399  
) Case No. 03-46337-399  
) Case No. 03-46336-399  
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) Case No. 03-46331-399  
) Case No. 03-46333-399  
) Case No. 03-46335-399  
) Case No. 03-46338-399  
) Case No. 03-46340-399  
) Case No. 03-46341-399  
)

) HONORABLE BARRY S. SCHERMER  
) UNITED STATES BANKRUPTCY JUDGE  
)

) NOTICE OF CONFIRMATION OF DEBTORS'  
) THIRD AMENDED PLAN OF  
) REORGANIZATION AND RELATED  
) MATTERS

TO: CREDITORS, EQUITY INTEREST HOLDERS AND OTHER PARTIES IN  
INTEREST

## **CONFIRMATION OF THE PLAN**

On October 15, 2003, (the "Confirmation Date"), the Bankruptcy Court entered its Findings of Fact, Conclusions of Law and Order Confirming Debtors' Amended and Restated Joint Plan of Reorganization, As Modified (the "Confirmation Order"), and confirmed the Debtors' Third Amended and Restated Joint Plan of Reorganization, As Modified (the "Plan"). Unless otherwise defined in this Notice, capitalized terms and phrases used herein shall have the meanings assigned to them in the Plan and the Confirmation Order, which in all respects govern the matters set forth herein. The Effective Date of the Plan is the first Business Day on which each condition set forth in Article IX.B of the Plan shall have been satisfied or waived as provided therein. The Debtors currently anticipate that the Effective Date will be October 31, 2003.

Subject to the provisions of Article X of the Plan, the provisions of the Plan shall bind the Debtors, Newco and the Reorganized Subsidiaries, any holder of a Claim against, or Equity Interest in, the Debtors (whether or not the Claim or Equity Interest of such holder is Impaired under this Plan and whether or not such holder has accepted or is deemed to have accepted this Plan), any and all nondebtor parties to executory contracts and unexpired leases with the Debtor and the respective heirs, executors, administrators, successors or assigns, if any, of any of the foregoing.

On the Effective Date, all securities, instruments and agreements governing or evidencing the Equity Interests shall be deemed terminated, canceled and extinguished without the need for the Debtors, Newco or the Reorganized Subsidiaries to take any further actions to effectuate such termination, cancellation or extinguishment.

### **DEADLINES FOR FILING REQUESTS FOR PAYMENT OF ADMINISTRATIVE EXPENSE CLAIMS**

Except as expressly provided in the following paragraph, requests for payment of Administrative Expense Claims must be filed with the Bankruptcy Court and served pursuant to Standing Order #1 no later than 60 days after the Effective Date. Holders of Administrative Expense Claims that are required to file with the Bankruptcy Court a request for the payment of such Claims pursuant to Section V of the Plan and that do not file a request by the applicable deadline for filing such Claims shall be forever barred from asserting such Claims against the Debtors, the Debtors-In-Possession, Newco, the Reorganized Subsidiaries or their respective property and assets.

Holders of Administrative Expense Claims based on liabilities incurred by a Debtor in the ordinary course of its business (including Administrative Expense Claims of governmental units for taxes) shall not be required to file or serve any request for payment of such Claims.

Professionals or other entities requesting compensation or reimbursement of expenses pursuant to Sections 327, 328, 330, 331, 503, 506 or 1103 of the Bankruptcy Code for services rendered before the Effective Date shall file with the Bankruptcy Court and serve pursuant to Standing Order #1 an application for final allowance of compensation and reimbursement of

expenses no later than 60 days after the Effective Date; provided, however, that any professional who receives compensation or reimbursement of expenses pursuant to Standing Order #2 may continue to receive such compensation and reimbursement of expenses for services rendered before the Effective Date so long as the application and request for compensation and reimbursement are made in strict accordance with and pursuant to Standing Order #2.

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

All executory contracts and unexpired leases in existence between the Non-Union Debtors and any entity shall be deemed assumed as of the Effective Date, except for any executory contract or unexpired lease (a) which has been assumed or rejected pursuant to an order of the Bankruptcy Court entered prior to the Confirmation Date, (b) as to which a motion for approval of the assumption of such contract or lease has been filed and served prior to the Confirmation Date, or (c) which was designated in the Plan Supplement for rejection. Entry of the Confirmation Order constitutes the approval, pursuant to Section 365(a) of the Bankruptcy Code, of the assumption of executory contracts and unexpired leases.

All executory contracts and unexpired leases of the Debtors designated for rejection in the Plan Supplement and all executory contracts and unexpired leases of the Union Debtors in existence on the Confirmation Date shall be deemed rejected as of the Confirmation Date. Any Claim resulting from the rejection of an executory contract or unexpired lease must be filed and served on the applicable Reorganized Debtor no later than November 14, 2003, or it shall be forever barred.

### **WHERE TO FILE CLAIMS AND FINAL APPLICATIONS FOR ALLOWANCE OF COMPENSATION AND REIMBURSEMENT OF EXPENSES**

Requests for payment of Administrative Expense Claims and any Claim resulting from the rejection of an executory contract or unexpired lease should be mailed, postage prepaid, to:

Union Financial Services Group, Inc.  
c/o AlixPartners, LLC  
2807 Allen Street, Box #820  
Dallas, Texas 75204-1031.

Professionals seeking final allowance of compensation and reimbursement of expenses shall file their application with the Bankruptcy Court at the following address or via electronic format:

United States Bankruptcy Court  
Eastern District of Missouri  
Thomas F. Eagleton U.S. Courthouse  
111 South Tenth Street, 4<sup>th</sup> Floor  
St. Louis, Missouri 63102.

**DISCHARGE**

The Debtors shall be discharged by operation of Section 1141 of the Bankruptcy Code of and from any and all debts and claims that arose against them before the date of entry of the Confirmation Order.

**COPIES OF CONFIRMATION ORDER**

Copies of the Confirmation Order may be obtained from AlixPartners LLC, 2100 McKinney Avenue, Suite 800, Dallas, Texas 75201, 972-537-7150, or at <http://cms.alixpartners.com>.

Dated: October \_\_, 2003

BY ORDER OF THE COURT

HONORABLE BARRY S. SCHERMER  
UNITED STATES BANKRUPTCY JUDGE

Gregory D. Willard, Esq.  
Lloyd A. Palans, Esq.  
Cullen K. Kuhn, Esq.  
BRYAN CAVE LLP  
One Metropolitan Square  
211 North Broadway  
Suite 3600-OSI  
St. Louis, Missouri 63102-2750

Counsel for Debtors and Debtors-in-Possession

IN THE UNITED STATES BANKRUPTCY COURT  
EASTERN DISTRICT OF MISSOURI  
EASTERN DIVISION

IN THE MATTER OF: ) In Proceedings Under Chapter 11  
)  
UNION FINANCIAL SERVICES GROUP, INC. ) Case No. 03-45870-399  
OUTSOURCING SOLUTIONS INC., ) Case No. 03-46349-399  
RWC CONSULTING GROUP, LLC, ) Case No. 03-46352-399  
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UCO PROPERTIES, INCORPORATED, ) Case No. 03-46340-399  
UNION-SPECIALTY STEEL CASTING CORPORATION, ) Case No. 03-46341-399  
)  
Debtors. ) **HONORABLE BARRY S. SCHERMER**  
) **UNITED STATES BANKRUPTCY JUDGE**

**THIRD AMENDED JOINT PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Dated: July 31, 2003

BRYAN CAVE LLP  
Gregory D. Willard, Esq. #30192, #4707  
Lloyd A. Palans, Esq. #22650, #4024  
Cullen K. Kuhn, Esq. #53151, #110127  
211 N. Broadway  
Suite 3600-OSI  
St. Louis, MO 63102-2750  
Tel: (314) 259-2000  
Fax: (314) 259-2020

Counsel for the Debtors and Debtors in Possession

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**THIRD AMENDED JOINT PLAN OF REORGANIZATION  
UNDER CHAPTER 11 OF THE BANKRUPTCY CODE**

Union Financial Services, Inc. and its 30 related affiliates, as debtors and debtors in possession, propose the following joint chapter 11 plan of reorganization pursuant to section 1121(a) of title 11 of the United States Code:

**I. Introduction**

**A. Plan Defined Terms.** Unless the context otherwise requires, the terms specified below have the following meanings (such meanings to be applicable equally to both the singular and plural unless otherwise noted):

1. *Administrative Bar Date* means the last date for filing proofs of claim by non-Professionals relating to any Administrative Claim, which date shall be 30 days after the Confirmation Date.

2. *Administrative Claim* means a Claim entitled to priority pursuant to section 507(a)(1) of the Bankruptcy Code, including, but not limited to: (a) any actual, necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors (such as wages, salaries, commissions for services, and payments for inventories, leased equipment, and premises) and Claims of governmental units for taxes (including tax audit Claims related to tax years commencing after the Petition Date, but excluding Claims relating to tax periods, or portions thereof, ending on or before the Petition Date); (b) compensation for legal, financial, advisory, accounting and other services and reimbursement of expenses Allowed by the Bankruptcy Court under section 330, 331, 503(b) or 1103 of the Bankruptcy Code to the extent incurred prior to the Effective Date; and (c) all fees and charges assessed against the Estates under section 1930, chapter 123 of title 28 of the United States Code.

3. *Administrator* means the administrator of the Union Trust, which is a limited-purpose Delaware corporation formed in connection with the effectiveness of the Plan, the sole powers of which are to (i) maintain records of the identity of the beneficiaries of the Union Trust, (ii) sell or transfer property held by the Union Trust and make distributions, if any, to the Union Trust beneficiaries, and (iii) to act as a member of the Old OSI LLC, it being understood that the Administrator will not have the corporate power or the resources to perform any other duties with respect to the Union Trust or the properties it holds.

4. *Administrator Holdco* is the Delaware corporation newly formed in connection with the effectiveness of the Plan as a wholly-owned subsidiary of Newco and (i) the sole stockholder of the Administrator and (ii) a member of Old OSI LLC.

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

6. *Allowed* means, when used in reference to a Claim or Interest, a Claim or Interest that is not subject to any setoffs or defenses that may exist in favor of the Debtors under applicable non-bankruptcy law, with a right to seek a determination of such dispute. To the extent any Claim or Interest to be Allowed becomes Allowed as a result of a Final Order, such Claim or Interest shall be deemed to be Allowed only as of the date that such order becomes a Final Order.

7. *Allowed Administrative Claim, Allowed Claim, or Allowed Interest* means an Administrative Claim, Claim, or Interest, as the case may be, that is Allowed or deemed Allowed pursuant to the Plan or sections 502, 503, or 1111 of the Bankruptcy Code.

8. *Ballot* means each of the ballot forms distributed to each Holder of an Impaired Claim or Impaired Interest on which the Holder is to indicate acceptance or rejection of this Plan.

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

10. *Bankruptcy Court* means the United States Bankruptcy Court for the Eastern District of Missouri, Eastern Division, or such other court having jurisdiction over the Chapter 11 Cases or any proceeding within, or appeal of an order entered in, the Chapter 11 Cases.

11. *Bankruptcy Rules* mean the Federal Rules of Bankruptcy Procedure, as amended from time to time, as applicable to the Chapter 11 Cases, including the local rules of the Bankruptcy Court, if any.

12. *Bar Date* means the last date for filing proofs of claim relating to any non-Administrative Claim as set forth in the Bar Date Order.

13. *Bar Date Order* means Standing Order No. 3 of the Bankruptcy Court - Setting Claims Bar Date, Establishing Claims Processing and Objection Procedure and Establishing Claims Estimation Procedures Pursuant to 11 U.S.C. § 502.

14. *Business Day* means any day on which commercial banks are open for business and not authorized to close, in the City of New York.

15. *Cash* means legal tender of the United States of America and equivalents thereof in any form of payment including checks, drafts and wire transfers.

16. *Causes of Action* mean all Claims, actions, chooses in action, causes of action, suits, debts, dues, sums of money, accounts, reckonings, bonds, bills, specialties, covenants, contracts, controversies, agreements, promises, variances, trespasses, damages, judgments, third-party claims, counterclaims and cross claims (including, but not limited to, all claims in any avoidance, recovery, subordination or other actions against Insiders and/or any other Persons under the Bankruptcy Code, including sections 510, 542, 543, 544, 545, 547, 548, 549, 550, 551 and 553 of the Bankruptcy Code) of the Debtors, the Debtors in Possession and/or the Estates (including, but not limited to, those actions listed in the Disclosure Statement and the Plan Supplement) that are or may be pending on the Effective Date or instituted by Newco, the Reorganized Subsidiaries or the Union Trust, after the Effective Date against any Person based on law or equity, including, but not limited to, under the Bankruptcy Code, whether direct, indirect, derivative, or otherwise and whether asserted or unasserted, known or unknown.

17. *Chapter 11 Cases* mean the cases under chapter 11 of the Bankruptcy Code commenced by the Debtors in the Bankruptcy Court.

18. *Claim* means a "claim" as defined in section 101(5) of the Bankruptcy Code.

19. *Class* means a category of Holders of Claims or Interests, as described in Article II. hereof.

20. *Class 1A Debt Consideration* means the interests of the New Senior Secured Lenders under the New Credit Agreement distributable to Class 1A under this Plan on account of their DIP Claims against the Non-Union Debtors.

21. *Class 1B Debt Consideration* means the interests of the New Senior Secured Lenders under the New Credit Agreement distributable to Class 1B under this Plan on account of their DIP Claims against the Union Debtors.

22. *Class 3A Debt Consideration* means the interests of the New Senior Secured Lenders under the New Credit Agreement distributable to Class 3A under this Plan on account of their Senior Secured Lender Claims against the Non-Union Debtors.

23. *Class 3B Debt Consideration* means the interests of the New Senior Secured Lenders under the New Credit Agreement distributable to Class 3B under this Plan on account of their Senior Secured Lender Claims against the Union Debtors.

24. *Committee* means any committee appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

25. *Common Stock Interest* means any Allowed equity interest in Old OSI evidenced by the Existing Common Stock, including options and warrants to acquire Existing Common Stock, and any Claim with respect thereto.

26. *Company* means, collectively, Old OSI, the Filing Subsidiaries and the Non-Debtor Subsidiaries.

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

28. *Confirmation Hearing* means the hearing held by the Bankruptcy Court to consider confirmation of the Plan pursuant to section 1129 of the Bankruptcy Code, as such hearing may be adjourned or continued from time to time.

29. *Confirmation Order* means the order of the Bankruptcy Court confirming the Plan pursuant to section 1129 of the Bankruptcy Code.

30. *Consenting Lenders* means each of the Senior Secured Lenders who are signatories to the Lock-Up Agreement and any transferees or assignees thereof.

31. *Critical Business Claims* means those certain General Unsecured Claims of trade vendors which the Debtors and FTI, on behalf of the Senior Secured Lenders and the DIP Lenders, deem critical to the future operations of Newco's and the Reorganized Subsidiaries' businesses to be treated under the Plan as outlined in Article II.D.5. of the Plan.

32. *CSFB* means Credit Suisse First Boston.

33. *Debt Consideration* means the Class 1A Debt Consideration, Class 3A Debt Consideration, Class 1B Debt Consideration and Class 3B Debt Consideration.

34. *Debtors* mean the following entities who filed chapter 11 petitions: Old OSI, RWC Consulting Group, LLC, Greystone Business Group, LLC, Coast to Coast Consulting, LLC, PAE Leasing, LLC, Pacific Software Consulting, LLC, University Accounting Service, LLC, North Shore Agency, Inc., OSI Portfolio Services, Inc., Perimeter Credit, L.L.C., Gulf State Credit, L.L.C., OSI

Support Services, Inc., OSI Collection Services, Inc., Jennifer Loomis & Associates, Inc., Asset Recovery & Management Corp., Grable, Greiner & Wolff, Inc., Indiana Mutual Credit Association, Inc., Qualink, Inc., Professional Recoveries Inc., Payco American International Corp., OSI Outsourcing Services, International, Ltd., The Union Corporation, OSI Outsourcing Services, Inc., Transworld Systems Inc., Union Financial Services Group, Inc., American Recovery Company, Incorporated, C.S.N. Corp., General Connector Corporation, U.C.O. - M.B.A. Corporation, UCO Properties, Incorporated and Union-Specialty Steel Casting Corporation.

35. *Debtors in Possession* mean the Debtors in their capacity as debtors in possession in the Chapter 11 Cases pursuant to sections 1101, 1107(a) and 1108 of the Bankruptcy Code.

36. *Debtors' Utilities Motion* means the Debtors' Motion for Order Under 11 U.S.C. §§ 105(a) and 366 (A) Prohibiting Utilities from Discontinuing, Altering or Refusing Services, and (B) Establishing Procedure for Determining Adequate Assurance Payment, filed on May 12, 2003.

37. *De Minimis Claims* means those certain General Unsecured Claims of creditors, as determined by the Debtors and FTI on behalf of the Senior Secured Lenders and the DIP Lenders, in an amount of less than \$5,000 to be treated under the Plan as outlined in Article II.D.5. of the Plan.

38. *DIP Claims* means all Claims arising under the DIP Facility.

39. *DIP Credit Agreement* means the Revolving Credit and Guarantee Agreement, dated as of May 13, 2003, among the Debtors, the DIP Lenders, CSFB, as the managing agent, the lead arranger and the sole book running manager, and Fleet National Bank, as the administrative agent, as amended, supplemented, amended and restated or otherwise modified and the other loan documents executed in connection therewith.

40. *DIP Facility* means the lending facility established under the DIP Credit Agreement.

41. *DIP Funds* means, as of any date, the sum of (1) funds on deposit in the Administrative Agent Segregated Account (as defined in the Forbearance Agreement), the Interest Account (as defined in the DIP Credit Agreement) and the Mandatory Payment Account (as defined in the DIP Credit Agreement), and (2) the amount of loans outstanding under the DIP Facility to be contributed by the DIP Lenders to Newco in accordance with the terms hereof and the DIP Credit Agreement.

42. *DIP Lenders* means the Senior Secured Lenders deemed to be party to the DIP Facility.

43. *DIP Term Sheet* means the Outsourcing Solutions Inc. \$22,120,650 DIP Financing Facility Summary of Terms and Conditions, dated April 30, 2003, attached as Exhibit B to the Lock-Up Agreement.

44. *Disclosure Statement* means that certain disclosure statement, as amended, supplemented or otherwise modified, from time to time, relating to the Plan, including, without limitation, any exhibits and schedules thereto, that is prepared and distributed in accordance with the Bankruptcy Code, Bankruptcy Rules and other applicable law.

45. *Disputed* means, with respect to any Claim or Interest, any Claim or Interest: (a) listed on the Schedules as liquidated, disputed or contingent; (b) as to which the Debtors or any other party in interest has interposed a timely objection or request for estimation in accordance with the Bankruptcy Code and the Bankruptcy Rules or is otherwise disputed by the Debtors in accordance with

applicable law, which objection, request for estimation or dispute has not been settled, waived withdrawn or determined by a Final Order; or (c) during the period prior to the deadline fixed by the Plan or the Bankruptcy Court for objecting to such Claim or Equity Interest, such Claim or Equity Interest exceeds the amount listed on the Schedules other than as unliquidated, disputed or contingent.

46. *Effective Date* means the first Business Day on which each condition specified in Article IX.B. of the Plan shall have been satisfied or waived.

47. *Environmental Claims* means those claims for environmental matters relating to any Debtor that arose, accrued or otherwise relate directly or indirectly to events prior to the Petition Date, including, without limitation, environmental costs expended prepetition by any entity, whether governmental or private, and claims by governmental and private entities with respect to postpetition cleanup of property (including any site owned or operated at any time by the Union Debtors or the Union Trust) with respect to releases, discharges, contamination or other events that initially occurred prior to the Petition Date.

48. *Equity Security* means (a) a share in a corporation, whether or not denominated "stock" or security; (b) an interest of a limited partner in a limited partnership; (c) an interest in a general partnership; (d) a membership interest in a limited liability company; or (e) a warrant, option, or right (other than a right to consent) to purchase, sell or subscribe to a share, security or interest of the kind specified in (a), (b), (c), or (d) of this definition.

49. *Estates* mean the estates of all Debtors in the Chapter 11 Cases created pursuant to section 541 of the Bankruptcy Code.

50. *Existing Class A Senior Preferred Stock* means the Class A 14% Senior Mandatorily Redeemable Preferred Stock of Old OSI.

51. *Existing Class B Senior Preferred Stock* means the Class B 14% Senior Mandatorily Redeemable Preferred Stock of Old OSI.

52. *Existing Common Stock* means collectively the authorized common shares of the Existing Senior Common Stock, the Existing Voting Common Stock and the Existing Non-Voting Common Stock.

53. *Existing Credit Agreement* means the Credit Agreement, dated as of November 30, 1999, among Old OSI, the various financial institutions party thereto, CSFB (as successor in interest of DLJ Capital Funding, Inc.) as the syndication agent, the lead arranger and the sole book running manger, Fleet National Bank, as the administrative agent, and Harris Trust and Savings Bank, as the documentation agent, as amended, supplemented and restated or otherwise modified from time to time and the other loan documents executed in connection therewith.

54. *Existing Junior Preferred Stock* means the Junior Preferred Stock and the Series B Junior Preferred Stock of Old OSI.

55. *Existing Non-Voting Common Stock* means the authorized shares of non-voting common stock of Old OSI.

56. *Existing Options* means any option to purchase shares of Existing Common Stock or Existing Preferred Stock.



57. *Existing Preferred Stock* means (a) the Existing Class A Senior Preferred Stock, (b) the Existing Class B Senior Preferred Stock, (c) the Existing Junior Preferred Stock and (d) any other securities issued or issuable with respect to or in exchange for such Existing Preferred Stock described in clauses (a), (b) or (c) by way of share exchange, stock dividend, stock split or in connection with a combination of shares, recapitalization, merger, consolidation or other reorganization or pursuant to any registration agreement applicable thereto or otherwise.

58. *Existing Senior Common Stock* means the authorized shares of senior common stock of Old OSI.

59. *Existing Subordinated Notes* means the 11% Series B Senior Subordinated Notes due 2006, issued pursuant to the Indenture.

60. *Existing Voting Common Stock* means the authorized shares of voting common stock of Old OSI.

61. *Existing Warrants* means any warrants to acquire Existing Common Stock.

62. *File, Filed or Filing* means file, filed or filing with the Bankruptcy Court or its authorized designee in the Chapter 11 Cases.

63. *Filing Subsidiary* means any Subsidiary of Old OSI that is a Debtor.

64. *Final Order* means an order that is in effect and is not stayed, and as to which the time to appeal, petition for certiorari, or move for reargument or rehearing has expired and as to which no appeal, petition for certiorari, or other proceedings for reargument or rehearing shall then be pending or as to which any right to appeal, petition for certiorari, reargue, or rehear shall have been waived in writing in form and substance satisfactory to the Debtors or, in the event that an appeal, writ of certiorari, or reargument or rehearing thereof has been sought, such order shall have been determined by the highest court to which such order was appealed, or certiorari, reargument or rehearing shall have been denied and the time to take any further appeal, petition for certiorari, or move for reargument or rehearing shall have expired; *provided, however*, that the possibility that a motion under rule 59 or rule 60 of the Federal Rules of Civil Procedure, or any analogous Bankruptcy Rule, or any applicable state court rule of civil procedure, may have been filed with respect to such order and shall not prevent such order from being a Final Order.

65. *Forbearance Agreement* means the Forbearance Agreement and Sixth Amendment, dated as of October 29, 2002, among the Debtors, the Senior Secured Lenders party thereto, MDCP, MDSE and SAF (as subsequently amended or otherwise modified from time to time).

66. *FTI* means FTI Consulting in its capacity as the Senior Secured Lenders' financial advisor.

67. *General Unsecured Claim* means, as outlined in Article II. herein, any Allowed Claim against any of the Debtors that arose or accrued prior to the Petition Date and is not a DIP Claim, Senior Secured Lender Claim, Other Secured Claim, Senior Subordinated Noteholder Claim, Administrative Claim, Priority Tax Claim, Priority Non-Tax Claim, Other Securities Claim or an Intercompany Claim.

68. *Holder* means an entity holding a Claim or Interest and, with respect to Senior Subordinated Noteholder Claims, the beneficial Holder as of the applicable Voting Record Date or any

authorized agent who has completed, executed and delivered a Ballot or on whose behalf a Master Ballot has been completed, executed and delivered in accordance with the applicable voting instructions.

69. *Impaired* means, when used in reference to a Claim or Interest, a Claim or Interest that is “impaired” within the meaning of section 1124 of the Bankruptcy Code.

70. *Indenture* means the indenture, dated November 6, 1996, governing the Existing Subordinated Notes, by and among Old OSI, the guarantors pursuant thereto and Wilmington Trust Company as indenture trustee, as amended and supplemented from time to time.

71. *Insider* means any Person that is an “insider” of any of the Debtors within the meaning of section 101(31) of the Bankruptcy Code.

72. *Intercompany Claims* mean those Allowed Claims against any of the Debtors held by a Debtor.

73. *Interest* means any equity interest including, but not limited to, all issued, unissued, authorized or outstanding shares of stock or other Equity Security together with any warrants, options or contractual rights to purchase or acquire such equity interests at any time and all rights arising with respect thereto and Claims of Holders of Equity Securities may have relating to the purchase, sale or otherwise that relate to the ownership of the Equity Securities.

74. *Lenders Contribution* means the result of (a) the DIP Funds less (b) the sum of the Allowed Critical Business Claims, Allowed Utilities Claims and Allowed De Minimis Claims, in each case subject to the caps set forth in Article II.D.5.b., to be paid from consideration otherwise due the DIP Lenders and the Senior Secured Lenders, in accordance with the terms hereof.

75. *Liquidating Union Assets* means the Union Trust, Union LLC, Old OSI LLC, the Residual Union LLC Assets and any other asset held by the Union Trust, individually or collectively.

76. *Lock-Up Agreement* means the Lock-Up, Voting and Consent Agreement, dated April 30, 2003, by and among the Debtors, MDCP and the Consenting Lenders.

77. *Majority Consenting Lenders* means Consenting Lenders holding in excess of 50% of the aggregate amount of Senior Secured Lender Claims held by the Consenting Lenders.

78. *Master Ballot* means the ballots distributed to nominees for Holders of record of the Senior Subordinated Noteholder Claims, as applicable to record the votes, if any, of the beneficial Holders of such instruments.

79. *MDP* means Madison Dearborn Partners and its various affiliates and subsidiaries including, but not limited to, MDCP, MDSE and SAF.

80. *MDCP* means Madison Dearborn Capital Partners III, L.P., a Delaware limited partnership.

81. *MDP Investors* means the MDP affiliates that purchase the Newco Preferred Stock upon the Effective Date, or after the conversion of such Newco Preferred Stock, the Newco Common Stock into which such Newco Preferred Stock was converted.

82. *MDSE* means Madison Dearborn Special Equity III, L.P., a Delaware limited partnership.

83. *Merrill Lynch* means Merrill Lynch Mortgage Capital Inc. and its successors and permitted assigns.

84. *ML Conduit* means the conduit financing agreement, dated as of May 9, 2003, among Portfolio Acquisitions, LLC (as borrower), OSI Portfolio Services, Inc. (as seller), the Company, and Merrill Lynch (as a lender) to effectuate the purchase of portfolios by Newco, the Reorganized Subsidiaries or any Non-Debtor Subsidiaries or Affiliates, containing terms and conditions generally consistent with those set forth in the Summary Term Sheet.

85. *New Credit Agreement* means the Credit Agreement, dated as of the Effective Date, among Newco, the New Senior Secured Lenders, the various other financial institutions that become party thereto and CSFB, as administrative agent, syndication agent, lead arranger and sole book running manager, as amended, supplemented, restated or otherwise modified from time to time, containing terms and conditions generally consistent with those set forth in the Summary Term Sheet.

86. *New Management Equity Incentive Program* means that certain bonus and incentive program established by the Board of Directors of Newco for certain of its management on the terms and conditions generally consistent with those set forth in the Summary Term Sheet and as may be more fully set forth in the Plan Supplement.

87. *New Obligations* means the obligations of Newco under the New Credit Agreement in the aggregate principal amount of \$175,000,000.

88. *New Senior Secured Lenders* means the "Secured Parties" (as defined in the New Credit Agreement).

89. *Newco* means Senior Secured Lender Receiving Corp., the new corporation to be incorporated under the laws of the State of Delaware as outlined in Article III.A. herein.

90. *Newco Board* means the board of directors of Newco as outlined in Article III.I. herein.

91. *Newco By-Laws* means the by-laws of Newco, containing terms and conditions generally consistent with those set forth in the Summary Term Sheet and substantially in the form to be contained in the Plan Supplement.

92. *Newco Charter* means the Certificate of Incorporation of Newco, containing terms generally consistent with those set forth in the Summary Term Sheet and substantially in the form as may be contained in the Plan Supplement.

93. *Newco Common Stock* means the authorized common shares of stock to be issued by Newco with terms, rights and privileges generally consistent with those set forth in the Summary Term Sheet and Article III.B. and as may be more fully set forth in the Plan Supplement.

94. *Newco Preferred Stock* means the convertible, redeemable preferred stock to be issued on the Effective Date by Newco with terms, rights and privileges generally consistent with those set forth in the Summary Term Sheet and Article III.G. and as may be more fully set forth in the Plan Supplement.

95. *Newco Warrants* means the warrants to be issued by Newco to purchase Newco Common Stock with terms, rights and privileges generally consistent with those set forth in the Summary Term Sheet and Article III.B. and as may be more fully set forth in the Plan Supplement.

96. *Non-Debtor Subsidiary or Affiliate* means any Subsidiary or Affiliate of the Debtors that is not a Debtor.

97. *Non-Residual Union LLC Assets* means the stock held by Union in OSI Support Services, Inc., OSI Outsourcing Services, Inc. and Transworld Systems Inc. prior to the Effective Date.

98. *Non-Union Debtors* means all Debtors other than the Union Debtors.

99. *Non-Union LLC Assets* means all of Old OSI's assets, tangible or intangible (including all of its interests in the name "Outsourcing Solutions Inc." and derivatives thereof and all of its books, records, rights and privileges) of any kind or nature whatsoever, other than any Equity Securities issued by or Interests in Union or Union LLC.

100. *Notice Agent* means AlixPartners, LLC.

101. *Old OSI* means Outsourcing Solutions Inc. as it exists prior to the Effective Date.

102. *Old OSI LLC* means Old OSI as renamed and converted into a Delaware limited liability company of which the two members shall be Administrator Holdco and Administrator as outlined in Article III.F. herein.

103. *Old OSI Share* means that certain percentage of the Newco Common Stock and all of the Newco Warrants held by Old OSI as outlined in Article III.B. of the Plan.

104. *Other Secured Claim* means a Secured Claim other than the DIP Claims or the Senior Secured Lender Claims.

105. *Other Securities Claims* means (a) any Interests, including but not limited to, any warrants, options, conversion privileges or contract rights to purchase or acquire any Equity Securities of Debtors at any time and (b) any Claims, obligations, rights, suits, damages, causes of action, remedies, and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, currently existing or hereafter arising, in law, equity or otherwise arising from rescission of a purchase or sale of a security of Debtors (including the Existing Subordinated Notes, Existing Preferred Stock and Existing Common Stock), for damages arising from the purchase, sale or holding of such securities, or for reimbursement, indemnification (except as set forth in Article X.E. herein) or contribution allowed under section 502 of the Bankruptcy Code on account of such Claim.

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

107. *Petition Date* means May 12, 2003, the date on which the Debtors (other than Union Financial Services Group, Inc.) commenced the Chapter 11 Cases.

108. *Plan* means this third amended joint chapter 11 plan of reorganization, including the Plan Supplement and all supplements, appendices, exhibits and schedules thereto, including, without limitation, the Summary Term Sheet, in each case as it may be altered, amended, restated, modified or replaced from time to time.

109. *Plan Supplement* means the compilation of documents and form of documents specified in this Plan to be Filed as set forth in Article XII.E. hereof as such may be altered, amended, restated, modified or replaced from time to time.

110. *Plan Term Sheet* means the Plan Structure Summary attached as Annex I to the Summary Term Sheet.

111. *Preferred Stock Interests* means any Allowed equity interest in Old OSI evidenced by the Existing Preferred Stock and any Claim with respect thereto.

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

113. *Priority Tax Claim* means any unsecured tax Claim held by a governmental unit entitled to a priority in right of payment under section 507(a)(8) of the Bankruptcy Code.

114. *Pro Rata Share* means (a) with respect to any Claim, a proportionate share, so that the ratio of the consideration distributed on account of an Allowed Claim in a Class to the consideration distributed on account of all Allowed Claims in such Class is the same as the ratio such Claim bears to the total amount of all Allowed Claims (plus Disputed Claims until disallowed) in such Class, and (b) with respect to any Interest, a proportionate share, so that the ratio of the consideration distributed on account of an Allowed Interest in a Class of Interests to the consideration distributed on account of all Allowed Interests in such Class is the same as the ratio such Interest bears to the total amount of all Allowed Interests (plus Disputed Interests until disallowed) in such Class.

115. *Professional* means, including, without limitation, (a) Bryan Cave LLP, The Recovery Group, PricewaterhouseCoopers LLP, Johnson & Colmar, and AlixPartners, (b) any other professional employed in the Chapter 11 Cases pursuant to section 327 or 1103 of the Bankruptcy Code or otherwise or (c) any professional or other entity seeking compensation or reimbursement expenses in connection with the Chapter 11 Cases pursuant to section 503(b)(4) of the Bankruptcy Code.

116. *Record Date* means the day that is five Business Days after the date the Bankruptcy Court enters the Confirmation Order.

117. *Rejection Claim* has the meaning specified in VIII.C.

118. *Reorganized Subsidiary* means, in the singular, any of Newco's subsidiaries and, in the plural, all of Newco's subsidiaries; provided that the Union Trust, the Administrator, Union LLC, Old OSI LLC and the Residual Union LLC Assets and any other asset held by the Union Trust, shall not be considered "Reorganized Subsidiaries," individually or collectively.

119. *Residual Union LLC Assets* means all of the assets of the Union Debtors, other than the stock held by Union in OSI Support Services, Inc., OSI Outsourcing Services, Inc. and Transworld Systems Inc., prior to the Effective Date.

120. *SAF* means Special Advisors Fund I, L.P., a Delaware limited partnership.

121. *Schedules* (and, with a correlative meaning, *Scheduled*) mean the schedules of assets and liabilities and the statements of financial affairs, if any, Filed by the Debtors pursuant to section 521 of the Bankruptcy Code and the Bankruptcy Rules, as such Schedules have been or may be further modified, amended or supplemented in accordance with Bankruptcy Rule 1009 or orders of the Bankruptcy Court.

122. *Secured Claim* means an Allowed Claim that was secured prepetition by a lien on property in which the Estate of any Debtor has an interest or that is subject to setoff under section 553 of the Bankruptcy Code, to the extent of the value of the Claim Holder's interest in the Estate's interest in such property or to the extent of the amount subject to setoff, as applicable, as determined pursuant to section 506(a) of the Bankruptcy Code or, in the case of setoff, pursuant to section 553 of the Bankruptcy Code. A Claim that meets this definition but which exceeds the value of the Claim Holder's Interest in

the Estate's interest in the applicable property, or which exceeds the amount subject to setoff, as applicable, shall be a General Unsecured Claim to such extent.

123. *Seller Note* means the \$5.0 million 18% note due September 29, 2003, with respect to the purchase of RWC Consulting Group.

124. *Senior Secured Lenders* means the "Secured Parties" (as defined in the Existing Credit Agreement).

125. *Senior Secured Lender Claims* means any and all Claims of the Senior Secured Lenders arising under the Existing Credit Agreement or another "Loan Document" (as defined in the Existing Credit Agreement).

126. *Senior Subordinated Noteholders* means the holders of Existing Subordinated Notes.

127. *Senior Subordinated Noteholder Claims* means any and all Allowed Claims arising from or related to the Existing Subordinated Notes or the purchase and sale thereof.

128. *Shareholders Agreement* means an agreement by and among the holders of the Newco Common Stock, Newco Preferred Stock and guarantors.

129. *Subordinated Note Guaranty* shall be that certain guaranty issued by each Filing Subsidiary to the Holders of the Existing Subordinated Notes to guaranty the Debtors' obligations under the Existing Subordinated Notes.

130. *Subsidiary* means any corporation or limited liability company in which Old OSI owns or controls, directly or indirectly, at least a 50% voting equity interest.

131. *Summary Term Sheet* means the Restructure of Existing Capital Structure Summary Term Sheet, dated April 30, 2003, attached as Exhibit A to the Lock Up Agreement provided to the Bankruptcy Court and incorporated hereby and made a part of this Plan.

132. *Tax Rate* means (a) as to the Internal Revenue Service, the interest rate equal to the underpayment rate specified in 26 U.S.C. § 6621 (determined without regard to 26 U.S.C. § 6621(c)) as of the Effective Date, and (b) as to all other taxing authorities, a fixed annual interest rate of eight percent 8%.

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

134. *Union* means The Union Corporation.

135. *Union Debtors* mean Union Financial Services Group, Inc., Union, American Recovery Company, Incorporated, C.S.N. Corp., General Connector Corporation, U.C.O. - M.B.A. Corporation, UCO Properties, Incorporated and Union-Specialty Steel Casting Corporation.

136. *Union LLC* means the new entity formed by the conversion of Union into a limited liability company as outlined in Article III.A. of the Plan.

137. *Union LLC Share* means a certain percentage of the Newco Common Stock as outlined in Article II.E. herein.

138. *Union Trust* means the trust to be created on the Effective Date in accordance with the Plan and the UT Agreement, the sole purpose of which is to hold certain assets for the benefit of Holders of Allowed Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims of Union and any other Person that expends any resources or monies after the Petition Date with respect to the clean-up or remediation of environmental contamination with respect to the properties held by the Union Trust until those properties become marketable (as a result of those clean-up or remediation expenditures or otherwise), it being understood that (i) the Union Trust will not have the power or the resources to perform any actions with respect to the property it holds (including any clean-up of those properties) other than maintaining records of the identity of beneficial owners of the Union Trust and making distributions (if any) to the then existing beneficial owners from time to time, and (ii) neither Newco nor any of its subsidiaries as of the Effective Date have any beneficial interest in the Union Trust.

139. *UT Agreement* means the trust agreement, substantially in the form to be attached to the Plan Supplement, that documents the Union Trust and that describes the rights and interests of the beneficiaries and the powers, duties and responsibilities of the Administrator.

140. *Utilities Claims* means the Allowed Claims of those certain utilities providers described in the Debtors' Utilities Motion as determined by the Debtors and FTI on behalf of the Senior Secured Lenders and the DIP Lenders.

141. *Voting Deadline* means the voting deadline date for voting to accept or reject this Plan, as specified in the Disclosure Statement.

142. *Voting Record Date* means the voting record date for voting to accept or reject this Plan, as specified in the Disclosure Statement.

**B. Rules of Interpretation, Computation of Time and Governing Law.** For purposes of this Plan: (a) whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine and neuter gender; (b) any reference in this Plan to a contract, instrument, release, indenture or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions; (c) any reference in this Plan to an existing document or exhibit Filed, or to be Filed, shall mean such document or exhibit, as it may have been or may be amended, modified or supplemented; (d) unless otherwise specified, all references in this Plan to Sections, Articles and Exhibits are references to Sections, Articles and Exhibits of or to this Plan; (e) the words "herein" and "hereto" refer to this Plan in its entirety rather than to a particular portion of this Plan; (f) captions and headings to Articles and Sections are inserted for convenience of reference only and are not intended to be a part of, or to affect the interpretation of, this Plan; (g) the word "including" means "including without limitation"; (h) the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; and (i) any term used in capitalized form in this Plan that is not defined herein but that is defined in the Bankruptcy Code or the Bankruptcy Rules shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as the case may be.

In computing any period of time prescribed or allowed by this Plan, the provisions of Bankruptcy Rule 9006(a) shall apply.

**C. Exhibits.** All exhibits to the Plan will be included in the Plan Supplement and are incorporated into and are deemed to be a part of the Plan.

**II. Classification and Treatment of Claims and Interests**

**A. Summary.** The categories of Claims and Interests listed below classify Allowed Claims and Allowed Interests for all purposes, including voting, confirmation and distribution pursuant to the Plan. Except as otherwise provided in the Plan or the Confirmation Order or required by subsection 506(b) or section 1124 of the Bankruptcy Code, (1) Allowed Claims (other than as set forth in Article VI.B) do not include interest on such Claims that accrues after the Petition Date, and (2) any postpetition interest that is payable in respect of a Priority Tax Claim shall be calculated at the applicable Tax Rate. The chart set forth below is only intended as a summary description of the treatment of the described Claims and Interests. Articles II.B.-II.E. of the Plan control to the extent of any inconsistency between the provisions thereof and said summary.

1. **Non-Union Debtors: Summary of Classification and Treatment of Claims and Interests.**

<b>Class</b>	<b>Claim</b>	<b>Treatment</b>	<b>Voting Rights</b>
Unclassified	Administrative Claims	Paid in full.	Not entitled to vote.
Unclassified	Priority Tax Claims	Paid in full.	Not entitled to vote.
Class 1A	DIP Claims	<i>Impaired.</i> Each Holder is to receive on the Effective Date its Pro Rata Share of the Class 1A Debt Consideration, which in the aggregate shall equal the amount of the Lenders Contribution less the aggregate amount of the Class 1B Debt Consideration. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.	Entitled to vote.
Class 2A	Priority Non-Tax Claims	<i>Unimpaired.</i> Paid in full.	Not entitled to vote.



Class	Claim	Treatment	Voting Rights
Class 3A	Senior Secured Lender Claims	<p><i>Impaired.</i> Each Holder is to receive on the Effective Date its Pro Rata Share of (a) the Class 3A Debt Consideration, which in the aggregate shall equal the amount of the New Obligations less the sum of the DIP Funds and the Class 3B Debt Consideration, (b) 100% of the Old OSI Share of the Newco Common Stock before giving effect to the issuance of (i) the Newco Preferred Stock or the conversion thereto into Newco Common Stock or (ii) the Newco Common Stock (or options thereon) issued or reserved for issuance pursuant to the New Management Equity Incentive Program and (c) the Newco Warrants, <i>provided, however,</i> that if Class 6A accepts the Plan by the majorities required by section 1126(c) of the Bankruptcy Code, Class 3A shall be deemed to have waived the right to receive, and have authorized the Non-Union Debtors to distribute to Class 6A the Newco Warrants, otherwise due to Class 3A as a result of its Senior Secured Lender Claims, and Class 3A shall receive no distribution of Newco Warrants. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.</p>	Entitled to vote.

Class	Claim	Treatment	Voting Rights
Class 4A	Other Secured Claims	<p><i>Unimpaired.</i> On the Effective Date each such Holder shall receive one of the following treatments such that they shall be rendered unimpaired pursuant to section 1124 of the Bankruptcy Code: (a) the payment of such Holder's Allowed Other Secured Claim in full, in Cash; (b) the sale or disposition proceeds of the property securing any Allowed Other Secured Claim to the extent of the value of their respective interests in such property; (c) the surrender to the Holder or Holders of any Allowed Other Secured Claim of the property securing such Claim; or (d) such other distributions as shall be necessary to satisfy the requirements of chapter 11 of the Bankruptcy Code for such claim to be reinstated or rendered unimpaired under section 1124 of the Bankruptcy Code.</p>	Not entitled to vote.

Class	Claim	Treatment	Voting Rights
Class 5A	General Unsecured Claims	<p><i>Fully Impaired.</i> Receives no distribution.</p> <p>However, within 30 days after the Effective Date from consideration otherwise due to the DIP Lenders and Senior Secured Lenders as a result of their Class 1A and Class 3A Claims, (i) Critical Business Claims shall be paid in full, without interest, from and by Cash that, but for its voluntary assignment hereunder by the DIP Lenders and Senior Secured Lenders to and for the sole benefit of the assignees designated pursuant to the Plan, would otherwise be required to be paid to the DIP Lenders and Senior Secured Lenders, subject to an aggregate cap of \$4,600,000, plus the amount necessary to satisfy Allowed Utilities Claims, which is also subject to an aggregate cap of \$2,800,000, and (ii) De Minimis Claims shall be paid in full without interest, subject to an aggregate cap of \$2,000,000, or, if the Claims exceed the caps described in clauses (i) or (ii), an amount approved by the Majority Consenting Lenders.</p>	Deemed to reject. Not entitled to vote.

Class	Claim	Treatment	Voting Rights
Class 6A	Senior Subordinated Noteholder Claims	<p><i>Impaired.</i> The Existing Subordinated Notes and Subordinated Note Guaranties issued by the Debtors shall be cancelled pursuant to this Plan. If Class 6A accepts the Plan by the majorities required by section 1126(c) of the Bankruptcy Code, each such Holder shall receive its Pro Rata Share of Newco Warrants within 30 days after the Effective Date exercisable (i) to purchase 2.5% of the Newco Common Stock as of the Effective Date at such time as the Newco Common Stock has a market valuation of \$462,000,000.00 and (ii) to purchase 2.5% of the Newco Common Stock as of the Effective Date at such time as the Newco Common Stock has a market valuation of \$657,000,000.00. In order to provide the distribution of the Newco Warrants as set forth in the previous sentence, if it should become applicable, Class 3A agrees and shall be deemed to have authorized the Non-Union Debtors to distribute the Newco Warrants, otherwise due to Class 3A as a result of its Senior Secured Lender Claims, to Class 6A. If Class 6A rejects the Plan, Class 6A shall receive no distributions pursuant to the Plan.</p>	Entitled to vote.
Class 7A	Preferred Stock Interests	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.
Class 8A	Common Stock Interests	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.

<b>Class</b>	<b>Claim</b>	<b>Treatment</b>	<b>Voting Rights</b>
Class 9A	Intercompany Claims	<i>Unimpaired.</i> Such Intercompany Claims shall be treated in the ordinary course of the Debtors' business from consideration otherwise due the DIP Lenders and the Senior Secured Lenders, provided that no Cash payments shall be made on account of such Claims until all other senior Claims against the Non-Union Debtors have been satisfied in full. Claims by Union Debtors against Non-Union Debtors, Newco, Administrator Holdco, or Administrator shall be extinguished.	Not entitled to vote.
Class 10A	Other Securities Claims	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.

2. The Union Debtors: Summary of Classification and Treatment of Claims and Interests.

<b>Class</b>	<b>Claim</b>	<b>Treatment</b>	<b>Voting Rights</b>
Unclassified	Administrative Claims	<i>Unimpaired.</i> Each Holder shall be paid on the Effective Date or on subsequent dates thereafter, as delineated in the UT Agreement, from distributions by the Union Trust.	Not entitled to vote.
Unclassified	Priority Tax Claims	<i>Unimpaired.</i> Each Holder shall be paid on the Effective Date or on subsequent dates thereafter, as delineated in the UT Agreement, from distributions by the Union Trust.	Not entitled to vote.
Class 1B	DIP Claims	<i>Impaired.</i> Each Holder is to receive on the Effective Date its Pro Rata Share of the Class 1B Debt Consideration, which in the aggregate shall equal the amount of the Lenders Contribution less the aggregate amount of the Class 1A Debt Consideration. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.	Entitled to vote.

Class	Claim	Treatment	Voting Rights
Class 2B	Priority Non-Tax Claims	<i>Impaired.</i> Paid in Cash after payment of Allowed Administrative and Priority Tax Claims as distributions pursuant to the UT Agreement.	Entitled to vote.
Class 3B	Senior Secured Lender Claims	<i>Impaired.</i> Each Holder is to receive on the Effective Date its Pro Rata Share of (a) the Class 3B Debt Consideration, which in the aggregate shall equal the amount of the New Obligations less the sum of the DIP Funds and the Class 3A Debt Consideration, and (b) 100% of the Union LLC Share of the Newco Common Stock. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.	Entitled to vote.
Class 5B	General Unsecured Claims	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.
Class 6B	Senior Subordinated Noteholder Claims	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.
Class 8B	Common Stock Interests	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.
Class 9B	Intercompany Claims	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.
Class 10B	Other Securities Claims	<i>Fully Impaired.</i> Receives no distribution.	Deemed to reject. Not entitled to vote.

**B. Administrative Claims.**

1. Non-Union Debtors. In full satisfaction, payment and discharge thereof, each Allowed Administrative Claim of the Non-Union Debtors shall be paid in full, in Cash on the later of the Effective Date or the date on which such Administrative Claim is Allowed, or in each case as soon thereafter as practicable, except to the extent that Newco or the applicable Reorganized Subsidiary and any Holder of an Allowed Administrative Claim agrees to a different treatment, *provided, however*, that Allowed Administrative Claims representing obligations incurred in the ordinary course of business by the Debtors in Possession, consistent with past practice, or assumed by the Debtors in Possession, shall be paid in full or performed by Newco or the applicable Reorganized Subsidiary in the ordinary course of business, including liabilities arising under loans or advances to, or other obligations incurred by, the Debtors in Possession which shall be paid in full and performed by Newco or the applicable Reorganized Subsidiary in the ordinary course of business in accordance with the terms and subject to the conditions of any agreements governing, instruments evidencing or other documents or applicable non-bankruptcy law relating to such transactions or liabilities.

The Non-Union Debtors shall reimburse MDP, Merrill Lynch, the Senior Secured Lenders, the DIP Lenders and the New Senior Secured Lenders, when and as requested, for all reasonable

fees and expenses (including attorneys' fees) incurred by MDP, Merrill Lynch, the Senior Secured Lenders, the DIP Lenders and the New Senior Secured Lenders subject to the caps and terms set forth in the Summary Term Sheet and the DIP Facility.

2. Union Debtors. In full satisfaction, payment and discharge thereof, each Allowed Administrative Claim shall be paid in Cash, as proceeds are available as delineated in the UT Agreement from distributions pursuant to the UT Agreement, except to the extent that the Union Debtors or the Holder of such Allowed Administrative Claim agree to a different treatment.

**C. Priority Tax Claims.**

1. Non-Union Debtors. In full satisfaction, payment and discharge thereof, each Allowed Priority Tax Claim, including any Allowed Priority Tax Claims of taxing authorities not authorized to be paid by the Bankruptcy Court under the Debtors' Motion for Order Authorizing the Debtors to Pay Sales, Use and Franchise Taxes and Certain Other Charges filed May 12, 2003, shall be paid in full, at the sole option of Newco or the applicable Reorganized Subsidiary (1) in Cash, on the later of the Distribution Date or the date on which such Priority Tax Claim is Allowed, or in each case as soon thereafter as practicable, or (2) in equal annual Cash payments in an aggregate amount equal to such Allowed Priority Tax Claim, together with interest at the Tax Rate, over a period not to exceed six years from the date of assessment of such Allowed Priority Tax Claim in accordance with section 1129(a)(9) of the Bankruptcy Code, in each case except to the extent that Newco or the applicable Reorganized Subsidiary and the Holder of such Allowed Priority Tax Claim agree to a different treatment. All Priority Tax Claims that are not due and payable under applicable non-bankruptcy law, as of the Effective Date, shall (1) survive confirmation of the Plan, (2) remain unaffected thereby (whether or not a proof of claim is Filed or whether or not a Claim is listed on the Schedules) and (3) not be discharged, *provided, however*, that to the extent that such Claims pertain to periods prior to the Petition Date, such Claims may be satisfied in the manner described in the previous sentence if and when Allowed.

2. Union Debtors. In full satisfaction, payment and discharge thereof, each Allowed Priority Tax Claim shall be paid in Cash after payment of Allowed Administrative Claims against the Union Debtors, as proceeds are available as delineated in the UT Agreement from distributions pursuant to the UT Agreement, except to the extent that the Union Trust or any Holder of an Allowed Priority Tax Claim agree to a different treatment.

**D. Classification, Treatment and Voting for Non-Union Debtors.** In full satisfaction, payment and discharge thereof, the Allowed Claims against and Allowed Interests in the Non-Union Debtors shall be classified and receive the treatment specified below. Each Holder of an Allowed Claim or Allowed Interest in an Impaired Class of Claims or Interests shall be entitled to vote separately to accept or reject the Plan.

1. Class 1A - DIP Claims.

a. Classification: Class 1A consists of all Holders of Secured Claims and superpriority Administrative Claims under the DIP Facility against the Non-Union Debtors.

b. Treatment: Each Holder is to receive on the Effective Date its Pro Rata Share of the Class 1A Debt Consideration, which in the aggregate shall equal the amount of the Lenders Contribution less the aggregate amount of the Class 1B Debt Consideration. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.

- c. Voting: Impaired; entitled to vote.
2. Class 2A - Priority Non-Tax Claims.
- a. Classification: Class 2A consists of all Holders of Allowed Claims entitled to priority pursuant to subsection 507(a) of the Bankruptcy Code other than Allowed Administrative Claims and Priority Tax Claims.
- b. Treatment: Paid in full subject to an aggregate cap not to exceed \$100,000.00 or, if more, an amount approved by the Majority Consenting Lenders.
- c. Voting: Unimpaired; deemed to accept the Plan.
3. Class 3A - Senior Secured Lender Claims.
- a. Classification: Class 3A consists of all Holders of Secured Claims against the Non-Union Debtors under the Existing Credit Agreement.
- b. Treatment: Each Holder is to receive on the Effective Date its Pro Rata Share of (a) the Class 3A Debt Consideration, which in the aggregate shall equal the amount of the New Obligations less the sum of the DIP Funds and the Class 3B Debt Consideration, (b) 100% of the Old OSI Share of the Newco Common Stock before giving effect to the issuance of (i) the Newco Preferred Stock or the conversion thereto into Newco Common Stock or (ii) the Newco Common Stock (or options thereon) issued or reserved for issuance pursuant to the New Management Equity Incentive Program and (c) the Newco Warrants, *provided, however*, that if Class 6A accepts the Plan by the majorities required by section 1126(c) of the Bankruptcy Code, Class 3A shall be deemed to have waived the right to receive, and have authorized the Non-Union Debtors to distribute to Class 6A the Newco Warrants, otherwise due to Class 3A as a result of its Senior Secured Lender Claims, and Class 3A shall receive no distribution of Newco Warrants. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.
- c. Voting: Impaired; entitled to vote.
4. Class 4A - Other Secured Claims.
- a. Classification: Class 4A consists of all Holders of Secured Claims against the Non-Union Debtors not in Class 1A and Class 3A.
- b. Treatment: On the Effective Date each such Holder shall receive one of the following treatments such that they shall be rendered unimpaired pursuant to section 1124 of the Bankruptcy Code: (a) the payment of such Holder's Allowed Other Secured Claim in full, in Cash; (b) the sale or disposition proceeds of the property securing any Allowed Other Secured Claim to the extent of the value of their respective interests in such property; (c) the surrender to the Holder or Holders of any Allowed Other Secured Claim of the property securing such Claim; or (d) such other distributions as shall be necessary to satisfy the requirements of chapter 11 of the Bankruptcy Code for such claim to be reinstated or rendered unimpaired under section 1124 of the Bankruptcy Code. The manner and treatment of each Allowed Other Secured Claim under section 1124 of the Bankruptcy Code shall be determined by the Debtors, in their sole and



absolute discretion, on or before the Confirmation Date, and upon notice to each Claim Holder holding an Other Secured Claim.

c. Voting: Unimpaired; deemed to accept the Plan.

5. Class 5A - General Unsecured Claims.

a. Classification: Class 5A shall consist of all Holders of General Unsecured Claims against the Non-Union Debtors including, without limitation, all Holders of Critical Business Claims, De Minimis Claims, lease rejection damage claims, Environmental Claims, Claims under the Seller Note and the Senior Secured Lenders' deficiency Claims arising prior to the Petition Date.

b. Treatment: Receives no distribution. However, within 30 days after the Effective Date from consideration otherwise due to the DIP Lenders and Senior Secured Lenders as a result of their Class 1A and Class 3A Claims, (i) Critical Business Claims shall be paid in full, without interest, from and by Cash that, but for its voluntary assignment hereunder by the DIP Lenders and Senior Secured Lenders to and for the sole benefit of the assignees designated pursuant to the Plan, would otherwise be required to be paid to the DIP Lenders and Senior Secured Lenders, subject to an aggregate cap of \$4,600,000, plus the amount necessary to satisfy Allowed Utilities Claims, which is also subject to an aggregate cap of \$2,800,000, and (ii) De Minimis Claims shall be paid in full without interest, subject to an aggregate cap of \$2,000,000, or, if the Claims exceed the caps described in clauses (i) or (ii), an amount approved by the Majority Consenting Lenders.

c. Voting: Fully Impaired; deemed to reject the Plan.

6. Class 6A - Senior Subordinated Noteholder Claims.

a. Classification: Class 6A shall consist of all Holders of Senior Subordinated Noteholder Claims.

b. Treatment: The Existing Subordinated Notes and Subordinated Note Guaranties issued by the Debtors shall be cancelled pursuant to this Plan. If Class 6A accepts the Plan by the majorities required by section 1126(c) of the Bankruptcy Code, each such Holder shall receive its Pro Rata Share of Newco Warrants within 30 days after the Effective Date exercisable (i) to purchase 2.5% of the Newco Common Stock as of the Effective Date at such time as the Newco Common Stock has a market valuation of \$462,000,000.00 and (ii) to purchase 2.5% of the Newco Common Stock as of the Effective Date at such time as the Newco Common Stock has a market valuation of \$657,000,000.00. In order to provide the distribution of the Newco Warrants as set forth in the previous sentence, if it should become applicable, Class 3A agrees and shall be deemed to have authorized the Non-Union Debtors to distribute the Newco Warrants, otherwise due to Class 3A as a result of its Senior Secured Lender Claims, to Class 6A.

If Class 6A rejects the Plan, Class 6A shall receive no distribution pursuant to the Plan.

c. Voting: Impaired; entitled to vote.

7. Class 7A - Preferred Stock Interests.
  - a. Classification: Class 7A consists of all Holders of Preferred Stock Interests.
  - b. Treatment: Receives no distribution.
  - c. Voting: Fully Impaired; deemed to reject the Plan.
8. Class 8A - Common Stock Interests.
  - a. Classification: Class 8A consists of all Holders of Common Stock Interests.
  - b. Treatment: Receives no distribution.
  - c. Voting: Fully Impaired; deemed to reject the Plan.
9. Class 9A - Intercompany Claims.
  - a. Classification: Class 9A consists of all Holders of Intercompany Claims against Non-Union Debtors.
  - b. Treatment: Such Intercompany Claims shall be treated in the ordinary course of the Debtors' business from consideration otherwise due the DIP Lenders and the Senior Secured Lenders, provided that no Cash payments shall be made on account of such Claims until all other senior Claims against the Non-Union Debtors have been satisfied in full. Claims by Union Debtors against Non-Union Debtors, Newco, Administrator Holdco, or Administrator shall be extinguished.
  - c. Voting: Impaired; entitled to vote.
10. Class 10A - Other Securities Claims.
  - a. Classification: Class 10A consists of all Holders of (a) any Allowed Interests including, but not limited to, any warrants, options, conversion privileges, or contract rights to purchase or acquire the Equity Securities of the Non-Union Debtors at any time, and (b) any Allowed Claims (as defined in section 101(5) of the Bankruptcy Code), obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, currently existing or hereafter arising in law, equity or otherwise, arising from rescission of a purchase or sale of a security of the Non-Union Debtors (including the Existing Preferred Stock and Existing Common Stock), for damages arising from the purchase, sale or holding of such securities, or for reimbursement, indemnification (except as set forth in Article X.E. of the Plan) or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim.
  - b. Treatment: The Holders of such Claims and Interests will receive no distributions under the Plan nor will such Holders retain any property.
  - c. Voting: Fully Impaired; deemed to reject the Plan.

**E. Classification, Treatment and Voting for The Union Debtors.** In full satisfaction, payment and discharge thereof, the Allowed Claims against and Allowed Interests in the Union Debtors shall be classified and receive the treatment specified below. Each Holder of an Allowed Claim or Allowed Interest in an Impaired Class of Claims or Interests shall be entitled to vote separately to accept or reject the Plan.

1. Class 1B - DIP Claims.

a. Classification: Class 1B consists of all Holders of Secured Claims and superpriority Administrative Claims under the DIP Facility against the Union Debtors.

b. Treatment: Each Holder is to receive on the Effective Date its Pro Rata Share of the Class 1B Debt Consideration, which in the aggregate shall equal the amount of the Lenders Contribution less the aggregate amount of the Class 1A Debt Consideration. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.

c. Voting: Impaired; entitled to vote.

2. Class 2B - Priority Non-Tax Claims.

a. Classification: Class 2B consists of all Holders of Allowed Claims entitled to priority pursuant to subsection 507(a) of the Bankruptcy Code other than Allowed Administrative Claims and Priority Tax Claims against the Union Debtors.

b. Treatment: Paid in Cash after payment of Allowed Administrative and Priority Tax Claims as distributions pursuant to the UT Agreement.

c. Voting: Impaired; entitled to vote.

3. Class 3B - Senior Secured Lender Claims.

a. Classification: Class 3B consists of all Holders of Secured Claims under the Existing Credit Agreement against the Union Debtors.

b. Treatment: Each Holder is to receive on the Effective Date its Pro Rata Share of (a) the Class 3B Debt Consideration, which in the aggregate shall equal the amount of the New Obligations less the sum of the DIP Funds and the Class 3A Debt Consideration, and (b) 100% of the Union LLC Share of the Newco Common Stock. Notwithstanding any provision herein to the contrary, the Majority Consenting Lenders may allocate the Debt Consideration among Class 1A, 1B, 3A and 3B as the Majority Consenting Lenders determine.

c. Voting: Impaired; entitled to vote.

4. Class 5B - General Unsecured Claims.

a. Classification: Class 5B shall consist of all Holders of General Unsecured Claims against the Union Debtors including, without limitation, all Environmental Claims and the Senior Secured Lenders' deficiency Claims against the Union Debtors.

- b. Treatment: Receives no distribution.
  - c. Voting: Fully Impaired; deemed to reject the Plan.
5. Class 6B - Senior Subordinated Noteholder Claims.
- a. Classification: Class 6B shall consist of all Holders of Senior Subordinated Noteholder Claims against the Union Debtors.
  - b. Treatment: Receives no distribution.
  - c. Voting: Fully Impaired; deemed to reject the Plan.
6. Class 8B - Common Stock Interests.
- a. Classification: Class 8B consists of all Holders of Common Stock Interests in the Union Debtors.
  - b. Treatment: Receives no distribution.
  - c. Voting: Fully Impaired; deemed to reject the Plan.
7. Class 9B - Intercompany Claims.
- a. Classification: Class 9B consists of all Holders of Intercompany Claims against the Union Debtors.
  - b. Treatment: Such Claims will be cancelled and receive no distribution.
  - c. Voting: Fully Impaired; deemed to reject the Plan.
8. Class 10B - Other Securities Claims.
- a. Classification: Class 10B consists of Holders of (a) any Allowed Interests, including, but not limited to, any warrants, options, conversion privileges, or contract rights to purchase or acquire the Equity Securities of the Union Debtors at any time, and (b) any Allowed Claims (as defined in section 101(5) of the Bankruptcy Code), obligations, rights, suits, damages, causes of action, remedies and liabilities whatsoever, whether known or unknown, foreseen or unforeseen, currently existing or hereafter arising in law, equity or otherwise, arising from rescission of a purchase or sale of a security of the Union Debtors (including the Existing Common Stock of the Union Debtors), for damages arising from the purchase, sale or holding of such securities, or for reimbursement, indemnification (except as set forth in Article X.E. of the Plan) or contribution allowed under section 502 of the Bankruptcy Code on account of such a Claim.
  - b. Treatment: Such Claims will receive no distributions under the Plan nor will such Holders retain any property.
  - c. Voting: Fully Impaired; deemed to reject the Plan.

### **III. Means for Implementation**

*Following confirmation of the Plan but prior to the Effective Date and as a condition precedent to the transactions that are to take place under the Plan on the Effective Date, the following transactions in Article III.A. will occur generally in the order set forth below:*

#### **A. Initial Entity Formation and Conversion.**

1. Union shall convert into Union LLC, a Delaware limited liability company.
2. Newco shall be incorporated in the State of Delaware and shall exist as a separate corporate entity, with all corporate powers in accordance with the laws of the State of Delaware, the Newco Charter and the Newco By-Laws. Newco shall not be a Subsidiary of Old OSI and shall not issue shares prior to the issuance contemplated in Article III.B. below.
3. Newco shall form Administrator Holdco, which shall be a wholly-owned subsidiary of Newco, and Administrator Holdco shall form Administrator, which shall be a wholly-owned subsidiary of Administrator Holdco and shall serve as Administrator to the Union Trust. Neither Newco nor any of its subsidiaries shall have any interest, directly or indirectly, in or with respect to the Residual Union LLC Assets or the Union Trust at any time.
4. The Union Trust shall be established and exist as a trust under the laws of the State of Delaware and pursuant to the UT Agreement.

*Following the events described in Article III.A. above, on the Effective Date (except as otherwise provided herein), the following transactions set forth in Article III.B. - G. will occur contemporaneously in the order set forth below:*

#### **B. Issuance of Newco Securities and Assumption of Debt; Transfer of Assets to Newco.**

1. Old OSI shall transfer the Non-Union LLC Assets to Newco in exchange for Newco's (a) issuance of the Old OSI Share of the Newco Common Stock and the Newco Warrants to Old OSI and (b) assumption of a portion of Old OSI's obligations under the Existing Credit Agreement and DIP Facility in accordance with the terms of the New Credit Agreement.
2. Union LLC shall transfer the Non-Residual Union LLC Assets to Newco in exchange for Newco's (a) issuance of the Union LLC Share of the Newco Common Stock to Union LLC and (b) assumption of a portion of Union LLC's obligations under the Existing Credit Agreement and DIP Facility in accordance with the terms of the New Credit Agreement. Union LLC shall retain the Residual Union LLC Assets.
3. Newco shall execute the New Credit Agreement with CSFB, on behalf of the New Senior Secured Lenders, pursuant to which Newco shall assume a portion of Old OSI's and Union LLC's obligations (formerly Union's obligations) under the Existing Credit Agreement and DIP Facility in partial satisfaction of the Class 1A, Class 1B, Class 3A and Class 3B Claims. Newco shall distribute the Debt Consideration to the DIP Lenders and the Senior Secured Lenders in accordance with Article II.D.
4. The DIP Lenders and Senior Secured Lenders shall make the Lenders Contribution in consideration of the distributions to be made to the Senior Secured Lenders and the DIP Lenders hereunder and Newco's execution of the New Credit Agreement.

**C. Distribution of Newco Interests by Old OSI and Union LLC and Newco Debt; Satisfaction and Cancellation of Existing Securities and Debt.**

1. Old OSI shall transfer to Holders of Allowed Class 3A Claims (i) the Newco Warrants (except to the extent provided in Article III.C.0. below) and (ii) the Old OSI Share of the Newco Common Stock, in partial satisfaction of the Senior Secured Lender Claims held by Holders of Allowed Class 3A Claims in accordance with Article II.D.

2. Union LLC shall transfer to Holders of Allowed Class 3B Claims the Union LLC Share of the Newco Common Stock, in partial satisfaction of the Senior Secured Lender Claims held by Holders of Allowed Class 3B Claims, in accordance with Article II.E.

3. If Holders of Allowed Class 6A Claims accept the Plan by the majorities required by section 1126(c) of the Bankruptcy Code, Holders of Allowed Class 6A Claims, in full satisfaction, payment and discharge of their Claims, shall receive directly from Old OSI such Holder's Pro Rata Share of the Newco Warrants and Holders of Allowed Class 3A Claims shall be deemed to have waived the right to receive, and to have authorized the Non-Union Debtors to transfer and to distribute to each Holder of an Allowed Senior Subordinated Claim in Class 6A, the Newco Warrants, otherwise due to Holders of Allowed Class 3A Claims on account of their Claims.

4. Within 30 days after the Effective Date, Newco shall make the distributions described in Article II.D.5. in full satisfaction, payment and discharge of certain Allowed Critical Business Claims, Allowed Utilities Claims and Allowed De Minimis Claims from the DIP Funds as further outlined in Article III.O.

5. Cancellation of Existing Securities, Debt, Claims and Interests.

a. The Existing Common Stock, Existing Preferred Stock and Existing Warrants shall be cancelled and the obligations of the Debtors in any way related thereto shall be discharged.

b. All notes, instruments, certificates and other documents evidencing Existing Subordinated Notes, Subsidiary Guaranties thereof and the Indenture shall be deemed automatically cancelled and discharged; *provided, however*, that the Existing Subordinated Notes, Subsidiary Guaranties thereof and the Indenture shall continue in effect solely for the purposes of allowing the Holders of Existing Subordinated Notes to receive their distributions, if any, hereunder.

c. The obligations outstanding under the Existing Credit Agreement and each other Loan Document (as defined in the Existing Credit Agreement) and, in addition, all unfunded commitments under the Existing Credit Agreement shall be cancelled, except to the extent such obligations are transferred to Newco in accordance with the terms hereof and the terms of the New Credit Agreement.

d. All other Claims against and Interests in any Debtor shall be cancelled, except to the extent such Claim and Interests need to exist to allow the Holders of such Claims and Interests to receive their distributions, if any, hereunder.

**D. Vesting of Assets in Newco.** The Non-Union LLC Assets and the Non-Residual Union LLC Assets prior to the Effective Date, being all the assets and Estates of Old OSI (other than its membership interest in Union LLC and the Residual Union LLC Assets), shall vest in Newco and the Reorganized Subsidiaries free and clear of all Claims, security interests, liens and Interests, except as

provided herein. In addition, Newco will become an additional member of Portfolio Acquisitions, LLC and will own substantially all of the economic interests in Portfolio Acquisitions, LLC.

**E. Transfer to and Vesting of Assets in Union Trust.**

1. The Union Debtors shall be combined with and into the Union Trust and the separate corporate existence of each shall cease. In connection with such combination, the existing Equity Securities and Interests in the Union Debtors shall be cancelled and the obligations of the Union Debtors in any way related thereto shall be discharged.

2. Union LLC shall be combined with and into the Union Trust and its separate existence shall cease.

3. The existing Equity Securities and Interests in the Debtors and Union LLC shall be cancelled and the obligations of the Debtors and Union LLC in any way related thereto shall be discharged.

**F. Conversion and Renaming of Old OSI.** Old OSI shall be renamed and converted into a Delaware limited liability company, the members of which shall be Administrator Holdco and the Administrator.

**G. Issuance of Newco Interests.**

1. Newco shall issue and sell, in accordance with the terms of the Plan and the Summary Term Sheet, \$10 million of Newco Preferred Stock (convertible into 20% of the fully diluted Newco Common Stock, as of the Effective Date, after all other issuances of Newco Common Stock and reservation of Newco Common Stock for issuance under the New Management Equity Incentive Plan and the Newco Warrants) and the MDP Investors shall purchase, the Newco Preferred Stock (as described in the Summary Term Sheet), in exchange for \$10 million in Cash, subject to the consummation of the ML Conduit.

2. Merrill Lynch shall consummate the transactions contemplated by the ML Conduit.

3. As a result of the foregoing transactions in this Article III, Newco shall have issued or caused the issuance of the Newco Common Stock in accordance with the terms of the Plan and the Summary Term Sheet as follows: (a) 7.5% to be reserved for the New Management Equity Incentive Plan; (b) in the event Class 6A accepts the Plan, 5% to be reserved for the issuance of Newco Warrants pursuant to Article II.D.6.; (c) 20% shall be reserved for the conversion of the Newco Preferred Stock; and (d) the remaining Newco Common Stock will be issued to the Senior Secured Lenders based on their Pro Rata Shares of the Senior Secured Lender Claims, respectively, in accordance with Article II. The total principal amount of indebtedness outstanding under the New Credit Agreement as of the Effective Date shall be \$175 million, including all commitments with respect to letters of credit in accordance with the terms of the New Credit Agreement.

**H. Corporate Existence after the Effective Date.**

1. The Reorganized Subsidiaries shall continue to exist in accordance with the applicable laws in the respective jurisdictions in which they are incorporated and pursuant to their respective certificates of incorporation, articles of formation or by-laws in effect prior to the Effective Date, except to the extent that such certificates of incorporation, articles of formation or by-laws are amended under this Plan.

2. On and after the Effective Date, Newco and the Reorganized Subsidiaries may operate their businesses and may use, acquire and dispose of property and compromise or settle any claims 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 the Plan or the Confirmation Order. Without limiting the foregoing, Newco and the Reorganized Subsidiaries may pay the charges that they incur on or after the Effective Date for Professionals' fees, disbursements, expenses or related support services without application to the Bankruptcy Court.

**I. Corporate Governance, Directors, Officers and Corporate Action.**

1. Governing Documents. Effective on the Effective Date, the Newco Charter shall be adopted and the certificates of incorporation (or other formation documents) of the Reorganized Subsidiaries shall be amended, as necessary, to satisfy the provisions of the Plan and the Bankruptcy Code. The Newco Charter shall, among other things, authorize the issuance of the Newco Common Stock and the Newco Preferred Stock in amounts not less than the amounts necessary to permit the issuances, distributions and sales required or contemplated by the Plan. On and after the Effective Date, the Reorganized Subsidiaries may amend and restate their respective certificates of incorporation, by-laws or other governing documents as permitted by applicable law and Newco may adopt the Newco By-Laws.

2. Directors and Officers of Newco. Subject to any requirement of Bankruptcy Court approval pursuant to section 1129(a)(5) of the Bankruptcy Code, as of the Effective Date, the officers of Newco shall be the officers of Old OSI immediately prior to the Effective Date. As more fully delineated in the Summary Term Sheet, and on the Effective Date the Newco Board shall be elected and will at all times prior to the third anniversary of the Effective Date consist of seven directors.

Except as otherwise provided in the Newco Charter:

a. So long as the ML Conduit is in full force and effect, the Newco Common Stock holders (other than the MDP Investors) will have the power to designate three directors, the MDP Investors will have the power to designate three directors and the CEO of Newco will serve as the remaining director. In the event the ML Conduit terminates during such period (contractually or effectively), two of the directors designated by the MDP Investors will be promptly removed from Newco's board of directors or will lose their voting rights; provided that they shall be entitled to attend all meetings of the board of directors as non-voting observers for a period of 60 days following the date the ML Conduit is terminated. In the event the ML Conduit is not replaced during such period with a financing that is generally economically equivalent to the ML Conduit, at the end of such 60-day period, those two observers will lose their observer rights. During such 60-day period, the remaining directors may not impair the rights of the MDP Investors. In the event the ML Conduit is replaced with a financing that is generally economically equivalent to the ML Conduit during such 60-day period, such observers will be promptly re-elected or their voting rights will be reinstated. Newco's board of directors will be structured so that the three directors elected by the holders of the Newco Common Stock serve a three-year term ending on or about the third anniversary of the Effective Date.

b. Upon the occurrence and during the continuance of a payment default under the New Credit Agreement at all times prior to the third anniversary of the Effective Date, two of the directors designated by the MDP Investors will be promptly removed from Newco's board of directors or will lose their vote as directors; provided that they shall be entitled to attend all meetings of the board of directors as non-voting observers or members for a period of 30 days following the date such payment default



first occurs. During such 30-day period, the remaining directors may not impair the rights of the MDP Investors. In the event such payment default is not cured during such period, those two observers will lose their observer rights. In the event such payment default is cured during such 30-day period, such observers will be promptly re-elected as directors or regain their right to vote as directors.

3. **Corporate Action.** On the Effective Date, the adoption of the Newco Charter and the Newco By-Laws or the adoption of similar constituent documents for the Reorganized Subsidiaries, the selection of members of the board of directors and officers for Newco and all other actions contemplated by the Plan shall be authorized and approved in all respects (subject to the provisions of the Plan). All matters provided for in the Plan involving the corporate structure of the Debtors, Newco or the Reorganized Subsidiaries, and any corporate action required by the Debtors, Newco or the Reorganized Subsidiaries in connection with the Plan, shall be deemed to have occurred and shall be in effect without any requirement or further action by the Holders of the Existing Common Stock or Newco Common Stock or members of the boards of directors of the Debtors, Newco or the Reorganized Subsidiaries. On the Effective Date, the appropriate officers of Newco and the Reorganized Subsidiaries and members of the boards of directors (or similar governing bodies) of Newco and the Reorganized Subsidiaries are authorized to issue, execute and deliver the agreements, documents, securities and instruments contemplated by the Plan in the name of and on behalf of Newco and the Reorganized Subsidiaries.

**J. Effectuating Documents and Further Transactions.** Each of the Debtors, Newco, the Reorganized Subsidiaries and the Union Trust, as appropriate, is authorized to execute, deliver, file or record such contracts, instruments, releases and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan, the Summary Term Sheet and any securities issued pursuant to the Plan. CSFB may execute the New Credit Agreement on behalf of the New Senior Secured Lenders and such New Credit Agreement shall be deemed binding on the New Senior Secured Lenders upon CSFB's execution thereof.

**K. Management Incentive Plans.** In accordance with the terms hereof, 7.5% of the Newco Common Stock, on a fully diluted basis, will be reserved for issuance pursuant to a New Management Equity Incentive Program, the terms of which shall be substantially agreed to prior to the Effective Date and approved by the Newco Board as soon as practicable after the Effective Date.

**L. Exemption from Transfer Taxes.** To the fullest extent permitted by section 1146(c)(1)(a) of the Bankruptcy Code, the issuance, transfer or exchange of notes or Equity Securities under the Plan; (b) the creation of any mortgage, deed of trust, lien, pledge or other security interest; (c) the execution of the New Credit Agreement; (d) the making or assignment of any lease or sublease; or (e) the making or delivery of any deed or other instrument of transfer under, in furtherance of, or in connection with the Plan, including, without limitation, any merger agreements, any agreements of consolidation, restructuring, disposition, liquidation or dissolution, any deeds, any bills of sale and any transfers of tangible property, will not be subject to any stamp tax, recording tax, personal property tax, real estate transfer tax, sales or use tax or other similar tax; and (2) any transfers from the Debtors to Newco and the Reorganized Subsidiaries, Union Trust or otherwise pursuant to the Plan shall not be subject to any such taxes. The Confirmation Order shall direct the appropriate state or local governmental officials or agents to forgo the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment. Unless the Bankruptcy Court orders otherwise, any of the foregoing transactions taken on or prior to the Effective Date (including any taken prior to the Petition Date) shall be deemed to have been in furtherance of, or in connection with, the Plan.

**M. Exemption from Registration.** To the maximum extent provided in section 1145 of the Bankruptcy Code and applicable non-bankruptcy laws, the Newco Common Stock and the Newco Warrants issued pursuant to the Plan are exempt from any registration and/or licensing requirements under the Securities Act of 1933, as amended, and any state and local laws requiring registration for the offer or sale of a security or licensing of an issuer of, underwriter of, or broker or dealer in, a security.

**N. Liability for Plan Payments.** This Plan does not seek substantive consolidation of any of the Debtors. Instead, the Plan contemplates that the Non-Union Debtors will jointly and severally be responsible for and make the payments required under Articles II.B.1., II.C.1. and II.D. of the Plan and the Union Debtors will jointly and severally be responsible for and make the payments required under Articles II.B.2., II.C.2. and II.E. of the Plan.

**O. Lender Contribution of DIP Funds to Fund Distributions to Certain Allowed Claims in Class 5A.** The Senior Secured Lenders and DIP Lenders have agreed to contribute to Newco a portion of the DIP Funds to pay Holders of certain Allowed Critical Business Claims, Allowed Utilities Claims and Allowed De Minimis Claims in Class 5A, in accordance with the terms of this Plan and the Summary Term Sheet. The DIP Funds represent assets and distributions, in which the Debtors have no right, title or interest, pursuant to the Forbearance Agreement, and, which would otherwise be required by applicable law to be paid directly to the Senior Secured Lenders and the DIP Lenders. Accordingly, within 30 days after the Effective Date, Holders of those certain Critical Business Claims, Utilities Claims and De Minimis Claims in Class 5A shall be paid directly from the DIP Funds, in accordance with Article II, from and by Cash that, but for its voluntary assignment hereunder by the DIP Lenders and Senior Secured Lenders to and for the sole benefit of the assignees designated pursuant to the Plan, would otherwise be required to be paid to the DIP Lenders and Senior Secured Lenders.

**P. Beneficial Interests in the Union Trust.** The individuals or entities that expend any resources or monies to clean-up environmental contamination on any property owned by the Union Trust or to satisfy liabilities with respect to such property after the Petition Date shall be entitled to be beneficiaries of the Union Trust; *provided, however*, that in no event shall the Union Trust have more than 450 beneficiaries at any time (it being understood that if there are more than 450 individuals or entities that would qualify to be beneficiaries, then only the first 450 qualifying individuals or entities shall be Union Trust beneficiaries).

#### **IV. Acceptance or Rejection of the Plan**

**A. Classes Entitled to Vote.** Classes 1A, 3A, 6A, 9A, 1B, 2B and 3B are entitled to vote to accept or reject the Plan. By operation of law, each Unimpaired Class of Claims and Interests is deemed to have accepted the Plan and, therefore, is not entitled to vote to accept or reject the Plan. Classes 2A and 4A are deemed to have accepted the Plan.

**B. Classes Deemed to Reject.** Classes 5A, 7A, 8A, 10A, 5B, 6B, 8B, 9B and 10B are not entitled to receive or retain any property under the Plan. Under section 1126(g) of the Bankruptcy Code, Holders of Claims or Interests in such Classes are deemed to reject the Plan, and their votes will not be solicited.

**C. Acceptance by Impaired Classes.** An Impaired Class of Claims shall have accepted the Plan if (a) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of at least two-thirds in amount of the Allowed Claims actually voting in such Class have timely and properly voted to accept the Plan and (b) the Holders (other than any Holder designated under section 1126(e) of the Bankruptcy Code) of more than one-half in number of the Allowed Claims actually voting in such Class have timely and properly voted to accept the Plan. An Impaired Class of Interests shall have accepted the Plan if the Holders (other than any Holder designated under section 1126(e) of the

Bankruptcy Code) of at least two-thirds in amount of the Allowed Interests actually voting in such Class have timely and properly voted to accept the Plan.

**D. Cramdown.** For purposes of voting on this Plan, each holder of a General Unsecured Claim in Class 5A and 5B, each holder of a Senior Subordinated Noteholder Claim in Class 6B, each holder of a Preferred Stock Interest in Class 7A, each holder of a Common Stock Interest in Class 8A and 8B, each holder of an Intercompany Claim in Class 9B and each holder of an Other Securities Claim in Class 10A and 10B, will not receive or retain any property under this Plan and, therefore, are conclusively presumed to have rejected the Plan. As a result, the Debtors hereby request confirmation of the Plan, as it may be modified from time to time, under section 1129(b) of the Bankruptcy Code, with respect to any Class that rejects, or is deemed to have rejected, the Plan.

## **V. Procedures For Resolving Disputed Claims**

**A. Characterization of Disputed Claims.** Pursuant to section 1111(a) of the Bankruptcy Code, a proof of claim is deemed filed under section 501 of the Bankruptcy Code if that Claim is included in the Schedules filed under section 521 or 1106(a)(2) of the Bankruptcy Code and is deemed filed in the amount listed on the Schedules, except if the Claim is scheduled as disputed, contingent or unliquidated. Such a disputed, contingent or unliquidated Claim must be asserted by its Holder on or before the Bar Date, or the Administrative Bar Date, as the case may be, by timely filing of a proof of claim. If a proof of claim is not filed in a timely manner on or before the Bar Date or the Administrative Bar Date, as the case may be, the Claim shall be deemed to be barred and/or otherwise disallowed.

**B. Deadline for Filing Administrative Claims of Non-Professionals.** Except as expressly provided in Article V.C. of this Plan, requests for payment of Allowed Administrative Claims, excluding Administrative Claims incurred in the ordinary course of business, must be filed with the Bankruptcy Court and served no later than the Administrative Bar Date. Holders of Allowed Administrative Claims that are required to file with the Bankruptcy Court a proof of claim pursuant to Article V.C. of this Plan and that do not file a proof of claim by the Administrative Bar Date, shall be forever barred from asserting such Claims against the Debtors, Newco, the Reorganized Subsidiaries or their respective estates.

**C. Deadline for Filing Administrative Expense Claims for Professionals.** Professionals or other entities requesting compensation or reimbursement of expenses pursuant to sections 327, 328, 330, 331, 503, 506 or 1103 of the Bankruptcy Code for services rendered before the Effective Date shall file with the Bankruptcy Court and serve pursuant to Standing Order No. 2 an application for final allowance of compensation and reimbursement of expenses no later than 60 days after the Effective Date; *provided, however*, that any Professional who receives compensation or reimbursement of expenses pursuant to Standing Order No. 2 may continue to receive such compensation and reimbursement of expenses for services rendered before the Effective Date so long as the application and request for compensation and reimbursement are made in strict accordance with and pursuant to Standing Order No. 2.

**D. Prosecution of Objections to Claims and Equity Interests.** From and after the Confirmation Date, the Debtors, Newco, the Reorganized Subsidiaries and the Union Trust, may settle or compromise any Disputed Claims without approval of the Bankruptcy Court and shall have the exclusive authority to file objections, contest, settle, compromise, withdraw or litigate to judgment objections to Claims upon approval by FTI, on behalf of the Senior Secured Lenders and the DIP Lenders.

**E. Estimation of Claims.** The Debtors, Newco, the Reorganized Subsidiaries or the Union Trust, as the case may be, may, at any time, request that the Bankruptcy Court estimate any contingent or unliquidated Claim pursuant to section 502(c) of the Bankruptcy Code regardless of whether the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust, have previously objected to such Claim or

whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court will retain jurisdiction to estimate any Claim at any time during litigation concerning any objection to any Claim, including during the pendency of any appeal relating to any such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim, 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 Debtors (and after the Effective Date, Newco, the Reorganized Subsidiaries or the Union Trust) may elect to pursue any supplemental proceedings to object to any ultimate payment on such Claim. All of the aforementioned Claims objection, estimation and resolution procedures are cumulative and not necessarily exclusive of one another. Claims may be estimated and subsequently compromised, settled, withdrawn or resolved by any mechanism approved by the Bankruptcy Court, except that after the Effective Date Newco, the Reorganized Subsidiaries or the Union Trust may compromise, settle or resolve any such Claims without further Bankruptcy Court approval.

**F. Payments and Distributions on Disputed Claims.** Notwithstanding any provision in the Plan to the contrary, except as otherwise agreed by Newco, the Reorganized Subsidiaries or the Union Trust, as the case may be, in their sole discretion, no partial payments and no partial disbursements will be made with respect to a Disputed Claim until the resolution of such disputed Claim by settlement or Final Order. Subject to the provisions of this Article V., as soon as practicable after a Disputed Claim becomes an Allowed Claim, the Holder of such an Allowed Claim will receive all payments and distributions to which such Holder is entitled under the Plan. Notwithstanding the foregoing, any Person or Entity who holds both an Allowed Claim(s) and a Disputed Claim(s) will receive the appropriate payment or distribution on the Allowed Claim(s), although, except as otherwise agreed by Newco, the Reorganized Subsidiaries or the Union Trust, as the case may be, in its or their sole discretion, no payment or distribution will be made on the Disputed Claim(s) until such dispute is resolved by settlement or Final Order. Unless otherwise ordered by the Bankruptcy Court, none of the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust shall be obligated to establish any reserves in respect to any Disputed Claim.

**G. Objections to Fully Impaired Claims.** As outlined in Articles II.D.5., II.D.7., II.D.8., II.D.10., II.E.5., II.E.6., II.E.7. and II.E.8., Holders of Class 5A General Unsecured Claims, Class 6B Senior Subordinated Noteholder Claims, Class 7A Preferred Stock Interests, Class 8A and 8B Common Stock Interests, Class 9B Intercompany Claims and Classes 10A and 10B Other Securities Claims are fully Impaired under the Plan and not entitled to any distribution under the Plan. As a result, the Debtors do not intend to object to any such Claims or Interests since the allowance or disallowance of such Claims or Interests will have no impact on Newco's, the Reorganized Subsidiaries' or the Union Trust's Estates. However, the Debtors reserve the right to file objections to such Claims and interests at any time they deem appropriate, if ever, up until the closing of these Chapter 11 Cases.

## **VI. Provisions Governing Distributions.**

**A. Distributions for Claims Allowed as of the Effective Date.** Except as otherwise provided herein or as ordered by the Bankruptcy Court, distributions to be made on account of Claims that are Allowed as of the Effective Date shall be made no later than 30 days after the Effective Date; or as otherwise directed pursuant to the Plan. Distributions on account of Claims that first become Allowed Claims after the Effective Date shall be made pursuant to Articles II., IV., V., VI. and VIII. of this Plan. A Holder of securities (including stock) to be issued under the Plan shall be deemed to have the rights of a Holder of such securities distributed as of the Effective Date.

**B. Interest on Claims.** Unless otherwise specifically provided for or contemplated in the Plan or Confirmation Order, or required by applicable bankruptcy law, postpetition interest shall not

accrue or be paid on any Claims, other than the Senior Secured Lender Claims arising under the New Credit Extensions (as defined in the Existing Credit Agreement) and the DIP Claims, and no Holder of a Claim shall be entitled to interest accruing on or after the Petition Date on any Claim.

**C. Delivery of Distributions by Newco, the Reorganized Subsidiaries and the Union Trust.** Newco, the Reorganized Subsidiaries and the Union Trust shall make all distributions required to be made under the Plan. Newco, the Reorganized Subsidiaries and the Union Trust may employ or contract with other entities to assist in or make the distributions required by the Plan.

a. **Holding and Investment of Undeliverable and Unclaimed Distributions.** If the distribution to any Holder of an Allowed Claim is returned to Newco, the Reorganized Subsidiaries, the Union Trust or their designees as undeliverable or is otherwise unclaimed, no further distributions shall be made to such Holder unless and until Newco, the Reorganized Subsidiaries or the Union Trust are notified in writing of such Holder's then current address.

b. **After Distributions Become Deliverable.** Newco, the Reorganized Subsidiaries and the Union Trust shall make all distributions that have become deliverable or have been claimed since the Distribution Date as soon as practicable after such distribution has become deliverable.

c. **Failure to Claim Undeliverable Distributions.** Any Holder of an Allowed Claim that does not assert a Claim pursuant to the Plan for an undeliverable or unclaimed distribution within one year after the Effective Date shall be deemed to have forfeited its Claim for such undeliverable or unclaimed distribution and shall be forever barred and enjoined from asserting any such Claim for an undeliverable or unclaimed distribution against any of the Debtors, Newco, the Reorganized Subsidiaries, the Union Trust or their respective Estates. In such cases, any Cash for distribution on account of such Claims for undeliverable or unclaimed distributions shall become the property of the Estates free of any restrictions thereon and notwithstanding any federal or state escheat laws to the contrary, subject to the liens of the Senior Secured Lenders. Any Newco Warrants held for distribution on account of such Senior Subordinated Noteholder Claims shall be cancelled and be of no further force or effect. Nothing contained in the Plan shall require any of Newco, the Reorganized Subsidiaries or the Union Trust to attempt to locate any Holder of an Allowed Claim or Interest.

**D. Record Date for Distributions.** At the close of business on the Effective Date, the transfer register for the Existing Subordinated Notes, the Existing Preferred Stock, the Existing Common Stock, the Existing Options and the Existing Warrants, as maintained by Old OSI, or any applicable trustee or their respective agents, shall be closed and the transfer of such securities or any interest thereon prohibited. None of Newco, the Reorganized Subsidiaries, the Union Trust or their designees, shall have any obligation to recognize the transfer of, or the sale of any participation in, any Allowed Claim or Interest that occurs after the close of business on the Effective Date, and each of them shall be entitled for all purposes herein to recognize and distribute only to those Holders of Allowed Claims and Interests who are Holders of such Claims or Interest or participants therein, as of the close of business on the Effective Date. Newco, the Reorganized Subsidiaries, the Union Trust or their designees, shall instead be entitled to recognize and deal, for all purposes under the Plan, with only those Holders identified on proofs of claim or the Schedules as of the Effective Date or stated on any official register as of the close of business on the Effective Date.

**E. Means of Cash Payment.** Cash payments made pursuant to the Plan shall be in U.S. dollars and shall be made by the means agreed to by the payer or the payee, or in the absence of an

agreement, at the option and in the sole discretion of Newco, the Reorganized Subsidiaries and the Union Trust, upon consultation with FTI on behalf of the Senior Secured Lenders and the DIP Lenders, by (1) checks drawn on or (2) wire transfer from a domestic bank selected by Newco, the Reorganized Subsidiaries or the Union Trust. Cash payments to foreign creditors may be made, at the option of Newco, the Reorganized Subsidiaries or the Union Trust, in such funds and by such means as are necessary or customary in a particular foreign jurisdiction.

**F. Withholding and Reporting Requirements.** In connection with the Plan and all distributions thereunder, Newco, the Reorganized Subsidiaries and the Union Trust shall comply with all tax withholding and reporting requirements imposed by any federal, state, local or foreign taxing authority, and all distributions hereunder shall be subject to any such withholding and reporting requirements. Newco, the Reorganized Subsidiaries and the Union Trust shall be authorized to take any and all actions that may be necessary or appropriate to comply with such withholding and reporting requirements. Notwithstanding any other provision of the Plan, (1) each Holder of an Allowed Claim or Interest that is to receive any distribution under the Plan shall have sole and exclusive responsibility for the satisfaction and payment of any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution, and (2) no distribution shall be made to or on behalf of such Holder pursuant to the Plan unless and until such Holder has made arrangements satisfactory to Newco, the Reorganized Subsidiaries or the Union Trust for the payment and satisfaction of such tax obligations or has, to Newco's, the Reorganized Subsidiary's or the Union Trust's satisfaction, established an exemption therefrom. Any security to be distributed pursuant to the Plan shall, pending the implementation of such arrangements, be treated as undeliverable pursuant to Article VI.C. hereof.

**G. Setoffs and Recoupments.** The Debtors, Newco, the Reorganized Subsidiaries or the Union Trust may, pursuant to section 553 of the Bankruptcy Code or applicable nonbankruptcy law, but shall not be required to, set off against or recoup from any Claim on which payments are to be made pursuant to the Plan, any Claims of any nature whatsoever the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust, may have against the Holder of such Claim that is not released under Article X., hereof; *provided, however*, that neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust of any such Claim the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust may have against such Claimant.

**H. Surrender of Existing Instruments or Securities.** As a condition precedent to receiving any distribution pursuant to the Plan on account of an Allowed Claim, the Holder of such Allowed Claim shall tender the applicable instruments, securities or other documentation evidencing such Allowed Claim to Newco, the applicable Reorganized Subsidiary or the Union Trust, or their agents or designees, unless waived in writing by Newco, the applicable Reorganized Subsidiary or the Union Trust. Any security to be distributed pursuant to the Plan on account of any such Claim shall, pending such surrender, be treated as an undeliverable distribution pursuant to Article VI.C. hereof. Without limiting the foregoing:

1. Existing Subordinated Notes and Subordinated Note Guaranties. Each Holder of an Existing Subordinated Note Claim shall tender the Existing Subordinated Note(s) relating to such Claim and the Subordinated Note Guaranty to Newco or the Union Trust, as applicable, in accordance with written instructions to be provided to such Holders by Newco or the Union Trust as promptly as practicable following the Effective Date. Such instructions shall specify that delivery of such instruments will be effected, and risk of loss and title thereto will pass, only upon the proper delivery of such instruments with a letter of transmittal in accordance with such instructions. All surrendered Existing Subordinated Notes and Subordinated Note Guaranties shall be marked as cancelled.

2. Failure to Surrender Instruments. Any Holder of an Existing Subordinated Note Claim that fails to surrender or is deemed to have failed to surrender the applicable Existing Subordinated Note(s) and Subordinated Note Guaranty(s) required to be tendered hereunder within one year after the Effective Date shall have its Claim and its distribution pursuant to the Plan on account of such Existing Subordinated Note(s) and Subordinated Note Guaranty(s) discharged and shall be forever barred from asserting any such Claim against Newco, the Union Trust or their respective Estates. In such cases, any Newco Warrants held for distribution on account of such Claim shall be disposed of pursuant to Article VI.C. hereof. As a condition to receiving any distribution under the Plan, each Holder of a promissory note, certificate or other instrument evidencing a Claim must surrender such promissory note, certificate or other instrument to Newco, the Union Trust, or their agents or their designees, as applicable, unless Newco or the Union Trust otherwise provides. Upon receipt of Existing Subordinated Notes and Subordinated Note Guaranty(s), such notes and guaranties will be marked as "cancelled" and delivered to Newco. Any Holder of a Claim that fails to (i) surrender such instrument or (ii) execute and deliver an affidavit of loss and/or indemnity reasonably satisfactory to Newco before the later to occur of (A) the second anniversary of the Effective Date or (B) six months following the date that such Holder's Claim becomes an Allowed Claim, shall be deemed to have forfeited all rights and Claims with respect thereto, may not participate in any distribution under the Plan on account thereof and all amounts owing with respect to such Allowed Claim shall be retained by Newco.

**I. Lost, Stolen, Mutilated or Destroyed Securities and Guaranties.** In addition to any requirements under any applicable agreement, any Holder of a Claim evidenced by an Existing Subordinated Note and/or Subordinated Note Guaranty that has been lost, stolen, mutilated or destroyed shall, in lieu of surrendering such Existing Subordinated Note or Subordinated Note Guaranty, deliver to Newco or the Union Trust, as applicable: (1) evidence reasonably satisfactory to Newco or the Union Trust of the loss, theft, mutilation or destruction; and (2) such security or indemnity, as may be required by Newco or the Union Trust, to hold Newco or the Union Trust harmless from any damages, liabilities or costs incurred in treating such individual as a Holder of an Allowed Claim. Upon compliance with this Article VI. by a Holder of a Claim evidenced by an Existing Subordinated Note or Subordinated Note Guaranty, such Holder shall, for all purposes under the Plan, be deemed to have surrendered such instrument.

**J. Fractional Shares.** Fractional shares shall be distributed, but all fractional shares shall be rounded to the nearest 1/100<sup>th</sup> of a share.

## **VII. Union Trust**

**A. Generally.** The powers, authority, responsibilities and duties of the Union Trust and the Administrator are set forth in and shall be governed by the UT Agreement.

**B. Purpose of the Union Trust.** The Union Trust shall be established for the primary purpose of holding the Residual Union LLC Assets until such time as those properties have been cleaned-up or have become marketable. None of Newco, Old OSI LLC nor any subsidiaries of Newco (including the Reorganized Subsidiaries) shall be deemed successors of Union LLC, any Union Debtor or the Union

Trust. None of Newco, Administrator Holdco nor Administrator shall be deemed owners of operators of any properties held by Union Trust upon the effectiveness of the Plan. It is not anticipated that the Debtors will incur any United States federal income tax liability from the transfer of the Residual Union LLC Assets to the Union Trust.

**C. Combination of Union Debtors With and Into Union Trust.**

1. The combination of the Union Debtors with and into the Union Trust, and the cessation of their separate corporate existence shall vest in the Union Trust, and the Residual Union LLC Assets shall be held for the benefit of (i) the Holders of Allowed Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims of the Union Debtors only to the extent such Holders are entitled to distributions under the Plan and (ii) any other Person who expends resources or monies after the Petition Date on cleaning or remediation of the environmental contamination of such properties. On the Effective Date, Union LLC and the other Union Debtors shall be combined with and into the Union Trust and the Union Trust shall be discharged from liabilities as provided in Article X.B. herein. Notwithstanding the foregoing, to the extent the Debtors determine that any such transfer may implicate an exclusion in any Debtors' Director and Officer Insurance Policy, the cause of action at issue shall be assigned in another manner determined by the Debtors.

2. For all federal income tax purposes, all parties (including, without limitation, Newco, the Administrator and the beneficiaries of the Union Trust) shall treat the transfer of assets to the Union Trust in accordance with the terms of the Plan, as a transfer by Union LLC and the other Union Debtors to the Holders of Allowed Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims of the Union Debtors and followed by a transfer by such Holders to the Union Trust, and the beneficiaries of the Union Trust shall be treated as the grantors and owners thereof.

**D. Distribution - Withholding.** At least annually, the Administrator shall distribute to the beneficiaries of the Union Trust, on a pro rata basis as applicable, all net Cash income plus all net Cash proceeds from the sale of any of its assets, *provided, however*, that the Union Trust may retain such amounts (i) as are necessary in the sole discretion of the Administrator to meet contingent liabilities and to maintain and preserve the value of its assets, (ii) to pay administrative expenses (including any taxes imposed on the Union Trust or in respect of its assets) and (iii) to satisfy other liabilities included or assumed by the Union Trust (or to which its assets are otherwise subject) in accordance with the Plan or the UT Agreement. All such distributions shall be subject to the terms of the Plan and the UT Agreement; provided, further, that of the net amount distributable, the Administrator shall reserve such amounts as would be distributable in respect of Disputed Claims (treating such Claims, for this purpose, as if they were Allowed Claims). The Union Trust may withhold from amounts distributable to any Person any and all amounts, determined in the Administrator's reasonable sole discretion, to be required by any law, regulation, rule, ruling, directive or other governmental requirement.

**E. Union Trust Implementation.** The Union Trust will be established and become effective as described in Article III.A. for the benefit of the Holders of Allowed Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims of the Union Debtors and other Persons who expend resources or monies after the Petition Date on cleaning or remediation of the environmental contamination of such properties. The UT Agreement shall contain provisions customary to trust agreements utilized in comparable circumstances, including, but not limited to, any and all provisions necessary to ensure the continued treatment of the Union Trust as a grantor trust and the Holders of Allowed Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims as the grantors and owners thereof for federal income tax purposes. All parties (including the Debtors, the Administrator and Holders of Allowed Administrative Claims, Priority Tax Claims and Priority Non-Tax Claims of the Union Debtors) shall execute any documents or other instruments as necessary to cause title to the



applicable assets to be transferred to the Union Trust and Administrator shall serve as the Administrator of the Union Trust.

### **VIII. Treatment of Executory Contracts and Unexpired Leases**

**A. Assumption of Executory Contracts and Unexpired Leases.** Pursuant to the Debtors' Chapter 11 Cases, it is anticipated that a limited number of executory contracts and unexpired leases of the Non-Union Debtors will be rejected and that all others will be assumed. All executory contracts or unexpired leases of the (1) Non-Union Debtors, as jointly determined between the Debtors and FTI, on behalf of the Senior Secured Lenders, that have not been rejected as of the Confirmation Date or as to which a motion for approval of rejection has been Filed and has not been withdrawn or decided by a Final Order as of the Confirmation Date or which has been designated in the Plan Supplement for rejection will be deemed assumed in accordance with the provisions and requirements of section 365 and 1123 of the Bankruptcy Code as of the Effective Date with the exception of Existing Options which shall be deemed rejected as of the Effective Date and (2) Union Debtors will be deemed rejected as of the Effective Date unless such executory contract or unexpired lease is affirmatively assumed by the Union Debtors on or before the Effective Date. Entry of the Confirmation Order by the Bankruptcy Court shall constitute approval of such assumptions pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Each executory contract and unexpired lease assumed pursuant to this Article VIII. shall revest in and be fully enforceable by Newco or the applicable Reorganized Subsidiary in accordance with its terms, except as modified by the provisions of the Plan, any order of the Bankruptcy Court authorizing and providing for its assumption or applicable federal law. Any executory contract or unexpired lease that is assumed after the Effective Date as a result of a withdrawn motion for approval of rejection Filed before the Effective Date shall be deemed assumed as of the date of withdrawal of such motion for approval of rejection. Notwithstanding anything in this Article VIII.A. to the contrary, the following executory contracts or unexpired leases shall not be deemed assumed as of the Effective Date: (1) any executory contract or unexpired lease that has been rejected pursuant to an order of the Bankruptcy Court entered before the Confirmation Date, (2) any executory contract or unexpired lease as to which a motion for approval of the rejection for such executory contract or unexpired lease has been Filed and has not been withdrawn or decided by a Final Order as of the Confirmation Date and (3) any executory contract or unexpired lease designated in the Plan Supplement for rejection.

**B. Cure of Defaults of Assumed Executory Contracts and Unexpired Leases.** Subject to the limitations of section 502(b) of the Bankruptcy Code, any monetary amounts by which each executory contract and unexpired lease to be assumed pursuant to the Plan is in default, shall be satisfied, pursuant to section 365(b)(1) of the Bankruptcy Code, by payment of the default amount in Cash on the Effective Date or on such other terms as the parties to such executory contracts or unexpired leases and FTI, on behalf of the Senior Secured Lenders, may otherwise agree. In the event of a dispute regarding: (1) the nature and amount of any cure payments, (2) the ability of the applicable Newco, Reorganized Subsidiary or any assignee 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 (3) any other matter pertaining to 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 the dispute and approving the assumption. The Confirmation Order shall provide for notices of proposed assumptions and proposed cure amounts to be sent to applicable third parties and for procedures for objecting thereto and resolution of disputes by the Bankruptcy Court.

**C. Claims Based on Rejection of Executory Contracts.** Any counter-party to an executory contract or unexpired lease that is rejected shall be entitled to File a proof of claim therefor (the "Rejection Claims"). All proofs of claim with respect to Claims arising from the rejection of executory contracts or unexpired leases, if any, must be Filed with the Bankruptcy Court within thirty days after the

date of the notice of rejection or notice of the entry of an order of the Bankruptcy Court approving such rejection. Any Claims arising from the rejection of an executory contract or unexpired lease not timely Filed will be forever barred from assertion against the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust and their Estates or property unless otherwise ordered by the Bankruptcy Court or provided in this Plan. All such Claims for which proofs of claim are required to be Filed will be treated as General Unsecured Claims under this Plan.

Newco, the Reorganized Subsidiaries or the Union Trust shall have the opportunity to File and serve upon the affected contract counter-party, objections to Rejection Claims as outlined in Article V. herein, with respect to Claims Objections. The Debtors, Newco, the Reorganized Subsidiaries and the Union Trust shall be, without the need for Bankruptcy Court Approval, authorized to and shall resolve all Disputed Rejection Claims by withdrawing or settling such objections thereto, or by litigating to judgment in the Bankruptcy Court, or such other court having jurisdiction, the validity, nature and/or amount thereof. No payments or distributions shall be made with respect to a Disputed Rejection Claim unless and until all objections to such Disputed Rejection Claim have been (i) settled or withdrawn or (ii) have been determined by Final Order and the Disputed Rejection Claim has become an Allowed Rejection Claim. Newco, the Reorganized Subsidiaries or the Union Trust, as applicable, shall make payments and distributions to the Holder of a Disputed Rejection Claim that has become an Allowed Rejection Claim as soon as practicable after the date such Disputed Rejection Claim becomes an Allowed Rejection Claim in accordance with the terms hereof.

**D. Compensation and Benefit Programs.** Except as otherwise expressly provided hereunder or in previous motions filed with the Bankruptcy Court seeking rejection of certain contracts related to compensation, severance and/or benefit programs, all employment and severance policies and all compensation and benefit plans, policies and programs of the Non-Union Debtors applicable to their employees, retirees and non-employee directors or members of the board of directors and the employees and retirees of their subsidiaries, including, without limitation, all indemnification obligations and programs, savings plans, retirement plans, healthcare plans, disability plans, severance benefit plans, incentive plans and life, accidental death and dismemberment insurance plans, are treated as executory contracts under the Plan and on the Effective Date will be assumed pursuant to the provisions of sections 365 and 1123 of the Bankruptcy Code. All employment contracts assumed pursuant to this Article VIII.D. shall be deemed modified such that the transactions contemplated by the Plan shall not be a “change of control” or “sale of the business,” as defined in the relevant employment contracts.

**E. Directors and Officers.** All directors’ and officers’ liability insurance policies maintained by the Debtors are hereby assumed. Entry of the order confirming the Plan by the clerk of the Bankruptcy Court shall constitute approval of such assumptions pursuant to subsection 365(a) of the Bankruptcy Code. Newco, the Reorganized Subsidiaries and the Union Trust shall maintain for a period of not less than six years from the Effective Date, coverage for the individuals covered, as of the Petition Date, by such policies at levels and on terms no less favorable to such individuals than the terms and levels provided for under the policies existing on the Petition Date and assumed pursuant to the Plan. Solely with respect to directors and officers of any of the Debtors who served in any such capacity at any time on or after the Petition Date, the Debtors shall be deemed to assume, as of the Effective Date, their respective obligations to indemnify such individuals (and only such individuals) with respect to or based upon any act or omission taken or omitted on or before such Effective Date in any of such capacities, or for or on behalf of any Debtor, pursuant to and to the extent provided by the Debtors’ respective articles of incorporation, certificates of formation, corporate charters, bylaws, operating agreements and similar governing documents, as in effect as of the Petition Date. Notwithstanding anything to the contrary contained herein, such assumed indemnity obligations shall not be discharged, Impaired or otherwise modified by confirmation of this Plan and shall be deemed and treated as executory contracts that have been assumed by the Debtors pursuant to this Plan as to which no proof of claim need be Filed.

## **IX. Confirmation and Consummation of the Plan**

**A. Conditions Precedent to Confirmation.** The Plan shall not be confirmed unless and until the Confirmation Order shall be in form and substance satisfactory to the Debtors, the MDP Investors, the Majority Consenting Lenders and Merrill Lynch, which shall approve all provisions, terms and conditions of this Plan.

**B. Conditions Precedent to Effective Date.** The Effective Date shall not occur and the Plan shall not become effective unless and until the following conditions have been satisfied in full or waived by the Debtors, the Majority Consenting Lenders and the MDP Investors:

1. The Confirmation Order shall have been entered and become a Final Order in form and substance reasonably satisfactory to the Debtors, the MDP Investors, Merrill Lynch and the Majority Consenting Lenders and shall provide among other things that:

a. The Debtors, Newco, the Reorganized Subsidiaries and the Union Trust are authorized to take all actions necessary or appropriate to enter into, implement and consummate the contracts, instruments, releases, leases, indentures and other agreements or documents created in connection with the Plan; and

b. The provisions of the Confirmation Order are nonseverable and mutually dependent.

2. The Newco Charter and the Newco By-Laws shall have been filed with the appropriate authority in accordance with such jurisdiction's corporation laws;

3. The new board of directors of Newco shall have been appointed;

4. All actions, documents and agreements necessary to implement the Plan shall have been effected or executed;

5. The New Credit Agreement and the security agreements, guaranties and other agreements and instruments to be executed in connection therewith in form and substance satisfactory to the Debtors and the Majority Consenting Lenders shall have been executed by all necessary parties thereto and prior to, or simultaneously with, the effectiveness of the Plan, shall have become effective;

6. The financial covenants outlined in the Summary Term Sheet shall have been satisfied;

7. No material adverse change to the business, operations, condition (financial or otherwise), results of operations or prospects of the Debtors shall have occurred;

8. No litigation relating to the Plan or the Lock-Up Agreement, including the events leading thereto, involving MDP (or its employees), the Senior Secured Lenders (or the agents thereof) or the Debtors (or the officers and directors thereof) shall be pending;

9. The ML Conduit shall be consummated on terms and conditions satisfactory to the MDP Investors and the Majority Consenting Lenders;

10. The MDP Investors, the majority of the Consenting Lenders and the Company's satisfaction with the consideration, if any, given to the existing Holders of Subordinated Notes or existing Preferred Stock;

11. Execution and delivery of satisfactory credit, security, guaranty, equity and other related documentation embodying the structure, terms and conditions contained herein, as well as receipt of closing certificates, resolutions and/or certificates (including the Newco Charter), opinions of counsel, etc., customary for the type of transaction proposed and in each case satisfactory in form and substance to the MDP Investors, the Company and the majority of the Consenting Lenders;

12. Any necessary regulatory approvals shall have been obtained;

13. The Plan and Confirmation Order shall include releases and indemnification of MDP and its officers, directors, agents, attorneys and affiliates, the Debtors and their respective officers, directors, affiliates, attorneys and agents and the Senior Secured Lenders and their respective officers, directors, affiliates, attorneys and agents in form and substance satisfactory to such Persons to the fullest extent permitted by law;

14. The aggregate dollar amount to be paid in satisfaction of Administrative Claims (other than Administrative Expense Claims incurred by Professionals or in the ordinary course of business) shall not exceed \$500,000, or if more, an amount which has been approved by the Majority Consenting Lenders;

15. The contribution of the Lenders Contribution to Newco in accordance with the terms of the DIP Term Sheet; and

16. The transactions set forth in Article III.A. - III.G. shall have occurred on or before the Effective Date.

**C. Waiver of Conditions.** Waiver by the Debtors, the Majority Consenting Lenders and the MDP Investors of any of the conditions precedent to confirmation of the Plan or to the Effective Date set forth in Article IX.A. or IX.B., respectively, of the Plan shall be only upon the written consent of the Debtors, the Majority Consenting Lenders and the MDP Investors and may be effected at any time without court approval. Upon the waiver of any condition(s) to the Effective Date set forth in Article IX.B. of the Plan, and subject to the satisfaction in full of each of the remaining conditions set forth in such Article, the Plan shall become effective in accordance with its terms without notice to third parties except as provided herein or any other formal action. The failure to satisfy or waive any condition to the Effective Date may be asserted by the Debtors regardless of the circumstances giving rise to the failure of such condition to be satisfied. The failure to exercise any of the foregoing rights shall not be deemed a waiver of any other rights and each such right shall be deemed an ongoing right that may be asserted at any time.

**D. Effect of Conditions.** If each of the conditions to effectiveness and the occurrence of the Effective Date has not been waived as provided in Article IX.C. above, or satisfied on or before the first Business Day that is more than thirty days after the date on which the Bankruptcy Court enters the Confirmation Order, or by such later date as is proposed by the Debtors and approved, after notice and a hearing, by the Bankruptcy Court, then upon a motion by the Debtors made before the time that each of the conditions has been satisfied or waived, the Confirmation Order may be vacated by the Bankruptcy Court; *provided, however*, that notwithstanding the Filing of such a motion, the Confirmation Order shall not be vacated if each of the conditions to consummation is either satisfied or waived by the Debtors before the Bankruptcy Court enters an order granting the relief requested in such motion. If the Confirmation Order is vacated, the Plan shall be null and void in all respects and nothing contained in the Plan shall (1) constitute a waiver or release of any Claims against or Interests in any of the Debtors or (2) prejudice in any manner the rights of the Holder of any Claim against or Interest in any of the Debtors.

**X. Effect of Plan Confirmation**

**A. Binding Effect.** The Plan shall be binding upon and inure to the benefit of the Debtors, all present and former Holders of Claims and Interests and their respective successors and assigns, including, but not limited to, Newco, the Reorganized Subsidiaries, the Union Trust and all other parties in interest in these Chapter 11 Cases.

**B. Discharge of Claims and Termination of Interests.** Except as expressly provided in the Plan or the Confirmation Order, pursuant to section 1141(d) of the Bankruptcy Code, the rights afforded under this Plan and the treatment of Claims and Interests under this Plan shall be in exchange for and in complete satisfaction, settlement, discharge and release of all Claims and in exchange for the termination of all Interests, including any interest accrued on Claims since the Petition Date. Except as provided in the Confirmation Order or the Plan, confirmation shall (1) discharge the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator and the Union Trust from all Claims and other debts that exist, arose, or relate to events, activities, actions, omissions or transactions before the Confirmation Date and all debts of the kind specified in section 502(g), 502(h) or 502(i) of the Bankruptcy Code, whether or not (a) a proof of claim based on such debt is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code, (b) a Claim based on such debt is Allowed pursuant to section 502 of the Bankruptcy Code or (c) the Holder of a Claim based on such debt has accepted the Plan; and (2) terminate all Interests and other rights of Interest Holders in the Debtors.

As of the Confirmation Date, except as provided in this Plan or the Confirmation Order, all entities shall be permanently precluded from asserting against the Debtors, Newco, its Subsidiaries, the Reorganized Subsidiaries or the Union Trust, their successors or their Estates or property, any other or further Claims, debts, rights, causes of action, liabilities or Interests based upon any act, omission, transaction or other activity of any nature that occurred prior to the Confirmation Date. In accordance with the foregoing, except as provided in this Plan or the Confirmation Order, the Confirmation Order shall be a judicial determination of discharge of all such Claims and other debts and liabilities and rights of Interest Holders in the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator and the Union Trust pursuant to sections 524 and 1141 of the Bankruptcy Code and such discharge shall void any judgment obtained against the Debtors at any time, to the extent that such judgment relates to a discharged Claim or Interest.

**C. Injunction.** Except as otherwise provided in this Plan, all entities that have held, hold or may hold Claims against or Interests in the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator and the Union Trust are, as of the Effective Date, permanently enjoined from taking any actions against any of the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator, the Union Trust or the Estates or any of their property on account of such Claims or Interests including, but not limited to, (a) commencing or continuing, in any manner or in any place, any action or other proceeding; (b) enforcing, attaching, collecting or recovering in any manner any judgment, award, decree or order; (c) creating, perfecting or enforcing any lien or encumbrance; (d) asserting a setoff, right of subrogation or recoupment of any kind against any debt, liability or obligation due to the Debtors, Newco, the Reorganized Subsidiaries, Administrator Holdco, Administrator and the Union Trust; and (e) commencing or continuing, in any manner or in any place, any action that does not comply with or is inconsistent with the provisions of the Plan; *provided, however*, that nothing contained herein shall preclude such Persons from exercising their rights pursuant to and consistent with the terms of this Plan.

By accepting distributions pursuant to the Plan, each Holder of an Allowed Claim will be deemed to have specifically consented to the Injunction set forth in this Article X.C.

#### D. Releases.

1. Releases by the Debtors. As of the Effective Date, for good and valuable consideration, the adequacy of which is hereby confirmed, the Debtors, Newco, Administrator Holdco, Administrator, the Reorganized Subsidiaries and the Union Trust in their individual capacities and as Debtors in Possession, will be deemed to forever release, waive and discharge all Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action and liabilities (other than the rights of the Debtors, Newco, Administrator Holdco, Administrator, the Reorganized Subsidiaries and the Union Trust to enforce the Plan and the contracts, instruments, releases, indentures and other agreements or documents delivered thereunder) whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise that are based in whole or in part on any act, omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, Newco, Administrator Holdco, Administrator, the Reorganized Subsidiaries and the Union Liquidating Trust, the parties released pursuant to this Article, the Chapter 11 Cases, the Plan or the Disclosure Statement and that could have been asserted by or on behalf of the Debtors or their Estates, Administrator Holdco, Administrator, Newco, the Reorganized Subsidiaries and the Union Trust against (a) the current and former directors, officers and employees (in their capacities as such) of any of the Debtors (other than for money borrowed from or owed to the Debtors by any such directors, officers or employees as set forth in the Debtors' books and records as of the Effective Date) and the Debtors' agents and Professionals; (b) the Senior Secured Lenders, the DIP Lenders and their officers, directors, employees, affiliates, professionals, including legal and accounting professionals, and agents; (c) MDP and its officers, directors, affiliates, professionals, including legal and accounting professionals, and agents; (d) Mayer, Brown, Rowe & Maw, LLP (and any predecessors thereto); (e) FTI; (f) Kirkland & Ellis and Kirkland & Ellis LLP; (g) The Recovery Group; (h) Bryan Cave LLP; (i) Morris Nichols, Arsht and Tunnell; (j) Johnson & Colmar and (k) the respective Affiliates and Non-Debtor Subsidiaries and current and former officers, directors, employees, agents, members, direct and indirect shareholders, attorneys, advisors and Professionals of the foregoing and of such Affiliates other than the potential Claim of the Debtors against certain former employees of North Shore Agency, Inc. outlined on the retained causes of action chart to be filed with the Plan Supplement; *provided, however*, that nothing herein shall release any obligation of the Debtors to indemnify its current and former board of directors or officers under its organizational documents, by-laws, employee indemnification policies, state law or any other agreement.

2. Releases by Holders of Claims and Interests. On the Effective Date, (a) to the fullest extent permissible under applicable law, as such law may be extended or interpreted after the Effective Date, each Holder of a Claim who affirmatively opts to elect the release granted in this Article X.D.2. by checking the appropriate box on the Ballot indicating such election and (b) to the fullest extent permissible under applicable law, as such law may be extended or interpreted after the Effective Date, in consideration for the obligations of the Debtors, Newco, the Reorganized Subsidiaries and the Union Trust under the Plan and in consideration for the Newco Preferred Stock and the Newco Common Stock and other contracts, instruments, releases, agreements or documents to be delivered in connection with the Plan, all Holders of Claims will be deemed forever to release, waive and discharge all Claims, obligations, suits, judgments, demands, debts, rights, causes of action and liabilities (other than the right to enforce the Debtors', Newco's, the Reorganized Subsidiaries' and the Union Trust's obligations under the Plan and the contracts, instruments, releases, agreements and documents delivered under the Plan), whether direct or derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, Newco, the Reorganized Subsidiaries and the Union Trust, the parties released pursuant to this Article, the Chapter 11 Cases, the Plan or the Disclosure Statement against (a) the current and former directors, officers and employees of

the Debtors (other than Claims or Interests unrelated to the Debtors) and the Debtors' agents and Professionals (including legal and accounting professionals); (b) the Senior Secured Lenders and their officers, directors, affiliates, agents and professionals (including legal and accounting professionals); (c) MDP and their officers, employees, directors, affiliates, agents and professionals (including legal and accounting professionals); (d) Mayer, Brown, Rowe & Maw, LLP (and any predecessors thereto); (e) FTI; (f) Kirkland & Ellis and Kirland & Ellis LLP; (g) The Recovery Group; (h) Bryan Cave, LLP; (i) Morris, Nichols, Arsht and Tunnell; (j) Johnson & Colmar and (k) the respective Affiliates and current and former officers, directors, employees, agents, members, direct and indirect shareholders, advisors and Professionals of the foregoing and of such Affiliates; *provided, however*, that nothing in this Article X.D.2. shall release: (A) any obligation of the Debtors to indemnify its current and former directors and officers under its organizational documents, by-laws employee indemnification policies, state law or any other agreement; or (B) obligations under the Plan.

**E. Indemnification and Fees.** Notwithstanding any other provision herein, the Debtors, Newco, Administrator Holdco, Administrator and the Reorganized Subsidiaries shall be jointly and severally obligated to indemnify all current and former officers and directors of the Debtors, MDP and their respective affiliates, agents and professionals against any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities whether direct or indirect, derivative, liquidated or unliquidated, fixed or contingent, matured or unmatured, known or unknown, foreseen or unforeseen, then existing or thereafter arising, in law, equity or otherwise, that are based in whole or in part on any act or omission, transaction, event or other occurrence taking place on or prior to the Effective Date in any way relating to the Debtors, Newco, the Reorganized Subsidiaries, the Union Trust, the Chapter 11 Cases, the Plan or the Disclosure Statement.

**F. Exculpation and Limitation of Liability.**

1. Subject to limitations required by applicable ethical rules and standards of conduct, and except as provided in Article X.F.2. below, none of the Debtors, Newco, the Reorganized Subsidiaries, the Union Trust, the Committee, the members of the Committee (in their capacity as members of the Committee), the Senior Secured Lenders, the DIP Lenders, MDP nor any of the respective members, officers, directors, employees, attorneys, advisors, representatives, accountants, financial advisors or agents of the Debtors, Newco, the Reorganized Subsidiaries, the Union Trust, the Senior Secured Lenders, MDP, the Committee or the members of the Committee who were members, officers, directors, employees, attorneys, advisors or agents, as the case may be, during the Chapter 11 Cases, shall have or incur any liability to the Debtors or any Holder of a Claim or Interest for any act or omission from and after the Petition Date in connection with, or arising out of, the Chapter 11 Cases, the commencement of the Chapter 11 Cases, the operation of the Debtors during the pendency of the Chapter 11 Cases, the administration of the Chapter 11 Cases, the consummation of this Plan or the administration of this Plan or the property to be distributed under this Plan except for willful misconduct or gross negligence, and, in all respects, the Debtors, Newco, Administrator Holdco, Administrator, the Reorganized Subsidiaries, the Union Trust, the Senior Secured Lenders, MDP and the Committee and each of their respective members, officers, directors, employees, advisors and agents shall be entitled to rely upon the advice of counsel with respect to their duties and responsibilities under this Plan.

2. The exculpatory provisions contained in Article X.F.1. of this Plan (i) shall not limit the Claims and rights, if any, of the United States and (ii) shall apply to any person or entity who was not the beneficiary of a post-Petition Date indemnification obligation of the Debtors only to the extent provided in Article X.F.3.

3. Any Claims that would otherwise be subject to the exculpatory provisions contained in Article X.F.1. but for the provisions of Article X.F.2., may only be asserted in the

Bankruptcy Court and only if filed on or before sixty days after the Effective Date. In the event that any such Claims are not filed timely in the Bankruptcy Court, the exemption contained in Article X.F.2. shall be terminated with respect to such Claims and such Claims shall be deemed subject to the exculpatory provisions contained in Article X.F.1.

4. Any non-exculpated Claims against the parties set forth in Article X.F.1. arising from or related to the matters set forth in Article X.F.1. may only be asserted and filed in the Bankruptcy Court.

**G. Injunction Related to Releases and Exculpation.** Except as otherwise provided in this Plan, the Confirmation Order will permanently enjoin the commencement or prosecution by any entity, whether directly, derivatively or otherwise, of any Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released pursuant to the Plan, including, but not limited to, the Claims, obligations, suits, judgments, damages, demands, debts, rights, Causes of Action or liabilities released or subject to exculpation in Article X.D. or X.F. of the Plan and the Environmental Claims.

**H. Preservation of Rights of Action and Settlement of Causes of Action.**

1. Preservation of Rights of Action. Except as otherwise provided in the Plan, the Confirmation Order or any document, instrument, release or other agreement entered into in connection with the Plan, in accordance with section 1123(b) of the Bankruptcy Code, to the maximum extent permitted under the Bankruptcy Code, the Debtors and their Estates shall retain all Causes of Action, including, but not limited to, the Causes of Action listed in the Plan Supplement, except the Union Debtors and Union Trust shall not retain any Causes of Action with respect to Newco, Administrator Holdco, Administrator, Old OSI LLC or any Reorganized Subsidiary. Newco, the Reorganized Subsidiaries and the Union Trust, as the successors in interest to the Debtors and their Estates, may enforce, sue on, settle or compromise (or decline to do any of the foregoing) any or all of the Causes of Action except as provided herein. Notwithstanding the foregoing, and subject to paragraph 3 below, the Debtors, Newco, the Reorganized Subsidiaries and the Union Trust shall not File, commence or pursue any Claim, right or Cause of Action under sections 544 through 550 of the Bankruptcy Code; *provided, however,* that notwithstanding any statute of limitations (including, without limitation, section 544 of the Bankruptcy Code), the Debtors, Newco, the Reorganized Subsidiaries and the Union Trust shall have the right to assert or raise such Causes of Action (a) as defenses or counterclaims (up to the amount asserted in the Claims against the Debtors) and (b) in connection with the Claims objection process, in which case such Causes of Action can be raised as an objection to a Claim and not as defenses or counterclaims.

2. Settlement of Causes of Action. At any time after the Confirmation Date and before the Effective Date, notwithstanding anything in this Plan to the contrary, the applicable Debtor may settle any or all Causes of Action with the approval of the Bankruptcy Court pursuant to Bankruptcy Rule 9019. Notwithstanding the foregoing and anything in this Plan to the contrary, after the Effective Date, the applicable Debtor may settle any or all Causes of Action without approval of the Bankruptcy Court.

3. In the event that the Bankruptcy Court determines that causes of action of the Debtors under Chapter 5 of the Bankruptcy Code are required by the Bankruptcy Code to be preserved as an element of the Confirmation Order and the Plan, then those causes of action of the Debtors under Chapter 5 of the Bankruptcy Code shall be transferred on the Effective Date to Chapter 5 trusts to the extent and on the terms and conditions that the Bankruptcy Court shall determine to be necessary and appropriate.



## **XI. Retention of Jurisdiction**

**A. 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, the Bankruptcy Court will retain non-exclusive jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases and the Plan to the fullest extent permitted by law, including, among other things, jurisdiction to:

1. Allow, disallow, determine, liquidate, classify, estimate or establish the priority, secured or unsecured status of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any objections to the allowance or priority of Claims or Interests;

2. Resolve any matters related to the assumption, assumption and assignment or rejection of any executory contract or unexpired lease to which any of the Debtors is a party or with respect to which the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust may be liable and to hear, determine and, if necessary, liquidate any Claims arising therefrom;

3. Ensure that distributions to Holders of Allowed Claims are accomplished pursuant to the provisions of the Plan;

4. Decide or resolve any motions, adversary proceedings, contested or litigated matters and any other matters, and grant or deny any applications involving the Debtors that may be pending on the Effective Date;

5. Enter such orders as may be necessary or appropriate to implement or consummate the provisions of the Plan and all contracts, instruments, releases and other agreements or documents created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

6. Resolve any cases, controversies, suits, or disputes that may arise in connection with the consummation, interpretation or enforcement of the Plan or any contract, instrument, release or other agreement or document that is executed or created pursuant to the Plan, or any entity's rights arising from or obligations incurred in connection with the Plan or such documents;

7. Modify the Plan before or after the Effective Date pursuant to section 1127 of the Bankruptcy Code or modify the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, or remedy any defect or omission or reconcile any inconsistency in any Bankruptcy Court order, the Plan, the Disclosure Statement, the Confirmation Order, or any contract, instrument, release or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order, in such manner as may be necessary or appropriate to consummate the Plan;

8. Hear and determine all applications for compensation and reimbursement of expenses of Professionals under the Plan or under sections 330, 331, 503(b) and 1103 of the Bankruptcy Code; *provided, however*, that from and after the Effective Date, the payment of fees and expenses of Newco or the Reorganized Subsidiaries, including counsel fees, shall be made in the ordinary course of business and shall not be subject to the approval of the Bankruptcy Court;

9. Issue injunctions, enter and implement other orders or take such other actions as may be necessary or appropriate to restrain interference by any entity with consummation, implementation or enforcement of the Plan or the Confirmation Order;

10. Hear and determine Causes of Action by or on behalf of the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust;

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

12. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason or in any respect modified, stayed, reversed, revoked or vacated or distributions pursuant to the Plan are enjoined or stayed;

13. Determine any other matters that may arise in connection with or relate to the Plan, the Disclosure Statement, the Confirmation Order or any contract, instrument, release or other agreement or document created in connection with the Plan, the Disclosure Statement or the Confirmation Order;

14. Enforce all orders, judgments, injunctions, releases, exculpations, indemnifications and rulings entered in connection with the Chapter 11 Cases;

15. Hear and determine all matters related to the property of the Estates from and after the Confirmation Date;

16. Hear and determine such other matters as may be provided in the Confirmation Order or as may be authorized under the Bankruptcy Code; and

17. Enter an order closing the Chapter 11 Cases.

## **XII. Miscellaneous Provisions**

**A. Payment of Statutory Fees.** All fees payable pursuant to section 1930 of title 28 of the United States Code, as determined by the Bankruptcy Court at the Confirmation Hearing, shall be paid on the Effective Date.

**B. Amendment or Modification of the Plan.** In accordance with section 1127 of the Bankruptcy Code and, to the extent applicable, subject to sections 1122, 1123 and 1125 of the Bankruptcy Code, the Debtors reserve the right to alter, amend or modify the Plan at any time prior to the Confirmation Date, subject to the terms of the Lock-Up Agreement. After the Confirmation Date but prior to the substantial consummation of the Plan, Newco, the Reorganized Subsidiaries or the Union Trust may institute proceedings in the Bankruptcy Court to remedy any defect or omission or reconcile any inconsistencies in the Plan, subject to the terms of the Lock-Up Agreement. A Holder of a Claim that has accepted the Plan shall be deemed to have accepted the Plan, as altered, amended or modified, if the proposed alteration, amendment or modification does not adversely change the treatment of the Claim of such Holder, subject to the terms of the Lock-Up Agreement.

**C. Invalidity of Plan Provisions.** If, prior to the Confirmation Date, any term or provision of the Plan is determined by the Bankruptcy Court to be invalid, void or unenforceable, the Bankruptcy Court will 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 will then be applicable as altered or interpreted. Notwithstanding any such holding, alteration or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, Impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order will constitute a

judicial determination that each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is valid and enforceable pursuant to its terms.

**D. Successors and Assigns.** The Plan shall be binding upon and inure to the benefit of the Debtors and their successors and assigns, including, without limitation, Newco, the Reorganized Subsidiaries and the Union Trust. The rights, benefits and obligations of any entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of, any heir, executor, administrator, successor or assign of such entity.

**E. Plan Supplement.** The Plan Supplement, which shall include certain exhibits, lists or documents to be negotiated and executed in connection with the Plan, shall be Filed not later than ten (10) days prior to the Confirmation Hearing. Upon its Filing, the Plan Supplement may be inspected in the office of the clerk of the Bankruptcy Court or its designee during normal business hours. Holders of Claims and Interests may obtain a copy of the Plan Supplement upon written request to the Notice Agent and counsel to the Senior Secured Lenders shall obtain a copy thereof before it is filed. The documents contained in the Plan Supplement shall be approved by the Bankruptcy Court pursuant to the Confirmation Order.

**F. Dissolution of Statutory Committees.** All statutory Committees appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code, if any, shall be dissolved on the Effective Date.

**G. Notices.** Any notice required or permitted to be provided under the Plan shall be in writing and served by either (a) certified mail, return receipt requested, postage prepaid, (b) hand delivery or (c) reputable overnight delivery service, freight prepaid, to be addressed as follows:

To the Debtors, Newco, the Reorganized Subsidiaries or the Union Trust:

Outsourcing Solutions Inc.  
390 South Woods Mill Road, Suite 350  
St. Louis, MO 63017  
Attention: Gary Weller

With a copy to:

BRYAN CAVE LLP  
211 North Broadway  
Suite 3600-OSI  
St. Louis, MO 63102-2750  
Attention: Gregory D. Willard

**H. Governing Law.** Except to the extent the Bankruptcy Code, the Bankruptcy Rules or other federal law is applicable, or to the extent an exhibit or schedule to the Plan or Plan Supplement or any contract, instrument, release, indenture or other agreement or document entered into in connection with this Plan provides otherwise, the rights and obligations arising under this Plan shall be governed by, and construed and enforced in accordance with, the laws of the state in which the Bankruptcy Court resides, without giving effect to the principles of conflicts of law of such jurisdiction.

**I. Tax Liability.** Newco, the Reorganized Subsidiaries and Union Trust are hereby authorized to request an expedited determination under section 505(b) of the Bankruptcy Code of the tax liability of the Debtors for all taxable periods ending after the Petition Date through, and including, the Effective Date.

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

**K. Schedules.** All exhibits and schedules to the Plan, including the Summary Term Sheet and the Plan Supplement, are incorporated hereby and are made a part of the Plan as is set forth in full herein.

**L. Jurisdiction over Newco and Reorganized Subsidiaries.** Notwithstanding the jurisdiction retained in Article XI. hereof, from and after the Effective Date, the Bankruptcy Court shall not have the power after the Effective Date to issue any order which modifies the New Credit Agreement or the rights of the parties thereto.

**M. Filing of Additional Documents.** On or before substantial consummation of the Plan, the Debtors shall be entitled to File such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan.

Respectfully Submitted,

OUTSOURCING SOLUTIONS INC.  
AMERICAN RECOVERY COMPANY,  
INCORPORATED  
ASSET RECOVERY & MANAGEMENT CORP.  
COAST TO COAST CONSULTING, LLC  
C.S.N. CORP.  
GENERAL CONNECTOR CORPORATION  
GRABLE, GREINER & WOLFF, INC.  
GREYSTONE BUSINESS GROUP, LLC  
GULF STATE CREDIT, L.L.C.  
INDIANA MUTUAL CREDIT ASSOCIATION, INC.  
JENNIFER LOOMIS & ASSOCIATES, INC.  
NORTH SHORE AGENCY, INC.  
OSI COLLECTION SERVICES, INC.  
OSI OUTSOURCING SERVICES, INC.  
OSI OUTSOURCING SERVICES INTERNATIONAL,  
LTD.  
OSI PORTFOLIO SERVICES, INC.  
OSI SUPPORT SERVICES, INC.  
PACIFIC SOFTWARE CONSULTING, LLC  
PAE LEASING, LLC  
PAYCO AMERICAN INTERNATIONAL CORP.  
PERIMETER CREDIT L.L.C.  
PROFESSIONAL RECOVERIES INC.  
QUALINK, INC.  
RWC CONSULTING GROUP, LLC  
THE UNION CORPORATION  
TRANSWORLD SYSTEMS INC.  
U.C.O.-M.B.A. CORPORATION  
UCO PROPERTIES, INCORPORATED  
UNION FINANCIAL SERVICES GROUP, INC.  
UNION-SPECIALTY STEEL CASTING  
CORPORATION  
UNIVERSITY ACCOUNTING SERVICE, LLC

By: /s/ Gary L. Weller  
Name: Gary L. Weller  
Title: Authorized Signatory

Dated: July 31, 2003