

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

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In re: : **Chapter 11**
: :
: : **Case No. 15-11101 (BLS)**
BOSTON RESTAURANT ASSOCIATES, INC., :
et al., : **Jointly Administered**
: :
Debtors.¹ : **Re: Docket Nos. 166 & 227**
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**FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER APPROVING
DISCLOSURE STATEMENT FOR JOINT CHAPTER 11 PLAN OF
REORGANIZATION OF BOSTON RESTAURANT ASSOCIATES, INC. AND ITS
AFFILIATED DEBTORS AND CONFIRMING FIRST AMENDED CHAPTER 11 PLAN
OF REORGANIZATION OF BOSTON RESTAURANT ASSOCIATES, INC.
AND ITS AFFILIATED DEBTORS**

Boston Restaurant Associates (“BRA”) and its affiliated debtors and debtors in possession (collectively, the “Debtors”) having:

- a. commenced on May 20, 2015 (the “Petition Date”) these chapter 11 cases (the “Chapter 11 Cases”) by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code (the “Bankruptcy Code”);
- b. operated their businesses and managed their properties during the Chapter 11 cases as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;
- c. filed the *Motion of Debtors for Entry of an Order (I) Conditionally and Finally Approving Disclosure Statement; (II) Scheduling Plan Confirmation Hearing; (III) Approving Procedures and Deadlines Concerning Executory Contracts and Unexpired Leases; (IV) Approving Solicitation Packages and Procedures; (V) Approving Form of Ballot; and (VI) Granting Related Relief* [Docket No. 141] on July 1, 2015;

¹ The Debtors, along with the last four digits of each debtor’s tax identification number, as applicable, are: Boston Restaurant Associates, Inc. (2263); Pizzeria Regina of Kingston, Inc. (2531); Pizzeria Regina of Medford, Inc. (4952); Ocean, Inc. (6400); Fantail Restaurant, Inc. (6556); Regina Pizzeria at Fenway, Inc. (4457); Polcari’s, Inc. (5395); Polcari’s of Woburn, Inc. (9677); Polcari Enterprises, Inc. (0989). The Debtors’ corporate headquarters is located at 48 Cummings Park, Woburn, MA 01801.

- d. filed the *Joint Chapter 11 Plan of Reorganization of Boston Restaurant Associates, Inc. and its Affiliated Debtors* [Docket No. 164] (the "Original Plan") and the *Disclosure Statement for Joint Chapter 11 Plan of Reorganization of Boston Restaurant Associates, Inc. and its Affiliated Debtors* [Docket No. 166] (including all exhibits thereto and as amended, supplemented or otherwise modified from time to time, the "Disclosure Statement") on July 15, 2015;
- e. distributed, on or about July 20, 2015, (i) the Original Plan; (ii) the Disclosure Statement; (iii) the *Order (I) Conditionally Approving the Disclosure Statement; (II) Scheduling a Plan Confirmation Hearing and Final Hearing on the Disclosure Statement; (III) Approving Procedures and Deadlines Concerning Executory Contracts and Unexpired Leases to be Assumed; (IV) Approving Solicitation Packages and Procedures; and (V) Approving the Form of Ballot* [Docket No. 170] ("Conditional Approval Order"), (iv) the *Notice Of (I) Conditional Approval Of Disclosure Statement; (II) Hearing To Consider Confirmation Of The Plan And Final Approval Of Disclosure Statement; (III) Deadline For Filing Objections To Confirmation Of The Plan And Adequacy Of Disclosure Statement; (IV) Deadline For Voting On The Plan; And (V) Bar Date For Filing Administrative Claims Established By The Plan* ("Confirmation Hearing Notice") and (v) ballots for voting on the Plan to Holders of Claims entitled to vote on the Plan, namely Holders in Class 3 (Prepetition Secured Lender Claims), in accordance with the terms of title 11 of the United States Code, (the "Bankruptcy Code"), the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and the Local Rules of Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules");
- f. filed the *Certification Of Vote With Respect To Joint Chapter 11 Plan Of Reorganization Of Boston Restaurant Associates, Inc. And Its Affiliated Debtors* (the "Vote Certification") on August 17, 2015;
- g. published on Confirmation Hearing Notice in the *Boston Globe* on July 20, 2015, as evidenced by the Certificate of Publication [Docket No. 221], filed on August 12, 2015 (the "Certificate of Publication");
- h. filed on July 20, 2015, the Affidavit of Service of the Confirmation Hearing Notice [Docket No. 175] (the "Confirmation Hearing Notice Affidavit of Service");
- i. filed the Plan Supplement [Docket Nos. 213 & 224] on August 4 and 14, 2015, which includes the (i) List of Executory Contracts and Unexpired Leases to Be Rejected Under, (ii) List of Executory Contracts and Unexpired Leases to Be Assumed Under the Plan and (iii) the identity of members of the New Board and the nature and compensation for any member of the New Board who is an "insider" under section 101(31) of the Bankruptcy Code; and

- j. filed the *First Amended Joint Chapter 11 Plan Of Reorganization Of Boston Restaurant Associates, Inc. And Its Affiliated Debtors* [Docket No. 227] (as it may be further modified, supplemented, or amended, the “Plan”) which contain changes reflecting comments received by the Debtors from the Office of the U.S. Trustee;² and
- k. filed the (i) Debtors’ *Memorandum Of Law In Support Of Confirmation Of First Amended Joint Chapter 11 Plan Of Reorganization Of Boston Restaurant Associates, Inc. And Its Affiliated Debtors* [Docket No. 235] (the “Confirmation Brief”) , (ii) *Declaration Of Peter E. Salas, Chief Executive Officer, In Support Of (I) Approval Of Disclosure Statement For Joint Chapter 11 Plan Of Reorganization Of Boston Restaurant Associates, Inc. And (II) Confirmation Of First Amended Joint Chapter 11 Plan Of Reorganization Of Boston Restaurant Associates, Inc. And Its Affiliated Debtors* [Docket No. 233](the “Salas Declaration”); and (iii) *Declaration Of Wayne Moss Of Rodefer Moss & Co. PLLC In Support Of Confirmation Of First Amended Joint Chapter 11 Plan Of Reorganization Of Boston Restaurant Associates, Inc. And Its Affiliated Debtors* [Docket No. 234] (the “Moss Declaration”, together with the Salas Declaration, the “Declarations”) on August 19 and 20, 2015.

The Court having:

- a. entered the Conditional Approval Order on July 16, 2015;
- b. set August 24, 2015 at 10:00 a.m. (E.T.) as the date and time for the hearing on approval of the Debtors’ Disclosure Statement and confirmation of the Plan (the “Combined Hearing”);
- c. reviewed the Plan, the Disclosure Statement, the Confirmation Brief, the Declarations, the Vote Certification, the Confirmation Hearing Notice, the affidavits of service, the ballots, and all filed pleadings, exhibits, statements, and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements, and reservations of rights;
- d. heard the statements and arguments made by counsel in respect of approval of the Disclosure Statement and Confirmation of the Plan;
- e. considered all oral representations, affidavits, testimony, documents, filings, and other evidence in the record in these Chapter 11 Cases and regarding approval of the Disclosure Statement and Confirmation of the Plan; and
- f. taken judicial notice of all pleadings and other documents filed, all orders entered, and all evidence and arguments presented in the Chapter 11 Cases.

² Capitalized terms used herein but not otherwise defined shall have the meanings ascribed to them in the Plan.

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

FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

A. Findings and Conclusions

1. The findings and conclusions set forth herein and in the record of the Combined Hearing constitute the Court's findings of fact and conclusions of law under Rule 52 of the Federal Rules of Civil Procedure, as made applicable herein by Bankruptcy Rules 7052 and 9014. To the extent any of the following conclusions of law constitute findings of fact, or vice versa, they are adopted as such.

B. Jurisdiction, Venue, and Core Proceeding

2. The Court has jurisdiction over the Chapter 11 Cases pursuant to sections 157 and 1334 of title 28 of the United States Code and the Amended Standing Order of Reference from the United States District Court for the District of Delaware, dated February 29, 2012. The Court has exclusive jurisdiction to determine whether the Disclosure Statement and the Plan

comply with the applicable provisions of the Bankruptcy Code and should be approved and confirmed, respectively. Venue is proper in this district pursuant to sections 1408 and 1409 of title 28 of the United States Code (the "Judicial Code"). Approval of the Disclosure Statement and confirmation of the Plan are core proceedings within the meaning of section 157(b)(2) of the Judicial Code.

C. Eligibility for Relief

3. The Debtors were and are entities eligible for relief under section 109 of the Bankruptcy Code.

D. Commencement and Joint Administration of the Chapter 11 Cases

4. On the Petition Date, each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. In accordance with the *Order Pursuant to Bankruptcy Rule 10156(b) Directing Joint Administration of Related Chapter 11 Cases* [Docket No. 34], the Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015. Since the Petition Date, the Debtors have operated their businesses and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee, examiner or official committees have been appointed in the Chapter 11 Cases.

E. Judicial Notice; Objections

5. The Court takes judicial notice of (and deems admitted into evidence for purposes of confirmation of the Plan) the docket of the Chapter 11 Cases maintained by the clerk of the Court or its duly appointed agent, including all pleadings and other documents on file, all orders entered, all hearing transcripts, and all evidence and arguments made, proffered, or adduced at the hearings held before the Court during the pendency of the Chapter 11 Cases. All unresolved

objections, statements, informal objections, and reservations of rights, if any, related to the Disclosure Statement or confirmation of the Plan are overruled on the merits.

F. Burden of Proof—Confirmation of the Plan

6. The Debtors, as proponents of the Plan, have met their burden of proving the applicable elements of sections 1129(a) and 1129(b) of the Bankruptcy Code by a preponderance of the evidence, which is the applicable evidentiary standard for confirmation of the Plan.

G. Notice

7. As evidenced by the Certificate of Publication and the Confirmation Hearing Notice Affidavit of Service (together, the "Service Affidavits"), due, adequate, and sufficient notice of the Disclosure Statement, the Plan, and the Combined Hearing, together with all deadlines for voting to accept or reject the Plan as well as objecting to the Disclosure Statement and the Plan, has been provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) the Holders of the 20 largest unsecured claims against the Debtors (on a consolidated basis); (c) the Internal Revenue Service; (d) the Securities and Exchange Commission; and (e) any party that has requested notice pursuant to Bankruptcy Rule 2002 (the parties identified in clauses (a) through (e), collectively, the "Notice Parties"). All parties in interest, including the Notice Parties, received the *Notice Of (I) Conditional Approval Of Disclosure Statement; (II) Hearing To Consider Confirmation Of The Plan And Final Approval Of Disclosure Statement; (III) Deadline For Filing Objections To Confirmation Of The Plan And Adequacy Of Disclosure Statement; (IV) Deadline For Voting On The Plan; And (V) Bar Date For Filing Administrative Claims Established By The Plan*. The Confirmation Hearing Notice was also published in the *Boston Globe* on July 20, 2015 in compliance with the Conditional Approval Order and Bankruptcy Rule 2002(l). Such notice was adequate and sufficient pursuant

to section 1128 of the Bankruptcy Code, Bankruptcy Rules 2002 and 3020, and other applicable law and rules, and no other or further notice is or shall be required.

H. Disclosure Statement

8. The Disclosure Statement contains “adequate information” (as such term is defined in section 1125(a) of the Bankruptcy Code and used in section 1126(b)(2) of the Bankruptcy Code) with respect to the Debtors, the Plan, and the transactions contemplated therein. The filing of the Disclosure Statement with the clerk of the Court satisfied Bankruptcy Rule 3016(b).

I. Vote Certification

9. Only Holders of Claims in Class 3 (Prepetition Secured Lender Claims) were eligible to vote on the Plan (the “Voting Class”). The ballots the Debtors used to solicit votes to accept or reject the Plan from Holders in the Voting Class adequately addressed the particular needs of the Chapter 11 Cases and were appropriate for Holders in the Voting Class to vote to accept or reject the Plan, and, in fact, the Holders in the Voting Class voted to accept the Plan. Holders of Claims in Classes 1, 2, 4, 5, and 7 are Unimpaired under the Plan (collectively, the “Presumed Accepting Classes”) and presumed to have accepted the Plan, and, therefore, were not entitled to vote to accept or reject the Plan. Holders of Claims or Interests in Classes 6 and 8 (collectively, the “Deemed Rejecting Classes”) are receiving no distribution under the Plan, were deemed to reject the Plan and, therefore, were not entitled to vote to accept or reject the Plan. As evidenced by the Vote Certification, the Voting Class voted to accept the Plan. Based on the foregoing, and as evidenced by the Vote Certification, at least one Impaired Class of Claims (excluding the acceptance by any insiders of the Debtor) has voted to accept the Plan in accordance with the requirements of sections 1124, 1126, and 1129 of the Bankruptcy Code.

J. Solicitation

10. As described in the Vote Certification, the solicitation of votes on the Plan was in accordance with the solicitation procedures approved in the Conditional Approval Order (the “Solicitation Procedures”), was appropriate and satisfactory based upon the circumstances of the Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules and the Local Rules.

11. As described in the Vote Certification and the Service Affidavits, as applicable, prior to July 20, 2015 the Original Plan, the Disclosure Statement, the applicable Ballot (collectively, the “Solicitation Package”), and the Confirmation Hearing Notice were transmitted and served, including to all Holders in the Voting Class, in compliance with the Bankruptcy Code, including sections 1125 and 1126 thereof, the Bankruptcy Rules, including Bankruptcy Rules 3017 and 3018, the Local Rules and the Conditional Approval Order. Transmission and service of the Solicitation Package and the Confirmation Hearing Notice were timely, adequate, and sufficient. No further notice is required.

12. As set forth in the Vote Certification, the Solicitation Package was distributed to Holders in the Voting Class that held a Prepetition Secured Lender Claim. The establishment and notice of the July 15, 2015 voting record date (the “Voting Record Date”) were reasonable and sufficient.

13. The period during which the Debtors solicited acceptances or rejections to the Plan was a reasonable and sufficient period of time for Holders in the Voting Class to make an informed decision to accept or reject the Plan.

14. Under section 1126(f) of the Bankruptcy Code, the Debtors were not required to solicit votes from the Holders of Claims or Interests, as applicable, in the Unimpaired Classes (defined below), each of which is conclusively presumed to have accepted the Plan. The Debtors

were not required to solicit votes from the Holders, if any, of Claims in Class 6 (Subordinated Claims) or of Interests in Class 8 (Interests (Other than Class 7 Intercompany Interests)), each of which is deemed to have rejected the Plan.

K. Plan Supplement

15. The Plan Supplement complies with the Bankruptcy Code and the terms of the Plan, and the filing and notice of such documents are good and proper in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Local Rules, and no other or further notice is required. All documents included in the Plan Supplement are integral to, part of, and incorporated by reference into the Plan. Subject to the terms of the Plan and Bankruptcy Code section 1127 and Bankruptcy Rule 3019, the Debtors' right to alter, amend, update, or modify the Plan Supplement before the Effective Date is reserved. The Plan Supplement was served on the (i) the U.S. Trustee, (ii) the parties listed in the Rejected Executory Contract and Unexpired Lease List and the Assumed Executory Contract and Unexpired Lease List, and (iii) any party that has requested notice pursuant to Bankruptcy Rule 2002.

L. Compliance with Bankruptcy Code Requirements—Section 1129(a)(1)

16. The Plan complies with all applicable provisions of the Bankruptcy Code as required by section 1129(a)(1) of the Bankruptcy Code, including sections 1122 and 1123 of the Bankruptcy Code. In addition, the Plan is dated and identifies the Entities submitting it, thereby satisfying Bankruptcy Rule 3016(a).

(a) *Proper Classification—Sections 1122 and 1123*

17. The classification of Claims and Interests under the Plan is proper under the Bankruptcy Code. Pursuant to sections 1122(a) and 1123(a)(1) of the Bankruptcy Code, Article III of the Plan provides for the separate classification of Claims and Interests into eight Classes, based on differences in the legal nature or priority of such Claims and Interests (other than,

Administrative Claims, Fee Claims, and Priority Tax Claims, which are addressed in Article II of the Plan and which are not required to be designated as separate Classes pursuant to section 1123(a)(1) of the Bankruptcy Code). Valid business, factual, and legal reasons exist for the separate classification of the various Classes of Claims and Interests created under the Plan, the classifications were not promulgated for any improper purpose, and the creation of such Classes does not unfairly discriminate between or among Holders of Claims or Interests. In accordance with section 1122(a) of the Bankruptcy Code, each Class of Claims and Interests contains only Claims or Interests that are substantially similar to the other Claims or Interests within that Class. The Plan, therefore, satisfies the requirements of sections 1122(a), 1122(b), and 1123(a)(1) of the Bankruptcy Code.

(b) Specified Unimpaired Classes—Section 1123(a)(2)

18. Article III of the Plan specifies that Claims in Classes 1, 2, 4, 5, and 7 are Unimpaired under the Plan (the “Unimpaired Classes”). The Plan, therefore, satisfies the requirements of section 1123(a)(2) of the Bankruptcy Code.

(c) Specified Treatment of Impaired Classes—Section 1123(a)(3)

19. Article III of the Plan specifies the treatment of each Impaired Class of Claims and Interests under the Plan, including Classes 3, 6, and 8. The Plan, therefore, satisfies the requirements of section 1123(a)(3) of the Bankruptcy Code.

(d) No Discrimination—Section 1123(a)(4)

20. Article III of the Plan provides the same treatment for each Claim or Interest within a particular class unless the Holder of a particular Claim or Interest has agreed to a less favorable treatment with respect to such Claim or Interest. The Plan, therefore, satisfies the requirements of section 1123(a)(4) of the Bankruptcy Code.

(e) Adequate Means for Plan Implementation—Section 1123(a)(5)

21. The Plan and the various documents and agreements set forth in the Plan Supplement provide adequate means for the Plan's implementation, including (i) an \$8 million contribution from Dolphin Direct Equity Partners, L.P. on the Effective Date, (ii) issuance and distribution of New Common Stock, (iii) adoption of the Amended Stockholders Agreement, (iv) authorizing the Debtors and/or the Reorganized Debtors to take all actions necessary to effectuate the Plan, including those actions necessary to effect the Restructuring Transactions, (v) vesting of all property in each Estate, all Causes of Action and any property acquired by any of the Debtors pursuant to the Plan in each respective Reorganized Debtor, free and clear of all Claims and Interests, except for (a) the existing Lien securing the Debtors' obligations under the Mortgage Loan Agreement and (b) the existing Lien of parties who lease equipment to the Debtors to the extent such leases are Executory Contracts assumed by the Debtors, (vi) cancellation of existing indebtedness and securities (except as otherwise provided therein), (vii) the appointment of the New BRA Board, (viii) the preservation and vesting of Causes of Action in the Reorganized Debtors and (ix) the continued corporate existence of the Debtors. The Plan, therefore, satisfies the requirements of section 1123(a)(5) of the Bankruptcy Code.

M. Non-Voting Equity Securities—Section 1123(a)(6).

22. The Plan satisfies the requirements of section 1123(a)(6) of the Bankruptcy Code. Dolphin Direct Equity Partners, L.P. ("Dolphin") will receive the New Stock in the Reorganized Debtors consisting of non-voting new preferred shares and voting new common stock as set forth in the Plan. Dolphin is not a creditor of the Debtors; rather, it is receiving both tranches of voting and non-voting on account of its \$8 million capital contribution to the Reorganized Debtors. Accordingly, the concerns animating section 1123(a)(6) are not present here.

23. The issuance of the New Stock complies with section 1123(a)(6) because the amended charter for the Reorganized Debtors will include a provision, consistent with section

1123(a)(6) and only to the extent required by 1123(a)(6) of the Bankruptcy Code, setting forth an appropriate distribution of voting power among classes of equity securities possessing voting power, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends, adequate provisions for election of directors representing such preferred class in the event of default in the payment of such dividends.

N. Directors and Officers—Section 1123(a)(7)

24. The Plan satisfies the requirements of section 1123(a)(7) of the Bankruptcy Code. In accordance with Article IV.I of the Plan, the identities of the directors of the New Board were identified in Exhibit C of the Plan Supplement.

O. Claims and Executory Contracts—Section 1123(b)(1)—(2)

25. Article III of the Plan leaves Impaired or Unimpaired, as the case may be, each Class of Claims and Interests, and Article V of the Plan provides that, on the Effective Date, except as otherwise provided in the Plan or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, Executory Contracts and Unexpired Leases, including those listed on the Assumed Executory Contract and Unexpired Lease List, shall be deemed assumed as of the Effective Date, unless such Executory Contract or Unexpired Lease: (i) was assumed or rejected prior to the Effective Date by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject Filed on or before the Effective Date; (iv) is identified as an executory Contract or Unexpired Lease on the Rejected Executory Contracts and Unexpired Lease List, or (v) is the subject of a dispute regarding the Cure Claim. The Debtors provided sufficient notice to each non-Debtor counterparty to an Executory Contract or Unexpired Lease assumed, assumed and assigned, or rejected by the Debtors during the Chapter 11 Cases.

P. Settlement, Releases, Exculpation, Injunction, and Preservation of Claims and Causes of Action—Section 1123(b)(3)

26. The Plan is consistent with section 1123(b)(3) of the Bankruptcy Code. Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of substantially all Claims, Interests, and controversies relating to the contractual, legal, and equitable rights that a Holder of a Claim may have with respect to any Allowed Claim or Interest or any distribution to be made on account of such Allowed Claim or Interest. The compromise and settlement of such Claims and Interests embodied in the Plan are in the best interests of the Debtors, the Estates, and all Holders of Claims and Interests, and are fair, equitable, and reasonable.

27. The releases granted by the Releasing Parties set forth in Article VIII.D of the Plan (the “Releases”) provide finality for the Debtors and the Reorganized Debtors regarding their obligations under the Plan and with respect to the Releasing Parties and are material to confirmation of the Plan. Notice of the Release was appropriate. Specifically, the Confirmation Hearing Notice sent to Holders of Claims and Interests, and the ballots sent to all Holders of Impaired Claims entitled to vote on the Plan, in each case, unambiguously stated that the Plan contains the Release. Further, the Release is a necessary and integral element of the Plan, and is fair, equitable, reasonable, and in the best interests of the Debtors, the Estates, and all Holders of Claims and Interests. Finally, the Release is: (a) in the best interests of the Debtors and all Holders of Claims and Interests; (b) fair, equitable, and reasonable; (c) given and made after due notice and opportunity for hearing; and (d) a bar to any of the Releasing Parties asserting any claim or Cause of Action released pursuant to the Release.

28. The exculpation described in Article VIII.F of the Plan (the “Exculpation”) is appropriate under applicable law because it was proposed in good faith and is appropriately limited in scope. Without limiting anything in the Exculpation, each Exculpated Party is hereby released and exculpated from (i) Exculpated Claim and (ii) any obligation, Cause of Action, or liability for any Exculpated Claim, except for those that result from any such act or omission that is determined in a Final Order to have constituted fraud, gross negligence, or willful misconduct; provided, however, that the foregoing “Exculpation” shall have no effect on the liability of any Entity for acts or omissions occurring after the Effective Date. The Exculpation, including its carve-out for fraud, gross negligence or willful misconduct, is entirely consistent with established practice in this jurisdiction and others.

29. The injunction provision set forth in Article VIII.G of the Plan (the “Injunction”) is necessary to implement, preserve, and enforce the Debtors' discharge, the Releases and the Exculpation, and is narrowly tailored to achieve this purpose.

30. The provisions regarding the preservation of Causes of Action in the Plan, including Article IV.N, are appropriate, fair, equitable, and reasonable, and are in the best interests of the Debtors, the Estates, and Holders of Claims and Interests.

31. Except as otherwise provided in the Plan, the release and discharge of all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates, described in Article VIII.C of the Plan (the “Lien Release”), is necessary to implement the Plan. The provisions of the Lien Release are appropriate, fair, equitable, and reasonable and are in the best interests of the Debtors, the Estates, and Holders of Claims and Interests. The Lien Release does not operate to release or discharge any mortgages, deeds of trust, Liens, pledges or other security interests of Commerce Bank and Trust Company (“Commerce” or

“Lender”), including, without limitation, the “DIP Liens” as defined in the *Order (I) Authorizing the Debtors to Obtain Post-Petition Financing Pursuant to 11 U.S.C. § 364, (II) Authorizing the Use of Cash Collateral Pursuant to 11 U.S.C. § 363, and (III) Granting Adequate Protection to the Lender Pursuant to 11 U.S.C. §§ 361 And 363* [Dkt 169] (the “DIP Order”), and the liens and security interests granted to or retained by Lender in the *Postpetition Loan and Security Agreement* [Dkt. 169-1] (“DIP Loan Agreement”) and the existing Lien securing the Debtors’ obligations under the Mortgage Loan Agreement (collectively, all such mortgages, deeds of trust, Liens, pledges or other security interests of Lender not released and discharged, the “Commerce Retained Liens”).

Q. Additional Plan Provisions—Section 1123(b)(6)

32. The other discretionary provisions of the Plan are appropriate and consistent with the applicable provisions of the Bankruptcy Code, thereby satisfying section 1123(b)(6) of the Bankruptcy Code.

R. Debtor Compliance with the Bankruptcy Code—Section 1129(a)(2)

33. The Debtors have complied with the applicable provisions of the Bankruptcy Code and, thus, satisfy the requirements of section 1129(a)(2) of the Bankruptcy Code. Specifically, each Debtor:

- a. is an eligible debtor under section 109, and a proper proponent of the Plan under section 1121(a), of the Bankruptcy Code;
- b. has complied with applicable provisions of the Bankruptcy Code, except as otherwise provided or permitted by orders of the Court; and
- c. complied with the applicable provisions of the Bankruptcy Code, including sections 1125 and 1126, the Bankruptcy Rules, the Local Rules, the Conditional Approval Order, and all other applicable law, in transmitting the Solicitation Package and related documents and notices, and in soliciting and tabulating the votes on the Plan.

S. Plan Proposed in Good Faith—Section 1129(a)(3)

34. The Plan satisfies the requirements of section 1129(a)(3) of the Bankruptcy Code. The Debtors have proposed the Plan in good faith and not by any means forbidden by law. In so determining, the Court has examined the totality of the circumstances surrounding the filing of the Chapter 11 Cases, the Plan itself, the process leading to confirmation of the Plan, including the support of all Holders of Claims entitled to vote on the Plan, and the transactions to be implemented pursuant thereto. The Chapter 11 Cases were filed, and the Plan was proposed, with the legitimate purpose of allowing the Debtors to implement the Restructuring Transactions, reorganize, and emerge from bankruptcy with a capital and organizational structure that will allow them to conduct their businesses and satisfy their obligations with sufficient liquidity and capital resources.

T. Payment for Services or Costs and Expenses—Section 1129(a)(4).

35. The procedures set forth in the Plan for the Court's review and ultimate determination of the fees and expenses to be paid by the Debtors in connection with the Chapter 11 Cases, or in connection with the Plan and incident to the Chapter 11 Cases, satisfy the objectives of, and are in compliance with, section 1129(a)(4) of the Bankruptcy Code.

U. Directors, Officers, and Insiders—Section 1129(a)(5)

36. The Debtors have satisfied the requirements of section 1129(a)(5) of the Bankruptcy Code. Article IV.I of the Plan, in conjunction with Exhibit C of the Plan Supplement, disclose the identity and affiliations of the individuals proposed to serve as the initial directors and officers of the Reorganized Debtors, and the identity and nature of any compensation for any insider who will be employed or retained by the Reorganized Debtors.

V. No Rate Change—Section 1129(a)(6)

37. Section 1129(a)(6) of the Bankruptcy Code is not applicable to the Chapter 11 Cases. The Plan proposes no rate change subject to the jurisdiction of any governmental regulatory commission.

W. Best Interest of Creditors—Section 1129(a)(7)

38. The Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code. The liquidation analysis attached to the Disclosure Statement as Exhibit B and the other evidence related thereto in support of the Plan that was proffered or adduced in the Moss Declaration or at, prior to, or in connection with the Confirmation Hearing: (a) are reasonable, persuasive and credible as of the dates such analysis or evidence was prepared, presented, or proffered; (b) utilize reasonable and appropriate methodologies and assumptions; (c) have not been controverted by other evidence; and (d) establish that each Holder of an Allowed Claim or Interest in each Class will recover at least as much under the Plan on account of such Claim or Interest, as of the Effective Date, as such Holder would receive if the Debtor were liquidated, on the Effective Date, under chapter 7 of the Bankruptcy Code.

X. Acceptance by Certain Classes—Section 1129(a)(8)

39. The Plan satisfies the requirements of section 1129(a)(8) of the Bankruptcy Code. Classes 1, 2, 4, 5, and 7 constitute Unimpaired Classes, each of which is conclusively presumed to have accepted the Plan in accordance with section 1126(f) of the Bankruptcy Code. The Voting Class, Class 3, has voted to accept the Plan. Although the Debtors are unaware of any Holders of Claims in Class 6 (Subordinated Claims), Holders of Interests in Class 8 (Interests (Other than Class 7 Intercompany Interests)) receive no recovery pursuant to the Plan and are deemed to have rejected the Plan. Notwithstanding the foregoing, the Plan is confirmable because it satisfies sections 1129(a)(10) and 1129(b) of the Bankruptcy Code.

Y. Treatment of Claims Entitled to Priority Under Section 507(a) of the Bankruptcy Code—Section 1129(a)(9)

40. The treatment of Administrative Claims, Fee Claims, and Priority Tax Claims, under Article II of the Plan, and of Priority Non-Tax Claims under Article III of the Plan, satisfies the requirements of, and complies in all respects with, section 1129(a)(9) of the Bankruptcy Code.

Z. Acceptance By At Least One Impaired Class—Section 1129(a)(10).

41. The Plan satisfies the requirements of section 1129(a)(10) of the Bankruptcy Code. As evidenced by the Vote Certification, the Voting Class voted to accept the Plan by the requisite number and amount of Claims, determined without including any acceptance of the Plan by any insider (as that term is defined in section 101(31) of the Bankruptcy Code), specified under the Bankruptcy Code.

AA. Feasibility—Section 1129(a)(11).

42. The Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code. The financial projections attached to the Disclosure Statement as Exhibit C and the other evidence supporting confirmation of the Plan proffered or adduced by the Debtors at, or prior to, or in the Declarations filed in connection with, the Confirmation Hearing: (a) are reasonable, persuasive and credible as of the dates such analysis or evidence was prepared, presented, or proffered; (b) utilize reasonable and appropriate methodologies and assumptions; (c) have not been controverted by other evidence; (d) establish that the Plan is feasible and Confirmation of the Plan is not likely to be followed by the liquidation or the need for further financial reorganization of the Reorganized Debtors or any successor to the Reorganized Debtors under the Plan, except as provided in the Plan; and (e) establish that the Reorganized Debtors will have sufficient funds available to meet their obligations under the Plan.

BB. Payment of Fees—Section 1129(a)(12).

43. The Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code. Article II.C of the Plan provides that all fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code prior to the Effective Date shall be paid by the Debtors on the Effective Date. After the Effective Date, the Reorganized Debtors shall pay any and all such fees when due and payable, and shall file with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee. Each and every one of the Debtors shall remain obligated to pay quarterly fees to the Office of the U.S. Trustee until the earliest of that particular Debtor's case being closed, dismissed or converted to a case under chapter 7 of the Bankruptcy Code.

CC. Continuation of Employee Benefits—Section 1129(a)(13)

44. Section 1129(a)(13) of the Bankruptcy Code is inapplicable because the Debtors do not have any retiree benefit plans.

DD. Non-Applicability of Certain Sections 1129(a)(14), (15), and (16).

45. Sections 1129(a)(14), 1129(a)(15), and 1129(a)(16) of the Bankruptcy Code do not apply to the Chapter 11 Cases. The Debtors owe no domestic support obligations, are not individuals, and are not nonprofit corporations.

EE. "Cram Down" Requirements—Section 1129(b).

46. The Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code. First, all of the requirements of section 1129(a) of the Bankruptcy Code other than section 1129(a)(8) have been met. Second, the Plan is fair and equitable with respect to Classes 6 and 8, the Impaired Classes that have not accepted or been presumed to accept the Plan. The Debtors are unaware of the existence of any Holders of Class 6 Claims. There is no Class of equal priority receiving more favorable treatment than Classes 6 or 8 and no Class that is junior to Classes 6 or 8 that are receiving or retaining any property on account of their Claims or Interests.

Third, the Plan does not discriminate unfairly with respect to Classes 6 or 8 because the Debtors believe Class 6 is vacant and Class 8 is not receiving materially different treatment than Holders of Interests with similar legal rights. The Plan may therefore be confirmed despite the fact that not all Impaired Classes have voted to accept the Plan.

FF. Only One Plan—Section 1129(c)

47. The Plan satisfies the requirements of section 1129(c) of the Bankruptcy Code.

The Plan is the only chapter 11 plan filed in each of the Chapter 11 Cases.

GG. Principal Purpose of the Plan—Section 1129(d)

48. The Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code.

The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act.

HH. Good Faith Solicitation—Section 1125(e)

49. The Debtors and the Exculpated Parties have acted in "good faith" within the meaning of section 1125(e) of the Bankruptcy Code and in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to support of the Plan, including solicitation of acceptances of the Plan, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

II. Satisfaction of Confirmation Requirement

50. Based on the foregoing, the Plan satisfies the requirements for Confirmation thereof set forth in section 1129 of the Bankruptcy Code.

JJ. Likelihood of Satisfaction of Conditions Precedent to the Effective Date

51. Without limiting or modifying the rights of the Debtors, each of the conditions precedent to the Effective Date, as set forth in Article IX.A of the Plan, has been or is reasonably likely to be satisfied or waived in accordance with Article IX.B of the Plan.

KK. Implementation

52. All documents necessary to implement the Plan and all other relevant and necessary documents have been negotiated in good faith and at arm's length and shall, upon completion of documentation and execution, be valid, binding, and enforceable agreements and shall not be in conflict with any federal or state law.

LL. Disclosure of Facts

53. The Debtors have disclosed all material facts regarding the Plan, the Plan Supplement, and the adoption, execution, and implementation of the other matters provided for under the Plan involving corporate action to be taken by or required of the Debtors.

MM. Good Faith

54. The Debtors have acted in good faith in proposing the Plan. The Plan will enable the Debtors to preserve jobs long term, pay all Allowed General Unsecured Claims in full, and afford the Debtors the appropriate capital structure to maintain viable businesses into the future. The Debtor will continue to be acting in good faith if they proceed to: (a) consummate the Plan and the agreements, settlements, transactions, and transfers contemplated thereby; and (b) take the actions authorized and directed by this Confirmation Order to reorganize the Debtors' businesses.

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

55. **Findings of Fact and Conclusions of Law.** The above-referenced findings of fact and conclusions of law are hereby incorporated by reference as though fully set forth herein and constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable herein by Bankruptcy Rule 9014. To the extent that any finding of fact is determined to be a conclusion of law, it is deemed so, and vice versa.

56. **Confirmation of the Plan.** The Plan, attached hereto as Exhibit A, the Plan Supplement, and each of the documents comprising the Plan Supplement (each of which are incorporated by reference into and are an integral part of the Plan) are hereby approved in their entirety and confirmed under section 1129 of the Bankruptcy Code.

57. **Disclosure Statement.** The Disclosure Statement is approved in all respects.

58. **Objections.** All objections and all reservations of rights pertaining to confirmation of the Plan or approval of the Disclosure Statement that have not been withdrawn, waived, or settled are overruled on the merits.

59. **Deemed Acceptance of Plan as Modified.** The Debtors modified the Plan to address concerns raised by the U.S. Trustee and made certain nonmaterial clarifications. The Plan modifications were immaterial and comply with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019. Accordingly, no additional solicitation or disclosure was required on account of the modifications and all Holders of Claims and Interests who voted to accept the Plan or who are conclusively presumed to accept the Plan are deemed to have accepted the Plan as modified, revised, supplemented, or otherwise amended. No Holder of a Claim or Interest shall be permitted to change its vote as a consequence of the Plan Modifications.

60. **Omission of Reference to Particular Plan Provisions.** The failure specifically to include or to refer to any particular article, section, or provision of the Plan, Plan Supplement, or any related document in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provisions, it being the intent of the Court that the Plan and any related documents be confirmed and approved in their entirety.

61. **Plan Classifications Controlling.** The terms of the Plan shall solely govern the classification of Claims and Interests for purposes of the distributions to be made thereunder.

The classifications set forth on the Ballots tendered to or returned by the Holders of Claims in connection with voting on the Plan: (a) were set forth thereon solely for purposes of voting to accept or reject the Plan; (b) do not necessarily represent, and in no event shall be deemed to modify or otherwise affect, the actual classification of Claims under the Plan for distribution purposes; (c) may not be relied upon by any Holder of a Claim as representing the actual classification of such Claim under the Plan for distribution purposes; and (d) shall not be binding on the Debtors except for voting purposes.

62. **No Action Required.** Pursuant to section 1142(b) of the Bankruptcy Code, no action of the respective directors, equity holders, managers, or members of the Debtors or Reorganized Debtors, as applicable, is required to authorize the Debtors or Reorganized Debtors, as applicable, to enter into, execute, deliver, file, adopt, amend, restate, consummate, or effectuate, as the case may be, the Plan, the Restructuring Transactions, and any contract, assignment, certificate, instrument, or other document to be executed, delivered, adopted, or amended in connection with the implementation of the Plan.

63. **Means for Implementation of the Plan.** The provisions governing the means for implementation of the Plan set forth in Article IV of the Plan shall be, and hereby are, approved in their entirety.

64. **General Settlement of Claims and Interests; Restructuring Transactions.** Unless otherwise set forth in the Plan, pursuant to section 1123 of the Bankruptcy Code, Bankruptcy Rule 9019, and this Confirmation Order, and in consideration for the classification, distributions, releases, and other benefits provided under the Plan, on the Effective Date, the provisions of the Plan shall constitute a good-faith compromise and settlement of all Claims and Interests through the Effective Date.

65. **New Stock.** On the Effective Date, the issuance of the New Stock as set forth in the Article IV.B of the Plan by Reorganized BRA, including options, stock appreciation rights, or other equity awards, if any, is authorized without the need for any further corporate action and without any further action by the Holders of Claims or Interests. All of the shares of New Stock when issued or distributed as provided in the Plan, shall be duly authorized, validly issued, and if applicable, fully paid and non-assessable. Each distribution and issuance of the New Stock under the Plan shall be governed by the terms and conditions set forth in the Plan applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, which terms and conditions shall bind each Entity receiving such distribution or issuance.

66. **Restructuring Transactions.** On the Effective Date, or as soon as reasonably practicable thereafter, the Reorganized Debtors may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the Restructuring Transactions under and in connection with the Plan, including: (1) the execution and delivery of appropriate agreements or other documents of merger, consolidation, or reorganization containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any property, right, liability, duty or obligation on terms consistent with the terms of the Plan; and (3) the filing of appropriate certificates of incorporation, merger or consolidation with the appropriate governmental authorities pursuant to applicable law.

67. **Corporate Existence.** Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on

the Effective Date, each Debtor shall continue to exist after the Effective Date as a Reorganized Debtor and as a separate corporation, limited liability company, partnership, or other form of entity, as the case may be, with all the powers of a corporation, limited liability company, partnership, or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and by-laws (or other analogous formation or governing documents) in effect before the Effective Date, except to the extent such certificate of incorporation and bylaws (or other analogous formation or governing documents) are amended by the Plan or otherwise amended in accordance with applicable law. To the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state or federal law) and in such case shall provide for, among other things: (1) authorized issuance of the New Stock, (2) pursuant to and only to the extent required by 1123(a)(6) of the Bankruptcy Code, a provision setting forth an appropriate distribution of voting power among classes of equity securities and a provision setting forth an appropriate distribution of voting power among classes of equity securities possessing voting power, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends. After the Effective Date, each Reorganized Debtor may amend and restate its new certificate of incorporation and other constituent documents as permitted by relevant state corporate law.

68. **Vesting of Assets in the Reorganized Debtors.** Except as otherwise provided in the Plan or any agreement, instrument or other document incorporated in the Plan or the Plan Supplement, on the Effective Date, pursuant to section 1141(c) of the Bankruptcy Code, all

property in each Estate, all Causes of Action and any property acquired by any of the Debtors pursuant to the Plan will vest in each respective Reorganized Debtor, free and clear of all Claims and Interests, except for (a) the Commerce Retained Liens and (b) the existing Lien of parties who lease equipment to the Debtors to the extent such leases are Executory Contracts assumed by the Debtors. On and after the Effective Date, except as otherwise provided in the Plan, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any claims, Interests or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules.

69. **Cancellation of Existing Indebtedness and Securities.** Except for the obligations of the Debtors to Commerce and Commerce's Claims (which shall not be cancelled and as to which the Debtors shall have continuing obligations which shall not be released and discharged), and except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on the Effective Date: (i) the obligations of the Debtors under any certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Interest (except such certificates, notes, or other instruments or documents evidencing indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the Plan) shall be cancelled solely as to the Debtors and the Reorganized Debtors, and the Reorganized Debtors shall not have any continuing obligations thereunder; and (ii) the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the

shares, certificates, notes, bonds, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors (except such agreements, certificates, notes, or other instruments evidencing indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the Plan) shall be released and discharged; provided, however, notwithstanding Confirmation or the occurrence of the Effective Date, any such indenture or agreement that governs the rights of the Holder of a Claim shall continue in effect solely for purposes of enabling Holders of Allowed Claims to receive distributions under the Plan as provided herein; provided, further, however, that the preceding proviso shall not affect the discharge of Claims or Interests pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan or result in any expense or liability to the Reorganized Debtors, except to the extent set forth in or provided for under the Plan.

70. **Corporate Action.** Upon the Effective Date, or as soon thereafter as is reasonably practicable, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including: (i) entry into the Amended Corporate Governance Documents; (ii) the distribution of the New Stock; (iii) selection of the directors and officers for the Reorganized Debtors; (iv) implementation of the Restructuring Transactions contemplated by this Plan; and (v) all other actions contemplated by the Plan (whether to occur before on or after the Effective Date). All matters provided for in the Plan involving the corporate structure of the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Security holders, directors or officers of the Debtors or the Reorganized Debtors. On or (as applicable) before the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtors (as applicable) shall be

authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtors, including the Amended Corporate Governance Documents and any and all related and ancillary agreements, documents, and filings, New Stock, and any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Article IV shall be effective notwithstanding any requirements under non-bankruptcy law. The issuance of the New Stock shall be exempt from the requirements of section 16(b) of the Securities Exchange Act of 1934 (pursuant to Rule 16b-3 promulgated thereunder) with respect to any acquisition of such securities by an officer or director (or a director deputized for purposes thereof) as of the Effective Date.

71. **Directors and Officers of the Reorganized Debtors.** Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors have disclosed the identity and affiliations of any Person proposed to serve on the initial New BRA Board and the New Subsidiary Boards, as well as those Persons that serve as an officer of any of the Reorganized Debtors. To the extent any such director or officer is an “insider” as such term is defined in section 101(31) of the Bankruptcy Code, the nature of any compensation to be paid to such director or officer has been disclosed.

72. **Effectuating Documents; Further Transactions.** On and after the Effective Date, the Reorganized Debtors and the officers and members of the New Boards thereof, are authorized to and may issue, execute, deliver, file, or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions

of the Plan, the Amended Corporate Governance Documents and the Securities issued pursuant to the Plan, including the New Stock, in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorization or consents except those expressly required pursuant to the Plan.

73. **Exemption from Certain Taxes and Fees.** Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant to the Plan or this Order shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to 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 instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) the creation of any mortgage, deed of trust, lien, or other security interest, (ii) the making or assignment of any lease or sublease, (iii) any restructuring transaction authorized by the Plan, or (iv) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation or dissolution; (c) deeds; (d) bills of sale; or (e) assignments executed in connection with any restructuring transaction occurring under the Plan.

74. **Indemnification Provisions.** As of the Effective Date, each Reorganized Debtor's certificate of incorporation and/or bylaws (or other formation documents) shall provide, to the extent not satisfied by any available insurance coverage, for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to, current (as of May 20, 2015) directors, officers or employees who were employed as

directors, officers or employees of such Debtor, on or after May 20, 2015 at least to the same extent as the bylaws (or other formation documents) of each of the respective Debtors on the Petition Date, against any claims or Causes of Action whether direct or derivative, liquidated or unliquidated, fixed, or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, and none of the Reorganized Debtors shall amend and/or restate its certificate of incorporation or bylaws (or other formation documents) before or after the Effective Date to terminate or materially adversely affect any of the Reorganized Debtors' obligations or such directors', officers' or employees' rights; provided, however, that there shall be no indemnification, defense, reimbursement, exculpation, liability, or advancement of fees and expenses by the Reorganized Debtors with respect to Subordinated Claims.

75. **Preservation of Causes of Action.** In accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. For the avoidance of doubt, the preservation of Causes of Action described in the preceding sentence includes, but is not limited to, the Debtors' (i) right to object to Administrative Claims, (ii) right to object to other Claims, (iii) right to object to Subordinated Claims, and (iv) right to prosecute any other potential claims, Causes of Action, charges, suits or rights of recovery under state, federal, or other applicable law such as (but not limited to) claims arising under title 11 of the U.S. Code and applicable law, including without limitation sections 502(d), 510, 542 through 551, and 553 of title 11 and any similar state laws, violations of state and/or federal securities

laws, breach of contract, breach of fiduciary duty (including aiding and abetting any such breach), and common law claims such as quantum meruit and unjust enrichment. The Reorganized Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors in their respective discretion; provided, however, that prior to the closing of the Chapter 11 Cases, the Debtors shall file a motion under Bankruptcy Rule 9019 if the Debtors seek to settle any Cause of Action in excess of \$100,000 and which is settled at less than 50% of the amount sought. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Reorganized Debtors will not pursue any and all available Causes of Action against them. The Debtors and the Reorganized Debtors expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan.

76. The Reorganized Debtors reserve and shall retain the applicable Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. The applicable Reorganized Debtor through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

77. **Treatment of Executory Contracts and Unexpired Leases.** The provisions governing the treatment of Executory Contracts and Unexpired Leases set forth in Article V of the Plan shall be, and hereby are, approved in their entirety.

78. On Exhibit B to the Plan Supplement, the Debtors listed that certain Lease Agreement, dated April 6, 2006 plus amendments (the "Station Landing Lease") between Station Landing LLC and Debtor Pizzeria Regina of Medford, Inc. ("Medford") as an unexpired lease to be assumed under the Plan. In connection with the Station Landing Lease, BRA entered into that certain Lease Guaranty pursuant to which BRA guaranteed the full performance and observance of all the covenants, conditions and agreements provided in the Station Landing Lease to be performed and observed by Medford. BRA hereby ratifies and confirms its obligations under the Lease Guaranty and Medford shall pay Station Landing LLC \$1,746 for water and sewer charges relating to the period prior to the Petition Date in full satisfaction of all outstanding cure amounts due and owing on in connection with the assumption of the Station Landing Lease.

79. **Provisions Governing Distributions.** The distribution provisions of Article VI of the Plan shall be, and hereby are, approved in their entirety. Except as otherwise set forth in the Plan, the Disbursing Agent shall make all distributions required under the Plan. The timing of distributions required under the Plan shall be made in accordance with and as set forth in the Plan.

80. **Procedures for Resolving Contingent, Unliquidated and Disputed Claims.** The procedures for resolving contingent, unliquidated, and disputed Claims contained in Article VII of the Plan shall be, and hereby are, approved in their entirety.

81. **Release, Exculpation, Discharge, and Injunction Provisions.** Except with respect to obligations owed to Commerce, the release, exculpation, discharge, injunction, and

related provisions set forth in Article VIII of the Plan shall be, and hereby are, approved and authorized in their entirety, including, but not limited to:

- a. **Release.** The Release, other than with respect to Commerce, set forth in Article VIII.D of the Plan is hereby approved.
- b. **Exculpation.** The Exculpation set forth in Article VIII.F of the Plan is hereby approved.
- c. **Injunction.** The Injunction provision set forth in Article VIII.G of the Plan is hereby approved, except Commerce shall not be bound by such Injunction.
- d. **Release of Liens.** The Release of Liens provision set forth in Article VIII.C of the Plan is hereby approved, except the Commerce Liens shall not be released and shall be retained as set forth in this Order.

82. **Professional Fee Escrow.** On the Effective Date, the Debtors shall establish and fund the Professional Fee Escrow Account with Cash equal to the aggregate Professional Fee Reserve Amount for all Professionals. The Professional Fee Escrow Account shall be maintained in trust for the Professionals, with all such funds remaining property of the Debtors' estates until they are paid to the applicable professionals upon Court approval of such professional's fee applications. The amount of Accrued Professional Compensation Claims owing to the Professionals shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow Account when such Claims are Allowed by a Final Order. Allowed Accrued Professional Compensation Claims shall be paid first from amounts in the Professional Fee Escrow Account and then by the Reorganized Debtors. When all Allowed Professional Compensation Claims are paid in full in Cash, amounts remaining in the Professional Fee Escrow Account, if any, shall revert to the Reorganized Debtors.

83. **Conditions Precedent to Effective Date.** The provisions governing the conditions precedent to the Effective Date set forth in Article IX of the Plan shall be, and hereby are, approved in their entirety.

84. **Modifications or Amendments.** The provisions governing the modification, revocation, or withdrawal of the Plan set forth in Article X of the Plan shall be, and hereby are, approved in their entirety.

85. **Retention of Jurisdiction.** The provisions governing the retention of jurisdiction set forth in Article XI of the Plan shall be, and hereby are, approved in their entirety. The Court may properly, and upon the Effective Date shall, retain exclusive jurisdiction over the matters arising in, and under, and related to, the Chapter 11 Cases, as set forth in Article XI of the Plan and section 1142 of the Bankruptcy Code.

86. **Immediate Binding Effect.** Subject to Article IX of the Plan and notwithstanding Bankruptcy Rules 3020(e), 6004(h), or 7062 or otherwise, upon the occurrence of the Effective Date, the Plan and the Plan Supplement shall be immediately effective and enforceable to the fullest extent permitted under the Bankruptcy Code.

87. Notwithstanding anything to the contrary in the Plan, the Bankruptcy Rules, including Bankruptcy Rule 3020(e), or otherwise, this Confirmation Order shall become immediately effective and enforceable upon its entry.

88. **Effectiveness of All Actions.** Except as set forth in the Plan, all actions authorized to be taken pursuant to the Plan shall be effective on, before, or after the Effective Date pursuant to this Confirmation Order, without further application to, or order of this Court, or further action by the respective officers, directors, managers, members, or stockholders of the Debtors. This Confirmation Order shall constitute all approvals and consents required, if any, by

the laws, rules, and regulations, of all states and any other governmental authority with respect to the implementation or consummation of the Plan and any documents, instruments, agreements, any amendments or modifications thereto, and any other acts and transactions referred to in or contemplated by the Plan, the Plan Supplement, the Disclosure Statement, and any documents, instruments, securities, agreements, and any amendments or modifications thereto.

89. **Effect of Conflict Between Plan and Confirmation Order.** Except as set forth in the Plan, to the extent that any provision of the Disclosure Statement, the Plan Supplement, or any other document referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), conflicts with or is in anyway inconsistent with the Plan, then the Plan shall govern and control. To the extent any provision of the Disclosure Statement, the Plan, the Plan Supplement, or any other document referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing) are in any way inconsistent with the Confirmation Order, the Confirmation Order shall govern and control.

90. **Nonseverability of Plan Provisions.** Each term and provision of the Plan, as it may have been altered or interpreted in accordance with the foregoing, is: (a) valid and enforceable pursuant to its terms; (b) integral to the Plan and may not be deleted or modified without the consent of the Debtor; and (c) nonseverable and mutually dependent.

91. **Substantial Consummation.** On the Effective Date, the Plan shall be deemed to be substantially consummated under sections 1101 and 1127(b) of the Bankruptcy Code.

92. **Failure of Consummation.** If the Effective Date does not occur, then: (a) the Plan will be null and void in all respects; (b) any settlement or compromise embodied in the Plan, assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan will be null and void in all

respects; and (c) nothing contained in the Plan shall (i) constitute a waiver or release of any Claims, Interests, or Causes of Action, (ii) prejudice in any manner the rights of any Debtor or any other Entity, or (iii) constitute an admission, acknowledgement, offer, or undertaking of any sort by any Debtor or any other Entity.

93. **Terms of Injunctions or Stays.** Unless otherwise provided in the Plan or in this Confirmation Order, all injunctions or stays in effect in the Chapter 11 Case pursuant to sections 105 or 362 of the Bankruptcy Code or any order of the Court, and extant on the Confirmation Date (excluding any injunctions or stays contained in the Plan or this Confirmation Order) shall remain in full force and effect until the Effective Date except with respect to the rights and Claims of Commerce. All injunctions or stays contained in the Plan or this Confirmation Order (including the Injunction) otherwise shall remain in full force and effect in accordance with their terms.

94. **Post-Confirmation Modifications.** Without need for further order or authorization of the Court, the Debtors or the Reorganized Debtors, as applicable, are authorized and empowered to make any and all modifications to any and all documents that are necessary to effectuate the Plan that do not materially modify the terms of such documents and are consistent with the Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors and the Reorganized Debtors expressly reserve their respective rights to revoke or withdraw, or to alter, amend, or modify materially the Plan with respect to such Debtors, one or more times after Confirmation, and, to the extent necessary, may initiate proceedings in the Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or this


Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article X of the Plan.

95. **Notice of Confirmation Order**. Within 7 days of the date of entry of this Confirmation Order, the Reorganized Debtors shall cause the notice of Confirmation (the "Confirmation Notice"), substantially in the form attached hereto as Exhibit B, to be served by United States mail, first class postage prepaid, by hand, or by overnight courier service to all parties served with the Combined Hearing Notice; provided that no notice or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtors mailed a Confirmation Hearing Notice, but received such notice returned marked "undeliverable as addressed," "moved, left no forwarding address," or "forwarding order expired," or similar reason, unless the Debtors or Reorganized Debtors have been informed in writing by such Entity, or are otherwise aware, of that Entity's new address. Mailing of the Confirmation Notice in the time and manner set forth in this paragraph shall be good, adequate, and sufficient notice under the particular circumstances and in accordance with the requirements of Bankruptcy Rules 2002 and 3020(c) and no further notice is necessary.

96. The Confirmation Notice shall have the effect of an order of the Court, shall constitute sufficient notice of the entry of this Confirmation Order to such filing and recording officers, and shall be a recordable instrument notwithstanding any contrary provision of applicable nonbankruptcy law. The Court specifically retains jurisdiction to enforce the foregoing direction, by contempt or otherwise.

97. **Final Order.** This Confirmation Order is intended to be a final order and the period within which an appeal must be filed commences upon the entry hereof.

Dated: August 24 2015
Wilmington, Delaware



HONORABLE BRENDAN L. SHANNON
UNITED STATES BANKRUPTCY JUDGE

EXHIBIT A

CONFIRMED PLAN OF REORGANIZATION

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

-----X
In re: : **Chapter 11**
: :
: **Case No. 15-11101 (BLS)**
BOSTON RESTAURANT ASSOCIATES, INC. :
et al., : **Jointly Administered**
: :
Debtors.¹ :
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**FIRST AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF
BOSTON RESTAURANT ASSOCIATES, INC. AND ITS AFFILIATED DEBTORS**

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Dated: August 17, 2015

¹ The Debtors, along with the last four digits of each debtor's tax identification number, as applicable, are: Boston Restaurant Associates, Inc. (2263); Pizzeria Regina of Kingston, Inc. (2531); Pizzeria Regina of Medford, Inc. (4952); Ocean, Inc. (6400); Fantail Restaurant, Inc. (6556); Regina Pizzeria at Fenway, Inc. (4457); Polcari's, Inc. (5395); Polcari's of Woburn, Inc. (9677); Polcari Enterprises, Inc. (0989). The Debtors' corporate headquarters is located at 48 Cummings Park, Woburn, MA 01801.

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INTRODUCTION

Boston Restaurant Associates, Inc. ("BRA") and its affiliated debtors, as debtors-in-possession (collectively, the "Debtors") propose this joint plan of reorganization (the "Plan") for the resolution of the Claims against and Interests in each of the Debtors pursuant to chapter 11 of the Bankruptcy Code (as such terms are defined below). Capitalized terms used in the Plan and not otherwise defined shall have the meanings ascribed to such terms in Article I. A.

Holders of Claims and Interests should refer to the Disclosure Statement (as such terms are defined below) for a discussion of the Debtors' history, businesses, assets, results of operations, historical financial information and projections of future operations, as well as a summary and description of this Plan.

ARTICLE I. DEFINED TERMS, RULES OF INTERPRETATION, COMPUTATION OF TIME, AND GOVERNING LAW

A. Defined Terms

As used in this Plan, capitalized terms have the meanings ascribed to them below.

1. "*Accrued Professional Compensation*" means, at any given moment, all accrued, contingent, and/or unpaid fees and expenses for services rendered through and including the Effective Date by any retained Professional in the Chapter 11 Cases that the Bankruptcy Court has not denied by Final Order; provided, however, that any such fees and expenses (a) have not been previously paid (regardless of whether a fee application has been Filed for any such amount) and (b) have been applied against any retainer that has been provided to such Professional. To the extent that the Bankruptcy Court or any higher court of competent jurisdiction denies or reduces by a Final Order any amount of a Professional's fees or expenses, then those reduced or denied amounts shall no longer constitute Accrued Professional Compensation.

2. "*Administrative Claim*" means any Claim for costs and expenses of administration pursuant to sections 503(b), 507(a)(2), or 507(b) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date and through the Effective Date of preserving the Estates and operating the businesses of the Debtors (b) Accrued Professional Compensation Claims; (c) all fees and charges assessed against the Estates pursuant to section 1930 of chapter 123 of the Judicial Code; and (d) all Allowed requests for compensation or expense reimbursement for making a substantial contribution to the Chapter 11 cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code.

3. "*Administrative Claims Bar Date*" means the date that is 30 days after the Effective Date."

4. "*Administrative Claims Objection Deadline*" means the date that is 60 days after the Effective Date.

5. “*Affiliate*” has the meaning set forth in section 101(2) of the Bankruptcy Code.
6. “*Allowed*” means as to a Claim or an Interest, a Claim or an Interest allowed under the Plan, under the Bankruptcy Code, as applicable, or by a Final Order.
7. “*Amended Corporate Governance Documents*” means, as applicable, (a) the Amended By-Laws, and (b) the Amended Stockholders Agreement.
8. “*Amended Stockholders Agreement*” means the stockholders agreement for Reorganized BRA, the form of which will be included in the Plan Supplement.
9. “*Assumed Executory Contract and Unexpired Lease List*” means the list (as may be amended), as determined by the Debtors or the Reorganized Debtors of Executory Contracts and Unexpired Leases (including any amendments or modifications thereto) that will be assumed by the Reorganized Debtors pursuant to the provisions of Article V.A and which shall be included in the Plan Supplement.
10. “*Ballot*” means the form or forms distributed to certain Holders of Claims entitled to vote on the Plan by which such parties may indicate acceptance or rejection of the Plan.
11. “*Bankruptcy Code*” means title 11 of the United States Code, 11 U.S.C. §§101-1532, as may be amended from time to time.
12. “*Bankruptcy Court*” means the United States Bankruptcy Court for the District of Delaware having jurisdiction over the Chapter 11 Cases or any other court having jurisdiction over the Chapter 11 Cases, including, to the extent of the withdrawal of the reference under 28 U.S.C. § 157, the United States District Court for the District of Delaware.
13. “*Bankruptcy Rules*” means the Federal Rules of Bankruptcy Procedure promulgated under section 2075 of the Judicial Code and the general, local, and chambers rules of the Bankruptcy Court.
14. “*BRA*” means Boston Restaurant Associates, Inc.
15. “*BRA Nominee Trust*” means that certain trust created under that certain declaration of trust dated January 23, 1991, recorded with the Suffolk County Registry of Deeds in Book 16684, Page 20, and filed with the Suffolk Registry District of the Land Court as Document No. 472988.
16. “*Business Day*” means any day, other than a Saturday, Sunday, or “legal holiday” (as defined in Bankruptcy Rule 9006(a)(6)).
17. “*Cash*” means the legal tender of the United States of America.
18. “*Causes of Action*” means any action, claim, cause of action, controversy, demand, right, right of setoff (excluding any setoffs that were exercised prior to the Petition Date), cross

claim, counterclaim, claim for breach of duty imposed by law or in equity, action, Lien, indemnity, guaranty, suit, obligation, liability, damage, judgment, account, defense, offset, power, privilege, license, and franchise of any kind or character whatsoever, known, unknown, contingent or non-contingent, matured, or unmatured, suspected or unsuspected, liquidated or unliquidated, disputed or undisputed, secured or unsecured, assertable directly or derivatively, whether arising before, on, or after the Petition Date, in contract or in tort, in law or in equity, or pursuant to any other theory of law.

19. “*Chapter 11 Cases*” means (a) when used with reference to a particular Debtor, the case pending for that Debtor under chapter 11 of the Bankruptcy Code and (b) when used with reference to all Debtors, the procedurally consolidated chapter 11 cases pending for the Debtors in the Bankruptcy Court.

20. “*Claim*” means any claim, as such term is defined in section 101(5) of the Bankruptcy Code, against a Debtor.

21. “*Claims Register*” means the official register of Claims maintained by Garden City Group, LLC, retained as the Debtors’ notice, claims, and solicitation agent.

22. “*Class*” means a class of Claims or Interests as set forth in Article III pursuant to section 1122(a) of the Bankruptcy Code.

23. “*Committee*” means any official committee (and all subcommittees thereof) appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

24. “*Confirmation*” means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

25. “*Confirmation Date*” means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases, within the meaning of Bankruptcy Rules 5003 and 9021.

26. “*Confirmation Hearing*” means the confirmation 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 continued from time to time.

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

28. “*Consummation*” means the occurrence of the Effective Date.

29. “*Cure Claim*” means a Claim based upon a Debtor’s default under an Executory Contract or Unexpired Lease at the time such contract or lease is assumed by the Debtor pursuant to section 365 of the Bankruptcy Code.

30. “*Cure Notice*” means a notice of a proposed amount to be paid on account of a Cure Claim in connection with an Executory Contract or Unexpired Lease to be assumed under the Plan pursuant to section 365 of the Bankruptcy Code, which notice shall include (a) procedures for objecting to proposed assumptions of Executory Contracts and Unexpired Leases, (b) Cure Claims to be paid in connection therewith and the procedure and objection deadline relating to the amount of the Cure Claim, and (c) procedures for resolution by the Bankruptcy Court of any related disputes.

31. “*Debtor*” means one of the Debtors, in its individual capacity as a debtor and debtor in possession in the Chapter 11 Cases.

32. “*Debtors*” means, collectively: (i) Boston Restaurant Associates, Inc.; (ii) Pizzeria Regina of Kingston, Inc.; (iii) Pizzeria Regina of Medford, Inc.; (iv) Ocean, Inc.; (v) Fantail Restaurant, Inc.; (vi) Regina Pizzeria at Fenway, Inc.; (vii) Polcari’s, Inc.; (viii) Polcari’s of Woburn, Inc.; and (ix) Polcari Enterprises, Inc.

33. “*Disbursing Agent*” means the Reorganized Debtors or the Entity or Entities selected by the Reorganized Debtors to make or facilitate distributions contemplated under the Plan.

34. “*Disclosure Statement*” means the Disclosure Statement for the Joint Chapter 11 Plan Of Reorganization Of Boston Restaurant Associates, Inc. And Its Affiliated Debtors, dated July 1, 2015 as amended, supplemented, or modified from time to time, including all exhibits and schedules thereto and references therein that relate to the Plan, and that is prepared and distributed in accordance with the Bankruptcy Code, the Bankruptcy Rules and any other applicable law.

35. “*Disputed*” means, with respect to any Claim or Interest, any Claim or Interest that is not yet Allowed.

36. “*Distribution Record Date*” means the Effective Date.

37. “*Effective Date*” means the date selected by the Debtors that is a Business Day after the Confirmation Date on which (a) the conditions to the occurrence of the Effective Date have been satisfied or waived pursuant to Article IX.A and Article IX.B and (b) no stay of the Confirmation Order is in effect.

38. “*Entity*” means an entity as such term is defined in section 101(15) of the Bankruptcy Code.

39. “*Estate*” means, as to each Debtor, the estate created for the Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

40. “*Exculpated Claim*” means any Claim arising after the Petition Date related to any act or omission derived from, based upon, related to, or arising from the Debtors’ restructuring efforts, the Chapter 11 Cases, formulation, preparation, dissemination, negotiation, solicitation or

filing of the Disclosure Statement, the Plan (including any term sheets related thereto), or any contract, instrument, release, or other agreement or document created or entered into in connection with the Disclosure Statement, the Plan, the filing of the Chapter 11 Cases, the pursuit of Consummation, and the administration and implementation of the Plan, including (a) the Amended Corporate Governance Documents, (b) the Restructuring Transactions, (c) the issuance of the New Stock, and (d) the distribution of property under the Plan or any other agreement.

41. “*Exculpated Party*” means each of (a) the Debtors, (b) the Reorganized Debtors, and (c) the foregoing Entities’ current (as of May 20, 2015) officers, directors, agents, financial advisors, attorneys, accountants, investment bankers, consultants, representatives, and other professionals retained by the Debtors in the Chapter 11 Cases.

42. “*Executory Contract*” means a contract to which one or more of the Debtors is a party and that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

43. “*Federal Judgment Rate*” means the federal judgment rate in effect as of the Petition Date.

44. “*Fee Claim*” means a Claim for Accrued Professional Compensation.

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

46. “*Final Order*” means, as applicable, an order or judgment of the Bankruptcy Court or other court of competent jurisdiction with respect to the relevant subject matter, which has not been reversed, stayed, modified, or amended, and as to which the time to appeal or seek certiorari has expired and no appeal or petition for certiorari has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been or may be filed has been resolved by the highest court to which the order or judgment could be appealed or from which certiorari could be sought or the new trial, reargument, or rehearing shall have been denied, resulted in no modification of such order, or has otherwise been dismissed with prejudice.

47. “*General Unsecured Claim*” means any Unsecured Claim that is not (a) an Administrative Claim, (b) a Priority Tax Claim, (c) a Priority Non-Tax Claim, (d) a Subordinated Claim, (e) a Fee Claim, or (f) an Intercompany Claim.

48. “*Governmental Unit*” means a governmental unit as defined in section 101(27) of the Bankruptcy Code.

49. “*Holder*” means an Entity holding a Claim or an Interest.

50. “*Impaired*” means, with respect to a Class of Claims or Interests, a Class of Claims or Interests that is impaired within the meaning of section 1124 of the Bankruptcy Code.

51. “*Intercompany Claim*” means any Claim held by a Debtor against another Debtor.

52. “*Intercompany Interest*” means an Interest in a Debtor held by another Debtor.

53. “*Interests*” means any equity security in a Debtor as defined in section 101(16) of the Bankruptcy Code, including all issued, unissued, authorized, or outstanding shares of capital stock of the Debtors together with any warrants, options, or contractual rights to purchase or acquire such equity securities at any time and all rights arising with respect thereto.

54. “*Internal Revenue Code*” means the Internal Revenue Code of 1986, as amended from time to time.

55. “*Judicial Code*” means title 28 of the United States Code, 28 U.S.C. §§ 1-4001.

56. “*Lien*” means a lien as defined in section 101(37) of the Bankruptcy Code.

57. “*Mortgage Loan Agreement*” means that certain Loan Agreement, dated April 14, 2005 (as subsequently supplemented, modified or amended) under which the Prepetition Secured Lender provided BRA with, among other things, a mortgage loan in the principal amount of \$800,000.

58. “*New Boards*” shall mean the New BRA Board and New Subsidiary Boards

59. “*New BRA Board*” means the initial board of directors of Reorganized BRA.

60. “*New Stock*” means a certain number of common and/or preferred shares in the capital of Reorganized BRA authorized pursuant to the Plan and/or the New BRA Board. 1,000,000 authorized shares of common stock and 200 authorized shares of preferred stock shall initially be authorized and approximately 500,000 shares of authorized common stock and 120 shares of authorized preferred stock shall be issued and outstanding as of the Effective Date.

61. “*New Subsidiary Boards*” means, with respect to each of the Reorganized Debtors other than Reorganized BRA, the initial board of directors or member, as the case may be, of each such Reorganized Debtor.

62. “*Other Secured Claim*” means any Secured Claim that is not a Prepetition Secured Lender Claim.

63. “*Person*” means a person as such term as defined in section 101(41) of the Bankruptcy Code.

64. “*Petition Date*” means the date on which each of the Debtors commenced the Chapter 11 Cases.

65. “*Plan*” means this Joint Chapter 11 Plan of Reorganization of Boston Restaurant Associates, Inc. and its Affiliated Debtors, including the Plan Supplement (as modified, amended, or supplemented from time to time), which is incorporated herein by reference.

66. “*Plan Supplement*” means the compilation of documents and forms of documents, schedules, and exhibits to the Plan, to be Filed by the Debtors no later than twenty days before the Confirmation Hearing or as soon as reasonably practicable thereafter, and as may be amended, supplemented, or modified from time to time in accordance with the terms hereof, the Bankruptcy Code, and the Bankruptcy Rules, including the following: (a) the Amended Corporate Governance Documents for Reorganized BRA; (b) the Rejected Executory Contract and Unexpired Lease List; (c) the Assumed Executory Contract and Unexpired Lease List; and (d) the members of the New Boards, to the extent known. Any reference to the Plan Supplement in the Plan will include each of the documents identified above as (a) through (d). The Debtors shall have the right to amend the documents contained in, and exhibits to, the Plan Supplement in accordance with Article X.A hereof, and the Reorganized Debtors shall have the right to amend the documents contained in, and exhibits to, the Plan Supplement in accordance with applicable law.

67. “*Prepetition Secured Lender*” means Commerce Bank & Trust Company.

68. “*Prepetition Secured Lender Claims*” means the Secured Claims of the Prepetition Secured Lender under the Mortgage Loan Agreement.

69. “*Priority Non-Tax Claims*” 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.

70. “*Priority Tax Claims*” means any Claim of the kind specified in section 507(a)(8) of the Bankruptcy Code.

71. “*Professional*” means an Entity: (a) employed pursuant to a Bankruptcy Court order in accordance with sections 327, 363, or 1103 of the Bankruptcy Code and to be compensated for services rendered before or on the Confirmation Date, pursuant to sections 327, 328, 329, 330, 331, and 363 of the Bankruptcy Code or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

72. “*Professional Fee Escrow Account*” means an interest-bearing account to hold and maintain an amount of Cash equal to the Professional Fee Reserve Amount funded by the Debtors on the Effective Date.

73. “*Professional Fee Reserve Amount*” means the aggregate Accrued Professional Compensation Claims through the Effective Date as estimated in accordance with Article II.A.2(c) hereof.

74. “*Proof of Claim*” means a written proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

75. “*Pro Rata*” means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of all Allowed Claims in that Class.

76. “*Reinstated*” means, with respect to Claims and Interests, the treatment provided for in section 1124 of the Bankruptcy Code.

77. “*Rejected Executory Contract and Unexpired Lease List*” means the list (as may be amended), as determined by the Debtors or the Reorganized Debtors that will be rejected by the Debtors pursuant to the provisions of Article V.A and which shall be included in the Plan Supplement.

78. “*Rejection Claim*” means a Claim arising from the rejection of an Executory Contract or Unexpired Lease pursuant to section 365 of the Bankruptcy Code.

79. “*Releasing Parties*” means each Holders of Claims against and Interests in the Debtors and the Reorganized Debtors who vote to accept the Plan.

80. “*Reorganized BRA*” means BRA, or any successor thereto, by merger, consolidation, or otherwise, on or after the Effective Date, it being understood that, as of the Effective Date, Reorganized BRA shall be a corporation organized under the laws of the state of Delaware.

81. “*Reorganized Debtors*” means the Debtors or any successor thereto, by merger, consolidation or otherwise, on or after the Effective Date.

82. “*Restructuring Transactions*” means one or more transactions pursuant to section 1123 of the Bankruptcy Code to occur on the Effective Date or as soon as reasonably practicable thereafter, that may be necessary or appropriate to effect any transaction described in, approved by, contemplated by, or necessary to effectuate the Plan, including (a) the execution and delivery of appropriate agreements or other documents of merger, consolidation, restructuring, conversion, disposition, transfer, dissolution, or liquidation containing terms that are consistent with the terms of the Plan and that satisfy the applicable requirements of applicable law and any other terms to which the applicable Entities may agree; (b) the execution and delivery of appropriate instruments of transfer, assignment, assumption, or delegation of any asset, property, right, liability, debt or obligation on terms consistent with the terms of the Plan and having other terms for which the applicable parties agree; (c) the filing of appropriate certificates or articles of incorporation, reincorporation, merger, consolidation, conversion, or dissolution pursuant to applicable state law; and (d) all other actions that the applicable Entities determine to be necessary or appropriate, including making filings or recordings that may be required by applicable law.

83. “*Secured*” means when referring to a Claim: (a) secured by a Lien on property in which the Estate has an interest, which Lien is valid, perfected, and enforceable pursuant to applicable law or by reason of a Bankruptcy Court order, or (b) that is subject to setoff pursuant to section 553 of the Bankruptcy Code, to the extent of the value of the creditor’s interest in the Estate’s interest in such property or to the extent of the amount subject to setoff, as applicable,

84. “*Securities Act*” means the Securities Act of 1933, 15 U.S.C. 77a-77aa, together with the rules and regulations promulgated thereunder.

85. “*Security*” means a security as defined in section 2(a)(1) of the Securities Act.

86. “*Subordinated Claims*” means Claims that are subordinated by section 510 of the Bankruptcy Code or otherwise applicable law.

87. “*Treasury Regulations*” means regulations (including temporary and proposed) promulgated under the Internal Revenue Code.

88. “*Unexpired Lease*” means a lease to which one or more of the Debtors is a party that is subject to assumption or rejection under section 365 of the Bankruptcy Code.

89. “*Unimpaired*” means, with respect to a Class of Claims or Interests, a Claim or an Interest that is unimpaired within the meaning of section 1124 of the Bankruptcy Code.

90. “*Unsecured Claim*” means any Claim that is neither Secured nor entitled to priority under the Bankruptcy Code or an order of the Bankruptcy Court, including any Claim arising from the rejection of an Executory Contract or Unexpired Lease under section 365 of the Bankruptcy Code.

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

B. Rules of Interpretation

For purposes of this Plan: (1) in the appropriate context, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine, or neuter gender shall include the masculine, feminine, and the neuter gender; (2) any reference herein to a contract, lease, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that the referenced document shall be substantially in that form or substantially on those terms and conditions; (3) any reference herein to an existing document, schedule or exhibit, whether or not Filed, having been Filed or to be Filed shall mean that document, schedule, or exhibit, as it may thereafter be amended, modified, or supplemented; (4) any reference to an Entity as a Holder of a Claim or Interest includes that Entity’s successors and assigns; (5) unless otherwise specified, all references herein to “Articles” are references to Articles hereof or hereto; (6) unless otherwise specified, all references herein to exhibits are references to exhibits in the Plan Supplement; (7) unless otherwise specified, the words “herein,” “hereof,” and “hereto” refer to the Plan in its entirety rather than to a particular portion of the Plan; (8) subject to the provisions of any contract, certificate of incorporation, bylaw, instrument, release, or other agreement or document entered into in connection with the Plan, the rights and obligations arising pursuant to the Plan shall be governed by, and construed and enforced in accordance with the applicable federal law, including the Bankruptcy Code and the Bankruptcy Rules; (9) captions and headings to Articles are inserted for convenience of reference only and are not intended to be a part of or to affect the interpretation of the Plan; (10) unless otherwise specified herein, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply; (11) all references to docket numbers of documents Filed in the Chapter 11 Cases are references to the docket

numbers under the Bankruptcy Court's CM/ECF system; (12) all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, and as applicable to the Chapter 11 Cases, unless otherwise stated; (13) any immaterial effectuating provisions may be interpreted by the Reorganized Debtors in such a manner that is consistent with the overall purpose and intent of the Plan all without further Bankruptcy Court order; and (14) any undefined term used herein that is defined in the Bankruptcy Code shall have the meaning ascribed to such term in the Bankruptcy Code.

C. Computation of Time

Unless otherwise specifically stated herein, the provisions of Bankruptcy Rule 9006(a) shall apply in computing any period of time prescribed or allowed herein.

D. Governing Law

Unless a rule of law or procedure is supplied by federal law (including the Bankruptcy Code and Bankruptcy Rules) or unless otherwise specifically stated, the laws of the State of Delaware, without giving effect to the principles of conflict of laws, shall govern the rights, obligations, construction, and implementation of the Plan, any agreements, documents, instruments, or contracts executed or entered into in connection with the Plan (except as otherwise set forth in those agreements, in which case the governing law of such agreement shall control); provided, however, that corporate governance matters relating to the Debtors or the Reorganized Debtors, as applicable, not incorporated in Delaware shall be governed by the laws of the state of incorporation of the applicable Debtor or Reorganized Debtor, as applicable.

E. Reference to Monetary Figures

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

F. Reference to the Debtors or the Reorganized Debtors

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

ARTICLE II.

ADMINISTRATIVE CLAIMS AND OTHER UNCLASSIFIED CLAIMS

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

A. Administrative Claims

1. Administrative Claims

Except with respect to Administrative Claims that are Fee Claims and except to the extent that a Holder of an Allowed Administrative Claim and the applicable Debtor(s) agree to less favorable treatment with respect to such Holder, each Holder of an Allowed Administrative Claim shall be paid in full in Cash on the later of: (a) on or as soon as reasonably practicable after the Effective Date if such Administrative Claim is Allowed as of the Effective Date; (b) on or as soon as reasonably practicable after the date such Administrative Claim is Allowed; and (c) the date such Allowed Administrative Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Allowed Administrative Claims that arise in the ordinary course of the Debtors' business, including any Allowed Administrative Claims owing to any governmental taxing authorities, shall be paid 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 relating to such transactions.

Except as otherwise provided in this Article II.A, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtors pursuant to the procedures specified in the Confirmation Order and the notice of entry of the Confirmation Order no later than the Administrative Claims Bar Date; provided, however, that governmental taxing authorities shall not be required to make a request for payment of Administrative Claims prior to the Administrative Claims Bar Date. Holders of Administrative Claims that are required to, but do not, File and serve a request for payment of such Administrative Claims by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors or their property and such Administrative Claims shall be deemed discharged as of the Effective Date. Objections to such requests, if any, must be Filed and served on the Reorganized Debtors and the requesting party no later than the Administrative Claims Objection Deadline.

2. Professional Compensation

a. Fee Claims

Professionals asserting a Fee Claim for services rendered before the Effective Date must File and serve on the Debtors and such other Entities who are designated by the Bankruptcy Rules, the Confirmation Order, or any other applicable order of the Bankruptcy Court, an application for final allowance of such Fee Claim no later than 30 days after the Effective Date. Objections to any Fee Claim must be Filed and served on the Reorganized Debtors and the requesting party no later than 60 days after the Effective Date. To the extent necessary, the Plan and the Confirmation Order shall amend and supersede any previously entered order regarding the payment of Fee Claims.

b. Professional Fee Escrow Account

On the Effective Date, the Debtors shall establish and fund the Professional Fee Escrow Account with Cash equal to the aggregate Professional Fee Reserve Amount for all Professionals. The Professional Fee Escrow Account shall be maintained in trust for the Professionals, with all such funds remaining property of the Debtors' estates until they are paid to the applicable professionals upon Court approval of such professional's fee applications. The amount of

Accrued Professional Compensation Claims owing to the Professionals shall be paid in Cash to such Professionals from funds held in the Professional Fee Escrow Account when such Claims are Allowed by a Final Order. Allowed Accrued Professional Compensation Claims shall be paid first from amounts in the Professional Fee Escrow Account and then by the Reorganized Debtors. When all Allowed Professional Compensation Claims are paid in full in Cash, amounts remaining in the Professional Fee Escrow Account, if any, shall revert to the Reorganized Debtors.

c. Professional Fee Reserve Amount

To receive payment for unbilled fees and expenses incurred through and including the Effective Date, the Professionals shall estimate their Accrued Professional Compensation Claims prior to and as of the Confirmation Date, along with an estimate of fees and expenses to be incurred through and including the Effective Date, and shall deliver such estimate to the Debtors no later than five days prior to the anticipated Confirmation Date; provided, however, that such estimate shall not be considered an admission with respect to the fees and expenses of such Professional. If a Professional does not provide an estimate, the Debtors may estimate the unbilled fees and expenses of such Professional. The total amount so estimated as of the Confirmation Date shall comprise the Professional Fee Reserve Amount.

d. Post-Effective Date Fees and Expenses

Except as otherwise specifically provided in the Plan, from and after the Effective Date, the Reorganized Debtors shall, in the ordinary course of business and without any further notice to or action, order or approval of the Bankruptcy Court pay in Cash the reasonable legal, professional, or other fees and expenses related to implementation and Consummation of the Plan incurred by the Reorganized Debtors following the Effective Date. Upon the Effective Date, any requirement that Professionals comply with section 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate and the Reorganized Debtors may employ and pay any Professional for services rendered or expenses incurred after the Effective Date in the ordinary course of business without any further notice to any party or action, order, or approval of the Bankruptcy Court.

B. Priority Tax Claims

Except to the extent that a Holder of an Allowed Priority Tax Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Allowed Priority Tax Claim, each holder of an Allowed Priority Tax Claim due and payable on or before the Effective Date shall receive, at the option of the Debtors or Reorganized Debtors, one of the following treatments: (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, plus interest at the rate determined under applicable nonbankruptcy law and to the extent provided for by section 511 of the Bankruptcy Code, payable on the or as soon as practicable following the Effective Date; (2) Cash in an aggregate amount of such Allowed Priority Tax Claim payable in installment payments over a period of time not to exceed five years after the Petition Date, pursuant to section 1129(a)(9)(C) of the Bankruptcy Code, plus interest at the rate determined under applicable nonbankruptcy law and to the extent provided for

by section 511 of the Bankruptcy Code; or (3) such other treatment as may be agreed upon by such holder and the Debtors or otherwise determined upon an order of the Bankruptcy Court.

C. Statutory Fees

Notwithstanding anything to the contrary herein, all fees due and payable pursuant to section 1930 of Title 28 of the U.S. Code prior to the Effective Date shall be paid by the Debtors on the Effective Date. After the Effective Date, the Reorganized Debtors shall pay any and all such fees when due and payable, and shall file with the Bankruptcy Court quarterly reports in a form reasonably acceptable to the U.S. Trustee. Each and every one of the Debtors shall remain obligated to pay quarterly fees to the Office of the U.S. Trustee until the earliest of that particular Debtor's case being closed, dismissed or converted to a case under chapter 7 of the Bankruptcy Code.

ARTICLE III.

CLASSIFICATION AND TREATMENT OF CLAIMS AND INTERESTS

A. Classification of Claims and Interests

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims and Interests. All Claims and Interests, except for Administrative Claims and Priority Tax Claims, are classified in the Classes set forth in this Article III. A Claim or Interest is classified in a particular Class only to the extent that the Claim or Interest qualifies within the description of that Class and is classified in other Classes to the extent that any portion of the Claim or Interest qualifies within the description of such other Classes. A Claim also is classified in a particular Class for the purpose of receiving distributions pursuant to the Plan only to the extent that such Claim is an Allowed Claim in that Class and has not been paid, released, or otherwise satisfied before the Effective Date.

B. Summary of Classification

The classification of Claims and Interests against each Debtor (as applicable) pursuant to the Plan is as set forth below. The Plan shall apply as a separate Plan for each of the Debtors. All of the potential Classes for the Debtors are set forth herein. Certain of the Debtors may not have Holders of Claims or Interests in a particular Class or Classes, and such Classes shall be treated as set forth in Article III.E hereof.

The following chart summarizes the classification of Claims and Interests pursuant to the Plan:

Class	Claim/Interest	Status	Voting Rights
1	Priority Non-Tax Claims	Unimpaired	Deemed To Accept
2	Other Secured Claims	Unimpaired	Deemed to Accept
3	Prepetition Secured Lender Claims	Impaired	Entitled to Vote
4	General Unsecured Claims	Unimpaired	Deemed to Accept
5	Intercompany Claims	Unimpaired	Deemed to Accept

6	Subordinated Claims	Impaired	Deemed to Reject
7	Intercompany Interests	Unimpaired	Deemed to Accept
8	Interests (Other than Class 7 Intercompany Interests)	Impaired	Deemed to Reject

C. Treatment of Claims and Interests

To the extent a Class contains Allowed Claims or Allowed Interests with respect to a particular Debtor, the treatment provided to each Class for distribution purposes is specified below:

1. Class 1 – Priority Non-Tax Claims

- a. *Classification:* Class 1 consists of Priority Non-Tax Claims.
- b. *Treatment:* Except to the extent that a Holder of an Allowed Priority Non-Tax Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release and discharge of each Allowed Priority Non-Tax Claim, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash on or as reasonably practicable after the later of (i) the Effective Date, (ii) the date on which such Priority Non-Tax Claim against the Debtors becomes an Allowed Priority Non-Tax Claim, (iii) such other date as may be ordered by the Bankruptcy Court, or (iv) when due and payable in the ordinary course of business.
- c. *Voting:* Class 1 is Unimpaired by the Plan, and each Holder of a Class 1 Priority Non-Tax Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 1 Priority Non-Tax Claims are not entitled to vote to accept or reject the Plan.

2. Class 2 – Other Secured Claims

- a. *Classification:* Class 2 consists of Other Secured Claims.
- b. *Treatment:* Except to the extent that a Holder of an Allowed Other Secured Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each Allowed Other Secured Claim, each Holder of such Allowed Other Secured Claim shall receive one of the following treatments, in the sole discretion of the applicable Debtor or Reorganized Debtor: (i) the Debtors or the Reorganized Debtors shall pay such Allowed Other Secured Claims in full in Cash, including the payment of any interest required to be paid under section 506(b) of the Bankruptcy Code on the Effective Date; (ii) the Debtors or the Reorganized Debtors shall deliver the collateral securing

any such Allowed Other Secured Claim on the Effective Date and the Debtors shall also honor all of the Holder's legal rights with respect to the collateral, including, if applicable, allowing an General Unsecured Claim for any Allowed deficiency claim owed to the Holder; or (iii) the Debtors or the Reorganized Debtors shall otherwise treat such Allowed Other Secured Claim in any other manner allowed under the Bankruptcy Code which will render such Claim not Impaired.

- c. *Voting:* Class 2 is Unimpaired by the Plan, and each Holder of a Class 2 Other Secured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 2 Other Secured Claims are not entitled to vote to accept or reject the Plan.

3. Class 3 – Prepetition Secured Lender Claims

- a. *Classification:* Class 3 consists of Prepetition Secured Lender Claims.
- b. *Treatment:* Except to the extent that a Holder of an Allowed Prepetition Secured Lender Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of the Prepetition Secured Lender Claims, the maturity date of the Mortgage Loan Agreement shall be extended to July 13, 2016 and the monthly payments under the Mortgage Loan Agreement shall be amortized over a period of 117 months. The amounts outstanding under the Mortgage Loan Agreement shall be due upon the maturity date unless further modified by the Debtors and the Prepetition Secured Lender. All other terms of the Mortgage Loan Agreement shall be assumed and reinstated as of the Effective Date and the lien of said Mortgage shall attach to the collateral to the extent and priority that existed as of the Petition Date.
- c. *Voting:* Class 3 is Impaired. Therefore, Holders of Class 3 Prepetition Secured Lender Claims are entitled to vote to accept or reject the Plan.

4. Class 4 – General Unsecured Claims

- a. *Classification:* Class 4 consists of General Unsecured Claims.
- b. *Treatment:* Except to the extent that a Holder of an Allowed General Unsecured Claim agrees to a less favorable treatment, in exchange for full and final satisfaction, settlement, release, and discharge of each General Unsecured Claim, each Holder of such Allowed General Unsecured Claim shall receive one of the following treatments, in the sole discretion of the applicable Debtor or Reorganized Debtor: (i) the Debtors or the Reorganized Debtors shall pay such Allowed General Unsecured Claim in the ordinary course of business or (ii) the Debtors or the Reorganized

Debtors shall pay such Allowed General Unsecured Claim in full in Cash, including interest at the contractual rate, upon the later of (A) the Effective Date, (B) the date on which such General Unsecured Claim against the Debtors becomes an Allowed General Unsecured Claim, (C) or such other date as may be ordered by the Bankruptcy Court.

- c. *Voting:* Class 4 is Unimpaired by the Plan, and each Holder of a Class 4 General Unsecured Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 4 General Unsecured Claims are not entitled to vote to accept or reject the Plan.

5. Class 5- Intercompany Claims

- a. *Classification:* Class 5 consists of Intercompany Claims.
- b. *Treatment:* No distribution shall be made on account of Allowed Intercompany Claims. To preserve the Debtors' corporate structure, on the Effective Date, or as soon thereafter as practicable, all Allowed Intercompany Claims shall be reinstated in full or in part or cancelled or discharged in full or in part, in each case, to the extent determined appropriate by the Reorganized Debtors. The Debtors and the Reorganized Debtors will be entitled to transfer funds between and among themselves as they determine to be necessary or appropriate to enable the Reorganized Debtors to satisfy their obligations under the Plan. Except as set forth herein, any changes in intercompany account balances resulting from such transfers will be accounted for and settled in accordance with the Debtors historical intercompany account settlement practices.
- c. *Voting:* Class 5 is Unimpaired by the Plan, and each Holder of a Class 5 Intercompany Claim is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 5 Intercompany Claims are not entitled to vote to accept or reject the Plan

6. Class 6 – Subordinated Claims

- a. *Classification:* Class 6 consists of Subordinated Claims.
- b. *Treatment:* Holders of Allowed Subordinated Claims shall not receive any distribution on account of such Subordinated Claims. On the Effective Date, Allowed Subordinated Claims shall be discharged, canceled, released, and extinguished.
- c. *Voting:* Class 6 is Impaired and Holders of Class 6 Subordinated Claims are conclusively presumed to have rejected the Plan pursuant to section

1126(g) of the Bankruptcy Code. Therefore, Holders of Class 6 Subordinated Claims are not entitled to vote to accept or reject the Plan.

7. Class 7 – Intercompany Interests

- a. *Classification:* Class 7 consists of Intercompany Interests.
- b. *Treatment:* No distribution shall be made on account of Allowed Intercompany Interests. To preserve the Debtors' corporate structure, on the Effective Date, or as soon thereafter as practicable, all Allowed Intercompany Interests shall be reinstated in full or in part or cancelled or discharged in full or in part, in each case, to the extent determined appropriate by the Reorganized Debtors.
- c. *Voting:* Class 7 is Unimpaired by the Plan, and each Holder of a Class 7 Intercompany Interest is conclusively presumed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code. Therefore, Holders of Class 7 Intercompany Interests are not entitled to vote to accept or reject the Plan.

8. Class 8 – Interests (Other than Class 7 Intercompany Interests)

- a. *Classification:* Class 8 consists of Interests (other than Class 7 Intercompany Interests)
- b. *Treatment:* Holders of Interests (other than Class 7 Intercompany Interests) shall not receive any distribution on account of such Interests. On the Effective Date, Class 8 Interests shall be cancelled, extinguished and discharged. The obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, notes or certificates or articles of incorporation or similar documents governing or relating to the Class 8 Interests or any other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in Debtors giving rise to any Claim or Interest shall be release and discharged.
- c. *Voting:* Class 8 is Impaired and Holders of Class 8 Interests are conclusively presumed to have rejected the Plan pursuant to section 1126(g) of the Bankruptcy Code. Therefore, Holders of Class 8 Interests are not entitled to vote to accept or reject the Plan.

D. Special Provisions Governing Claims

Except as otherwise provided in the Plan, nothing under the Plan shall affect the Debtors' or the Reorganized Debtors' rights in respect of any Claims, including legal and equitable defenses to or setoffs or recoupments against any such Claims.

E. Elimination of Vacant Classes

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

F. Acceptance of Rejection of the Plan

1. Voting Classes

Class 3 is Impaired under the Plan and entitled to vote to accept or reject the Plan.

2. Failure to Vote

If Holders of Claims in a particular Impaired Class of Claims were given the opportunity to vote to accept or reject the Plan, but no Holders of Claims in such Impaired Class of Claims voted to accept or reject the Plan, then such Class of Claims shall be deemed to have accepted the Plan.

3. Presumed Acceptance of the Plan

Classes 1, 2, 4, 5, and 7 are Unimpaired under the Plan, and the Holders in such Classes are deemed to have accepted the Plan and are not entitled to vote to accept or reject the Plan.

4. Presumed Rejection of the Plan

Classes 6 and 8 are Impaired and shall receive no distribution under the Plan. The Holders in such Classes are deemed to have rejected the Plan and are not entitled to vote to accept or reject the Plan.

G. Confirmation Pursuant to Sections 1129(a)(10) and 1129(b) of the Bankruptcy Code

Section 1129(a)(10) of the Bankruptcy Code shall be satisfied for purposes of Confirmation by acceptance of the Plan by an Impaired Class of Claims. The Debtors shall seek Confirmation pursuant to section 1129(b) of the Bankruptcy Code with respect to any rejecting Class of Claims or Interests.

H. Controversy Concerning Impairment

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

I. Subordinated Claims

Except as expressly provided herein, the allowance, classification, and treatment of all Allowed Claims and Interests and the respective distributions and treatments under the Plan take into account and conform to the relative priority and rights of the Claims and Interests in each Class in connection with any contractual, legal, and equitable subordination rights relating thereto, whether arising under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise. Pursuant to section 510 of the Bankruptcy Code, the Reorganized Debtors reserve the right to re-classify any Allowed Claim or Interest in accordance with any contractual, legal, or equitable subordination relating thereto. The Debtors or Reorganized Debtors, as appropriate, shall provide notice to any party whose claim the Debtors or Reorganized Debtors seek to reclassify.

**ARTICLE IV.
MEANS FOR IMPLEMENTATION OF PLAN**

A. Sources of Cash for Plan Distributions

All consideration necessary for the Reorganized Debtors to make payments or distributions pursuant hereto shall be obtained from Cash from the Debtors, including Cash from business operations and a \$8 million contribution in the form of Cash contributed by Dolphin Direct Equity Partners, L.P. on the Effective Date. Further, the Debtors and the Reorganized Debtors will be entitled to transfer funds between and among themselves as they determine to be necessary or appropriate to enable the Reorganized Debtors to satisfy their obligations under the Plan. Except as set forth herein, any changes in intercompany account balances resulting from such transfers will be accounted for and settled in accordance with the Debtors' historical intercompany account settlement practices and will not violate the terms of the Plan.

B. Issuance and Distribution of New Stock

The issuance of the New Stock by Reorganized BRA, including options, stock appreciation rights, or other equity awards, if any, is authorized without the need for any further corporate action and without any further action by the Holders of Claims or Interests.

On the Effective Date, an initial number of up to approximately 500,000 authorized shares of common stock and 120 authorized shares of preferred stock shall be issued and, as soon as reasonably practicable thereafter, distributed to Dolphin Direct Equity Partners, L.P.

All of the shares of New Stock when issued or distributed as provided in the Plan, shall be duly authorized, validly issued, and if applicable, fully paid and non-assessable. Each distribution and issuance of the New Stock under the Plan shall be governed by the terms and conditions set forth in the Plan applicable to such distribution or issuance and by the terms and conditions of the instruments evidencing or relating to such distribution or issuance, which terms and conditions shall bind each Entity receiving such distribution or issuance.

C. Amended Stockholders Agreement

Upon the Effective Date, Reorganized BRA shall be a private company governed by the Amended Stockholders Agreement. The Amended Stockholders Agreement shall be adopted on the Effective Date and shall be deemed to be valid, binding, and enforceable in accordance with its terms, and each holder of New Stock shall be bound thereby.

D. Restructuring Transactions

On the Effective Date, or as soon as reasonably practicable thereafter, the Reorganized Debtors may take all actions as may be necessary or appropriate to effect any transaction described in, approved by, contemplated by or necessary to effectuate the Restructuring Transactions under and in connection with the Plan, including: (1) the execution and delivery of appropriate agreements or other documents of merger, consolidation, or reorganization containing terms that are consistent with the terms of the Plan and that satisfy the requirements of applicable law; (2) the execution and delivery of appropriate instruments of transfer, assignment, assumption or delegation of any property, right, liability, duty or obligation on terms consistent with the terms of the Plan; and (3) the filing of appropriate certificates of incorporation, merger or consolidation with the appropriate governmental authorities pursuant to applicable law.

E. Corporate Existence

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on the Effective Date, each Debtor shall continue to exist after the Effective Date as a Reorganized Debtor and as a separate corporation, limited liability company, partnership, or other form of entity, as the case may be, with all the powers of a corporation, limited liability company, partnership, or other form of entity, as the case may be, pursuant to the applicable law in the jurisdiction in which each applicable Debtor is incorporated or formed and pursuant to the respective certificate of incorporation and by-laws (or other analogous formation or governing documents) in effect before the Effective Date, except to the extent such certificate of incorporation and bylaws (or other analogous formation or governing documents) are amended by the Plan or otherwise amended in accordance with applicable law. To the extent such documents are amended, such documents are deemed to be amended pursuant to the Plan and require no further action or approval (other than any requisite filings required under applicable state or federal law) and in such case shall provide for, among other things: (1) authorized issuance of the New Stock, (2) pursuant to and only to the extent required by 1123(a)(6) of the Bankruptcy Code, a provision setting forth an appropriate distribution of voting power among classes of equity securities and a provision setting forth an appropriate distribution of voting power among classes of equity securities possessing voting power, including, in the case of any class of equity securities having a preference over another class of equity securities with respect to dividends. After the Effective Date, each Reorganized Debtor may amend and restate its new certificate of incorporation and other constituent documents as permitted by relevant state corporate law.

F. Vesting of Assets in Reorganized Debtors

Except as otherwise provided in the Plan or any agreement, instrument or other document incorporated in the Plan or the Plan Supplement, on the Effective Date, pursuant to section 1141(c) of the Bankruptcy Code, all property in each Estate, all Causes of Action and any property acquired by any of the Debtors pursuant to the Plan will vest in each respective Reorganized Debtor, free and clear of all Claims and Interests, except for (a) the existing Lien securing the Debtors' obligations under the Mortgage Loan Agreement and (b) the existing Lien of parties who lease equipment to the Debtors to the extent such leases are Executory Contracts assumed by the Debtors. On and after the Effective Date, except as otherwise provided in the Plan, each Reorganized Debtor may operate its business and may use, acquire, or dispose of property and compromise or settle any claims, Interests or Causes of Action without supervision or approval by the Bankruptcy Court and free of any restrictions of the Bankruptcy Code or Bankruptcy Rules; provided, however, that prior to the closing of the Chapter 11 Cases, the Debtors shall file a motion under Bankruptcy Rule 9019 if the Debtors seek to settle any Cause of Action in excess of \$100,000 and which is settled at less than 50% of the amount sought.

G. Cancellation of Existing Indebtedness and Securities

Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated in the Plan or the Plan Supplement, on the Effective Date: (i) the obligations of the Debtors under any certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document, directly or indirectly, evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Interest (except such certificates, notes, or other instruments or documents evidencing indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the Plan) shall be cancelled solely as to the Debtors and the Reorganized Debtors, and the Reorganized Debtors shall not have any continuing obligations thereunder; and (ii) the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, bylaws, or certificate or articles of incorporation or similar documents governing the shares, certificates, notes, bonds, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors (except such agreements, certificates, notes, or other instruments evidencing indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the Plan) shall be released and discharged; provided, however, notwithstanding Confirmation or the occurrence of the Effective Date, any such indenture or agreement that governs the rights of the Holder of a Claim shall continue in effect solely for purposes of enabling Holders of Allowed Claims to receive distributions under the Plan as provided herein; provided, further, however, that the preceding proviso shall not affect the discharge of Claims or Interests pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan or result in any expense or liability to the Reorganized Debtors, except to the extent set forth in or provided for under this Plan.

H. Corporate Action

Upon the Effective Date, or as soon thereafter as is reasonably practicable, all actions contemplated by the Plan shall be deemed authorized and approved in all respects, including: (i)

entry into the Amended Corporate Governance Documents; (ii) the distribution of the New Stock; (iii) selection of the directors and officers for the Reorganized Debtors; (iv) implementation of the Restructuring Transactions contemplated by this Plan; and (v) all other actions contemplated by the Plan (whether to occur before on or after the Effective Date). All matters provided for in the Plan involving the corporate structure of the Reorganized Debtors, and any corporate action required by the Debtors or the Reorganized Debtors in connection with the Plan shall be deemed to have occurred and shall be in effect, without any requirement of further action by the Security holders, directors or officers of the Debtors or the Reorganized Debtors.

On or (as applicable) before the Effective Date, the appropriate officers of the Debtors or the Reorganized Debtors (as applicable) shall be authorized and (as applicable) directed to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan (or necessary or desirable to effect the transactions contemplated by the Plan) in the name of and on behalf of the Reorganized Debtors, including the Amended Corporate Governance Documents and any and all related and ancillary agreements, documents, and filings, New Stock, and any and all other agreements, documents, securities, and instruments relating to the foregoing. The authorizations and approvals contemplated by this Article IV shall be effective notwithstanding any requirements under non-bankruptcy law. The issuance of the New Stock shall be exempt from the requirements of section 16(b) of the Securities Exchange Act of 1934 (pursuant to Rule 16b-3 promulgated thereunder) with respect to any acquisition of such securities by an officer or director (or a director deputized for purposes thereof) as of the Effective Date.

I. Directors and Officers of the Reorganized Debtors

As of the Effective Date, the term of the current members of the board of directors of BRA shall expire, and the initial boards of directors, including the New BRA Board and the New Subsidiary Boards, as well as the officers of each of the Reorganized Debtors shall be appointed in accordance with the Amended By-Laws of each Reorganized Debtor.

On the Effective Date, the New BRA Board shall consist of one (1) to seven (7) directors. The New BRA Board shall elect members of the New Subsidiary Boards.

Pursuant to section 1129(a)(5) of the Bankruptcy Code, the Debtors will disclose in advance of the Confirmation Hearing the identity and affiliations of any Person proposed to serve on the initial New BRA Board and the New Subsidiary Boards, as well as those Persons that serve as an officer of any of the Reorganized Debtors. To the extent any such director or officer is an "insider" as such term is defined in section 101(31) of the Bankruptcy Code, the nature of any compensation to be paid to such director or officer will also be disclosed. Each such director and officer shall serve from and after the Effective Date pursuant to the terms of the Amended By-Laws and other constituent documents of the Reorganized Debtors.

J. Effectuating Documents; Further Transactions

On and after the Effective Date, the Reorganized Debtors and the officers and members of the New Boards thereof, are authorized to and may issue, execute, deliver, file, or record such

contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement and further evidence the terms and conditions of the Plan, the Amended Corporate Governance Documents and the Securities issued pursuant to the Plan, including the New Stock, in the name of and on behalf of the Reorganized Debtors, without the need for any approvals, authorization or consents except those expressly required pursuant to the Plan.

K. Senior Management

The Debtors' existing senior management team shall remain in their current capacities as officers of the Reorganized Debtors.

L. Exemption from Certain Taxes and Fees

Pursuant to section 1146(a) of the Bankruptcy Code, any transfers of property pursuant hereto shall not be subject to any stamp tax or other similar tax or governmental assessment in the United States, and the Confirmation Order shall direct and be deemed to 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 instruments or other documents pursuant to such transfers of property without the payment of any such tax or governmental assessment. Such exemption specifically applies, without limitation, to (i) the creation of any mortgage, deed of trust, lien, or other security interest, (ii) the making or assignment of any lease or sublease, (iii) any restructuring transaction authorized by the Plan, or (iv) the making or delivery of any deed or other instrument of transfer under, in furtherance of or in connection with the Plan, including: (a) any merger agreements; (b) agreements of consolidation, restructuring, disposition, liquidation or dissolution; (c) deeds; (d) bills of sale; or (e) assignments executed in connection with any restructuring transaction occurring under the Plan.

M. Indemnification Provisions

As of the Effective Date, each Reorganized Debtor's certificate of incorporation and/or bylaws (or other formation documents) shall provide, to the extent not satisfied by any available insurance coverage, for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to, current (as of May 20, 2015) directors, officers or employees who were employed as directors, officers or employees of such Debtor, on or after May 20, 2015 at least to the same extent as the bylaws (or other formation documents) of each of the respective Debtors on the Petition Date, against any claims or Causes of Action whether direct or derivative, liquidated or unliquidated, fixed, or contingent, disputed or undisputed, matured or unmatured, known or unknown, foreseen or unforeseen, asserted or unasserted, and none of the Reorganized Debtors shall amend and/or restate its certificate of incorporation or bylaws (or other formation documents) before or after the Effective Date to terminate or materially adversely affect any of the Reorganized Debtors' obligations or such directors', officers' or employees' rights; provided, however, that there shall be no indemnification, defense, reimbursement, exculpation, liability, or advancement of fees and expenses by the Reorganized Debtors with respect to Subordinated Claims.

N. Preservation of Causes of Action

In accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors shall retain and may enforce all rights to commence and pursue, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. For the avoidance of doubt, the preservation of Causes of Action described in the preceding sentence includes, but is not limited to, the Debtors' (i) right to object to Administrative Claims, (ii) right to object to other Claims, (iii) right to object to Subordinated Claims, and (iv) right to prosecute any other potential claims, Causes of Action, charges, suits or rights of recovery under state, federal, or other applicable law such as (but not limited to) claims arising under title 11 of the U.S. Code and applicable law, including without limitation sections 502(d), 510, 542 through 551, and 553 of title 11 and any similar state laws, violations of state and/or federal securities laws, breach of contract, breach of fiduciary duty (including aiding and abetting any such breach), and common law claims such as quantum meruit and unjust enrichment. The Reorganized Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors in their respective discretion; provided, however, that prior to the closing of the Chapter 11 Cases, the Debtors shall file a motion under Bankruptcy Rule 9019 if the Debtors seek to settle any Cause of Action in excess of \$100,000 and which is settled at less than 50% of the amount sought. No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement, or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or the Reorganized Debtors will not pursue any and all available Causes of Action against them. The Debtors and the Reorganized Debtors expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan.

The Reorganized Debtors reserve and shall retain the applicable Causes of Action notwithstanding the rejection or repudiation of any Executory Contract or Unexpired Lease during the Chapter 11 Cases or pursuant to the Plan. The applicable Reorganized Debtor through its authorized agents or representatives, shall retain and may exclusively enforce any and all such Causes of Action. The Reorganized Debtors shall have the exclusive right, authority, and discretion to determine and to initiate, file, prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such Causes of Action and to decline to do any of the foregoing without the consent or approval of any third party or further notice to or action, order, or approval of the Bankruptcy Court.

ARTICLE V.**TREATMENT OF EXECUTORY CONTRACTS AND UNEXPIRED LEASES****A. Assumption and Rejection of Executory Contracts and Unexpired Leases**

On the Effective Date, except as otherwise provided herein, or in any contract, instrument, release, indenture, or other agreement or document entered into in connection with the Plan, Executory Contracts and Unexpired Leases, including those listed on the Assumed Executory Contract and Unexpired Lease List, shall be deemed assumed as of the Effective Date, unless

such Executory Contract or Unexpired Lease: (i) was assumed or rejected prior to the Effective Date by the Debtors; (ii) previously expired or terminated pursuant to its own terms; (iii) is the subject of a motion to reject Filed on or before the Effective Date; (iv) is identified as an executory Contract or Unexpired Lease on the Rejected Executory Contracts and Unexpired Lease List, or (v) is the subject of a dispute regarding the Cure Claim.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts or Unexpired Leases as set forth in the Plan, the Rejected Executory Contract and Unexpired Leases List, or the Assumed Executory Contract and Unexpired Leases List pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, assumptions or rejections of Executory Contracts and Unexpired Leases pursuant to the Plan are effective as of the Effective Date. Solely with respect to the those Executory Contracts or Unexpired Leases that have not been rejected by way of a separate order prior to the Confirmation of the Plan, on the later of (i) ten days after the entry Confirmation Order, or (ii) the Debtors' filing of a notice determining to reject an Executory Contract or Unexpired Lease, the Debtors shall serve a separate notice to each counterparty whose Executory Contract or Unexpired Lease is being rejected, informing the counterparty of such rejection and notifying them that they have 30 days from service of that notice to file their rejection damages claims, attaching a proof of claim form, and providing instructions as to where such form should be sent.

Each Executory Contract or Unexpired Lease assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party before the Effective Date shall re-vest in and be fully enforceable by the applicable contracting Reorganized Debtor in accordance with its terms, except as such terms may have been modified by the provisions of the Plan or any order of the Bankruptcy Court authorizing and providing for its assumption under applicable federal law. Any motions to assume Executory Contracts or Unexpired Leases pending on the Effective Date shall be subject to approval by the Bankruptcy Court on or after the Effective Date by a Final Order.

B. Claims Based on Rejection of Executory Contracts or Unexpired Leases

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 30 days after the date of entry of an order of the Bankruptcy Court approving such rejection.

Solely with respect to the those Executory Contracts or Unexpired Leases that have not been rejected by way of a separate order prior to the Confirmation of the Plan, on the later of (i) ten days after the entry Confirmation Order, or (ii) the Debtors' filing of a notice determining to reject an Executory Contract or Unexpired Lease, the Debtors shall serve a separate notice to each counterparty whose Executory Contract or Unexpired Lease is being rejected, informing the counterparty of such rejection and notifying them that they have 30 days from service of that notice to file their rejection damages claims, attaching a proof of claim form, and providing instructions as to where such form should be sent.

Unless otherwise ordered by the Bankruptcy Court, any Claims arising from the rejection of an Executory Contract or Unexpired Lease not Filed within the time period set forth in this section will be automatically disallowed, forever barred from assertion and shall not be enforceable against the Debtors or the Reorganized Debtors, the Estates, or their property without the need for any objection by the Reorganized Debtors or further notice to, or action, order or approval of the Bankruptcy Court. Allowed Claims arising from the rejection of the Debtors' Executory Contracts or Unexpired Leases shall be classified as General Unsecured Claims and shall be treated in accordance with Article III of the Plan, as applicable.

Rejection Claims for which a Proof of Claim is not timely Filed will be forever barred from assertion against the Debtors, their Estates, the Reorganized Debtors and their respective property unless otherwise ordered by the Bankruptcy Court or as otherwise provided herein. Such Rejection Claims shall, as of the Effective Date, be subject to the discharge and permanent injunction set forth in Article VIII hereof.

C. Cure of Defaults for Assumed Executory Contracts and Unexpired Leases

Any monetary defaults under each Executory Contract and Unexpired Lease as reflected on the Assumed Executory Contract and Unexpired Leases List 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, subject to the limitations described below, or on such other terms as the parties to such Executory Contracts or Unexpired Leases may otherwise agree. In the event of a dispute regarding (i) the amount of the Cure Claim, (ii) the ability of the Reorganized Debtors or any assignee to provide "adequate assurance of future performance" (within the meaning of section 365 of the Bankruptcy Code) under the Executory Contract or Unexpired Lease to be assumed, or (iii) 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 or orders resolving the dispute and approving the assumption or by mutual agreement between Debtors and the applicable counterparty. At least 20 days before the Confirmation Hearing, the Debtors shall distribute, or cause to be distributed, Cure Notices of proposed assumption and proposed amounts of Cure Claims to the applicable third parties. Any objection by a counterparty to an Executory Contract or Unexpired Lease to a proposed assumption or related cure amount must be Filed, served, and actually received by the Debtors at least seven days before the Confirmation Hearing. If any outstanding objections remain unresolved following the Confirmation Hearing, the Debtors' rights are reserved to reject any contract or lease subject to such objection at any time prior to entry of an order of the Court authorizing the assumption of such contract or lease. Any counterparty to an Executory Contract or Unexpired Lease that fails to object timely to the proposed assumption or cure amount will be deemed to have assented to such assumption or cure amount; provided, however, the Debtors shall have the right to alter, amend, modify or supplement the Assumed Executory Contracts and Unexpired Lease List or Rejected Executory Contracts and Unexpired Lease List, as applicable, as identified in the Plan Supplement, through and including the Effective Date. To the extent that the Debtors alter, amend, modify or supplement the lists of Executory Contracts and Unexpired Lease included in the Plan Supplement, the Debtors will provide notice to each counterparty to an affected Executory Contract or Unexpired Lease within five days of such decision.

Assumption of any Executory Contract or Unexpired Lease pursuant to the Plan and payment of the Cure Amount or otherwise shall result in the full release and satisfaction of any Claims or defaults, whether monetary or nonmonetary, including defaults of provisions restricting the change in control or ownership interest composition or other bankruptcy-related defaults, arising under any assumed Executory Contract or Unexpired Lease at any time before the date of the Debtors or Reorganized Debtors assume such Executory Contract or Unexpired Lease. Any Proofs of Claim Filed with respect to an Executory Contract or Unexpired Lease that has been assumed shall be deemed disallowed and expunged, without further notice to or action, order or approval of the Bankruptcy Court.

D. Insurance Policies

All of the Debtors' insurance policies and any agreements, documents, or instruments relating thereto, are treated as and deemed to be Executory Contracts under the Plan. On the Effective Date, the Debtors shall be deemed to have assumed all insurance policies and any agreements, documents, and instruments related thereto.

E. Modifications, Amendments, Supplements, Restatements or Other Agreements

Unless otherwise provided in the Plan, each Executory Contract or Unexpired Lease that is assumed shall include all modifications, amendments, supplements, restatements, or other agreements that in any manner affect such Executory Contract or Unexpired Lease, and Executory Contracts and Unexpired Leases related thereto, if any, including easements, licenses, permits, rights, privileges, immunities, options, rights of first refusal, and any other interests, unless any of the foregoing agreements has been previously rejected or repudiated or is rejected or repudiated under the Plan.

Modifications, amendments, supplements, and restatements to prepetition Executory Contracts and Unexpired Leases that have been executed by the Debtors during the Chapter 11 Cases shall not be deemed to alter the prepetition nature of the Executory Contract or Unexpired Lease, or the validity, priority, or amount of any Claims that may arise in connection therewith.

F. Reservation of Rights

Neither the exclusion nor inclusion of any Executory Contract or Unexpired Lease on the Rejected Executory Contract and Unexpired Lease List, nor anything contained in the Plan, shall constitute an admission by the Debtors that any such contract or lease is in fact an Executory Contract or Unexpired Lease or that any Reorganized Debtor has any liability thereunder. If, prior to the Effective Date, there is a dispute regarding whether a contract or lease is or was executory or unexpired at the time of assumption or rejection, the Debtors, Reorganized Debtors, as applicable, shall have 30 days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

G. Nonoccurrence of Effective Date

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

H. Contracts and Leases Entered Into After the Petition Date

Contracts and leases entered into after the Petition Date by any Debtor, including any Executory Contracts and Unexpired Leases assumed by such Debtor, will be performed by the Debtor or Reorganized Debtor liable thereunder in the ordinary course of its business. Accordingly, such contracts and leases (including any assumed Executory Contracts and Unexpired Leases) will survive and remain unaffected by entry of the Confirmation Order.

**ARTICLE VI.
PROVISIONS GOVERNING DISTRIBUTIONS**

A. Timing and Calculation of Amounts to be Distributed

Unless otherwise provided in the Plan, on the Effective Date (or if a Claim is not an Allowed Claim on the Effective Date, on the date that such Claim becomes an Allowed Claim), or, in each case, as soon as reasonably practicable thereafter, each Holder of an Allowed Claim shall receive the full amount of the distributions that the Plan provides for Allowed Claims in each applicable Class. In the event that any payment or act under the Plan is required to be made or performed on a date that is not a Business Day, then the making of such payment or the performance of such act may be completed on the next succeeding Business Day, but shall be deemed to have been completed as of the required date. If and to the extent that there are Disputed Claims, distributions on account of any such Disputed Claims shall be made pursuant to the provisions set forth in Article VII of the Plan. Except as otherwise provided in the Plan, Holders of Claims shall not be entitled to interest, dividends or accruals on the distributions provided for in the Plan, regardless of whether such distributions are delivered on or at any time after the Effective Date. The Debtors shall have no obligation to recognize any transfer of Claims or Interests occurring on or after the Distribution Record Date.

B. Disbursing Agent

Except as otherwise provided in the Plan, all distributions under the Plan shall be made by the Disbursing Agent on the Effective Date. To the extent the Disbursing Agent is one or more of the Reorganized Debtors, the Disbursing Agent shall not be required to give any bond or surety or other security for the performance of its duties unless otherwise ordered by the Bankruptcy Court.

C. Rights and Powers of Disbursing Agent

1. Powers of Disbursing Agent

The Disbursing Agent shall be empowered to: (i) effect all actions and execute all agreements, instruments, and other documents necessary to perform its duties under the Plan; (ii)

make all distributions contemplated hereby; (iii) employ professionals to represent it with respect to its responsibilities; and (iv) exercise such other powers as may be vested in the Disbursing Agent by order of the Bankruptcy Court, pursuant to the Plan, or as deemed by the Disbursing Agent to be necessary and proper to implement the provisions hereof.

2. Expenses Incurred On or After the Effective Date

Except as otherwise ordered by the Bankruptcy Court, the amount of any reasonable fees and out-of-pocket expenses incurred by the Disbursing Agent on or after the Effective Date (including taxes) and any reasonable compensation and out-of-pocket expense reimbursement claims (including reasonable attorney fees and expenses) made by the Disbursing Agent shall be paid in Cash by the Reorganized Debtors.

D. Delivery of Distributions and Undeliverable or Unclaimed Distributions

1. Delivery of Distributions

a. Delivery of Distributions to Holders of Prepetition Secured Lender Claims

The Disbursing Agent shall make such distributions directly to the Holders of Allowed Prepetition Secured Lender Claims.

b. Delivery of Distributions in General

Subject to this Article VI, distributions under the Plan on account of Allowed Claims shall not be subject to levy, garnishment, attachment, or like legal process, so that each Holder of an Allowed Claim shall have and receive the benefit of the distributions in the manner set forth in the Plan. The Debtors, the Reorganized Debtors, and the Disbursing Agent, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan except for gross negligence or willful misconduct.

2. Minimum Distributions

Notwithstanding any other provision of this Plan, Cash payments of fractions of dollars shall not be made. Whenever any distribution to a holder of a Claim would otherwise call for distribution of Cash in a fractional dollar amount, the actual distribution of such Cash shall be rounded to the nearest whole dollar (up or down), with half dollars (or less) being rounded down. The Disbursing Agent shall not be required to make any Cash payment of less than \$0.50 with respect to any unless a written request therefor is made to the applicable Disbursing Agent not later than one year after the Effective Date.

3. Undeliverable Distributions and Unclaimed Property.

In the event that any distribution to any Holder is returned as undeliverable, no distribution to such Holder shall be made unless and until the Disbursing Agent has determined the then-current address of such Holder, at which time such distribution shall be made to such

Holder without interest; provided, however, that such distributions shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code at the expiration of one year from the later of (i) the Effective Date and (ii) the date of the distribution. After such date, all unclaimed property or interests in property shall revert to the Reorganized Debtors automatically and without need for a further order by the Bankruptcy Court (notwithstanding any applicable federal or state escheat, abandoned, or unclaimed property laws to the contrary), and the Claim of any Holder to such property or Interest in property shall be discharged and forever barred.

E. Manner of Payment

1. All distributions of New Stock under the Plan shall be made by the Disbursing Agent on behalf of Reorganized BRA.
2. All distributions of Cash under the Plan shall be made by the Disbursing Agent on behalf of the applicable Debtor (or Debtors).
3. At the option of the Disbursing Agent, any Cash payment to be made hereunder may be made by check or wire transfer or as otherwise required or provided in applicable agreements.

F. Section 1145 Exemption

Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of the New Stock as contemplated by Article IV.B of the Plan shall be exempt from, among other things, the registration requirements of section 5 of the Securities Act and any other applicable law requiring registration prior to the offering, issuance, distribution, or sale of Securities. In addition, under section 1145 of the Bankruptcy Code, such New Stock will be freely tradable in the U.S. by the recipients thereof, subject to the provisions of section 1145(b)(1) of the Bankruptcy Code relating to the definition of an underwriter in section 2(a)(11) of the Securities Act, and compliance with applicable securities laws and any rules and regulations of the Securities and Exchange Commission, if any, applicable at the time of any future transfer of such Securities or instruments and subject to any restrictions in the Amended Corporate Governance Documents, including the Amended Stockholders Agreement.

G. Section 3(a)(9) Exemption

The Debtors are relying on exemptions from the registration requirements of the Securities Act, including, without limitations, section 3(a)(9) thereof, to exempt the offer of the securities under the Plan that may be deemed to be made pursuant to the solicitation of votes on the Plan. Section 3(a)(9) of the Securities Act provides that the registration requirements of the Securities Act will not apply to "any security exchanged by the issuer with its existing security holders exclusively where no commission or other remuneration is paid or given directly or indirectly for soliciting such exchange." The Debtors do not have any contract, arrangement, or understanding relating to, and will not, directly or indirectly, pay any commission or other remuneration to any broker, dealer, sales person, agent, or any other person for soliciting votes to accept or reject the Plan. In addition, no broker, dealer, salesperson, agent, or any other person, is

engaged or authorized to express any statement, opinion, recommendation, or judgment with respect to the relative merits and risks of the Plan.

H. Compliance with Tax Requirements

In connection with the Plan, to the extent applicable, the Reorganized Debtors shall comply with all tax withholding and reporting requirements imposed on them by any Governmental Unit, and all distributions pursuant to the Plan shall be subject to such withholding and reporting requirements. Notwithstanding any provision in the Plan to the contrary, the Reorganized Debtors and the Disbursing Agent shall be authorized to take all actions necessary or appropriate to comply with such withholding and reporting requirements, including liquidating a portion of the distribution to be made under the Plan to generate sufficient funds to pay applicable withholding taxes, withholding distributions pending receipt of information necessary to facilitate such distributions, or establishing any other mechanisms they believe are reasonable and appropriate. The Reorganized Debtors reserve the right to allocate all distributions made under the Plan in compliance with applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

I. Allocations

Distributions in respect of Allowed Claims shall be allocated first to the principal amount of such Claims (as determined for federal income tax purposes) and then, to the extent the consideration exceeds the principal amount of the Claims, to any portion of such Claims for accrued but unpaid interest.

J. Setoffs and Recoupment

The Debtors or the Reorganized Debtors may, but shall not be required to, setoff against or recoup from any Claims of any nature whatsoever that the Debtors or the Reorganized Debtors may have against the claimant, but neither the failure to do so nor the allowance of any Claim hereunder shall constitute a waiver or release by the Debtors or the Reorganized Debtors of any such Claim it may have against the Holder of such Claim. The Debtors shall provide notice to the Holder of any Claim against which the Debtors intend to exercise their right of setoff and such Holder shall have the right to challenge in the Bankruptcy Court or any other court of appropriate jurisdiction any right of setoff proposed to exercised by the Debtors.

K. Claims Paid or Payable by Third Parties

1. Claims Paid by Third Parties

The Debtors or the Reorganized Debtors, as applicable, shall reduce in full a Claim to the extent that the Holder of such Claim receives payment in full on account of such Claim from a party that is not a Debtor or a Reorganized Debtor, as applicable, and the Debtors or the Reorganized Debtors, as applicable shall provide notice to such Holder of any such reduction. Subject to the last sentence of this paragraph, to the extent a Holder of a Claim receives a distribution on account of such Claim and receives payment from a party that is not a Debtor or a

Reorganized Debtor, as applicable, on account of such Claim, such Holder shall, within two weeks of receipt thereof, repay or return the distribution to the applicable Reorganized Debtor to the extent the Holder's total recovery on account of such Claim from the third party and under the Plan exceeds the amount of such Claim as of the date of any such distribution under the Plan. The failure of such Holder to timely repay or return such distribution shall result in the Holder owing the applicable Reorganized Debtor annualized interest at the Federal Judgment Rate on such amount owed for each Business Day after the two-week grace period specified above until the amount is repaid.

2. **Claims Payable by Third Parties**

No distributions under the Plan shall be made on account of an Allowed Claim that is payable pursuant to one of the Debtors' insurance policies until the Holder of such Allowed Claim has exhausted all remedies with respect to such insurance policy.

3. **Applicability of Insurance Policies**

Except as otherwise provided in the Plan, distributions to Holders of Allowed Claims shall be in accordance with the provisions of any applicable insurance policy. Nothing contained in the Plan shall constitute or be deemed a waiver of any Cause of Action that the Debtors, the Reorganized Debtors, or any Entity may hold against any other Entity, including insurers under any policies of insurance, nor shall anything contained herein constitute or be deemed a waiver by such insurers of any defenses, including coverage defenses, held by such insurers.

**ARTICLE VII.
PROCEDURES FOR RESOLVING CONTINGENT,
UNLIQUIDATED, AND DISPUTED CLAIMS**

A. Prosecution of Objections to Claims

The Debtors or the Reorganized Debtors shall have authority to File, settle, compromise, withdraw or litigate to judgment any objections to Claims, other than Fee Claims, as permitted under the Plan (which Fee Claims shall be subject to objection by any Person with standing to object). From and after the Effective Date, the Reorganized Debtors may settle or compromise any Disputed Claim without notice to or action, order or approval of the Bankruptcy Court; provided, however, that, to the extent a party other than the Debtors or the Reorganized Debtors has objected to a Claim, the Debtors or the Reorganized Debtors, as applicable, must obtain the consent of such objecting party to any settlement or compromise of the Disputed Claim.

Unless otherwise ordered by the Bankruptcy Court, all objections to Claims shall be served and filed on or before 120 days after the Effective Date, as may be extended before or after the running of the 120 days by order of the Bankruptcy Court after notice and a hearing.

B. Claims Administration Responsibilities

The Debtors or the Reorganized Debtors, as applicable, may, in their discretion, File with the Bankruptcy Court (or any other court of competent jurisdiction) an objection to the allowance of any Claim or any other appropriate motion or adversary proceeding with respect thereto, and the Debtors and the Reorganized Debtors shall have the right to compromise, settle, withdraw or litigate to judgment any objections to Claims for which a Proof of Claim is Filed.

C. Estimation of Claims

Before or after the Effective Date, the Debtors or the Reorganized Debtors may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim that is contingent or unliquidated pursuant to section 502(c) of the Bankruptcy Code for any reason, regardless of whether any party previously has objected to such Claim or Interest or whether the Bankruptcy Court has ruled on any such objection, and the Bankruptcy Court shall retain jurisdiction to estimate any such Claim or Interest, including during the litigation of any objection to any Claim or Interest or during the appeal relating to such objection. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute either the Allowed amount of such Claim or Interest or a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), as determined by the Bankruptcy Court, and the relevant Reorganized Debtor may elect to pursue any supplemental proceedings to object to any ultimate distribution on such Claim or Interest.

D. Adjustment to Claims Without Objection

Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, cancelled, or otherwise expunged (including pursuant to the Plan), may be adjusted (including on the Claims Register, to the extent applicable) by the Reorganized Debtors without a Claims objection having to be Filed and without any further notice to or action, order, or approval of the Bankruptcy Court.

E. Disallowance of Claims

Any Claims held by Entities from which property is recoverable under section 542, 543, 550, or 553 of the Bankruptcy Code or that is a transferee of a transfer avoidable under section 522(f), 522(h), 544, 545, 547, 548, 549, or 724(a) of the Bankruptcy Code, shall be deemed disallowed pursuant to section 502(d) of the Bankruptcy Code, and Holders of such Claims may not receive any distributions on account of such Claims until such time as such Causes of Action against that Entity have been settled or a Bankruptcy Court order with respect thereto has been entered and all sums due, if any, to the Debtors by that Entity have been turned over or paid to the Reorganized Debtors. All Claims Filed on account of an indemnification obligation to a director, officer, or employee shall be deemed satisfied as of the Effective Date to the extent such indemnification obligation is assumed (or honored or reaffirmed, as the case may be) pursuant to the Plan, without any further notice to or action, order, or approval of the Bankruptcy Court.

F. No Distributions Pending Allowance

If an objection to a Claim or portion thereof is Filed, no payment or distribution provided under the Plan shall be made on account of such Claim or portion thereof unless and until such Disputed Claim becomes an Allowed Claim

G. Distributions After Allowance

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

ARTICLE VIII.

SETTLEMENT, RELEASE, INJUNCTION, AND RELATED PROVISIONS

A. Compromise and Settlement of Claims, Interests, and Controversies

Pursuant to sections 363 and 1123 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration for the distributions and other benefits provided pursuant to the Plan, the provisions of the Plan shall constitute a good faith compromise of substantially all Claims, Interests, and controversies relating to the contractual, legal, and equitable rights that a Holder of a Claim may have against the Debtors or Reorganized Debtors through the Effective Date with respect to any Allowed Claim or Interest. The entry of the Confirmation Order shall constitute the Bankruptcy Court's approval of the compromise or settlement of all such Claims, Interests, and controversies, as well as a finding by the Bankruptcy Court that such compromise or settlement is in the best interests of the Debtors, their Estates, and Holders, and is fair, equitable, and reasonable.

In accordance with the provisions of the Plan, pursuant to section 363 of the Bankruptcy Code and Bankruptcy Rule 9019(a), without any further notice to or action, order, or approval of the Bankruptcy Court, after the Effective Date, the Reorganized Debtors may compromise and settle claims against them and Causes of Action held by them against other Entities; provided, however, that prior to the closing of the Chapter 11 Cases, the Debtors shall file a motion under Bankruptcy Rule 9019 if the Debtors seek to settle any Cause of Action in excess of \$100,000 and which is settled at less than 50% of the amount sought.

B. Discharge of Claims and Termination of Interests

Pursuant to section 1141(d) of the Bankruptcy Code, and except as otherwise specifically provided in the Plan or in any contract, instrument or other agreement or document created pursuant to the Plan, the distributions, rights and treatment that are provided in the Plan shall be in complete satisfaction, discharge, and release, effective as of the Effective Date, of Claims (including any Intercompany Claims resolved or compromised after the Effective Date by the Reorganized Debtors), Interests, and Causes of Action of any nature whatsoever, including any

interest accrued on Claims or Interests from and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations of, rights against, and Interests in, the Debtors or any of their assets or properties, regardless of whether any property shall have been distributed or retained pursuant to the Plan on account of such Claims and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date, any liability (including withdrawal liability) to the extent such Claims or Interests relate to services performed by employees of the Debtors before the Effective Date and that arise from a termination of employment, any contingent or non-contingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim based upon such debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or Interest is Allowed pursuant to section 502 of the Bankruptcy Code; or (3) the Holder of such a Claim or Interest has accepted the Plan. Any default by the Debtors with respect to any Claim or Interest that existed immediately before or on account of the filing of the Chapter 11 Cases shall be deemed cured on the Effective Date. The Confirmation Order shall be a judicial determination of the discharge of all Claims and Interests subject to the Effective Date occurring.

C. Release of Liens

Except as otherwise provided in the Plan or in any contract, instrument, release, or other agreement or document created pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan and, in the case of a Secured Claim, satisfaction in full of the portion of the Secured Claim that is Allowed as of the Effective Date, all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates shall be fully released and discharged, and all of the right, title, and interest of any Holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the Reorganized Debtors.

D. Releases by the Releasing Parties

As of the Effective Date of the Plan, to the fullest extent permitted by applicable law, each of the Releasing Parties shall be deemed to have expressly, unconditionally, irrevocably, generally, and individually and collectively, released, acquitted, and discharged the Debtors and the Reorganized Debtors from any and all actions, claims, interests, obligations, rights, suits, damages, Causes of Action, remedies, and liabilities whatsoever, including any derivative claims asserted on behalf of a Debtor, whether known or unknown, foreseen or unforeseen, matured or unmatured, existing or hereafter arising, in law, equity, contract, tort, by statute or otherwise, that such Releasing Party (whether individually or collectively) ever had, now has, or hereafter can, shall, or may have, based on or relating to, or in any manner arising from, in whole or in part, the Debtors, the Debtors' restructuring, the Chapter 11 Cases, the purchase, sale, or rescission of the purchase or sale of any Security of the Debtors, the subject matter of, or the transactions or events giving rise to, any Claim or Interest that is treated in the Plan, the restructuring of Claims and Interests before or during the Chapter 11 Cases, the negotiation, formulation, or preparation of the Plan, the Plan Supplement, the Restructuring Transactions, the Disclosure Statement, or related agreements, instruments, or other documents, or any other act or omission, transaction,

agreement, event, or other occurrence relating to the Debtors, taking place on or before the Confirmation Date of the Plan.

E. Liabilities to, and Rights of, Governmental Units

Nothing in the Plan or Confirmation Order shall discharge, release, or preclude: (i) any liability to a Governmental Unit that is not a Claim; (ii) any Claim of a Governmental Unit arising on or after the Confirmation Date; (iii) any liability to a Governmental Unit on the part of any Person or Entity other than the Debtors or Reorganized Debtors; (iv) any valid right of setoff or recoupment by a Governmental Unit; or (v) any criminal liability. Nothing in the Plan or Confirmation Order shall enjoin or otherwise bar any Governmental Unit from asserting or enforcing, outside the Bankruptcy Court, any liability described in the preceding sentence. The discharge and injunction provisions contained in the Plan and Confirmation Order are not intended and shall not be construed to bar any Governmental Unit from, after the Confirmation Date, pursuing any police or regulatory action.

F. Exculpation

Except as otherwise specifically provided in the Plan or Plan Supplement, no Exculpated Party shall have or incur, and each Exculpated Party is hereby released and exculpated from, any (i) Exculpated Claim and (ii) any obligation, Cause of Action, or liability for any Exculpated Claim, except for those that result from any such act or omission that is determined in a Final Order to have constituted fraud, gross negligence, or willful misconduct; provided, however, that the foregoing "Exculpation" shall have no effect on the liability of any Entity for acts or omissions occurring after the Effective Date.

G. Injunction

From and after the Effective Date, all Entities are permanently enjoined from commencing or continuing in any manner, any Cause of Action released or to be released pursuant to the Plan or the Confirmation Order.

From and after the Effective Date, to the extent of the releases and exculpation granted in Article VIII hereof, all Entities shall be permanently enjoined from commencing or continuing in any manner against the Debtors or Reorganized Debtors and the Exculpated Parties and their assets and properties, as the case may be, any suit, action, or other proceeding, on account of or respecting any Claim, demand, liability, obligation, debt, right, Cause of Action, Interest, or remedy released or to be released or exculpated pursuant to Article VIII hereof. Except as otherwise expressly provided in the Plan, the Plan Supplement, or related documents, or in obligations issued pursuant to the Plan, all Entities who have held, hold, or may hold Claims or Interests that have been released pursuant to Article VIII.D discharged pursuant to Article VIII.B, or are subject to exculpation pursuant to Article VIII.F are permanently enjoined, from and after the Effective Date, from taking any of the following actions: (i) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests; (ii) enforcing, attaching, collecting, or

recovering by any manner or means any judgment, award, decree, or order against such Entities on account of or in connection with or with respect to any such Claims or Interests; (iii) creating, perfecting, or enforcing any encumbrance of any kind against such Entities or the property or estate of such Entities on account of or in connection with or with respect to any such Claims or Interests; and (iv) commencing or continuing in any manner any action or other proceeding of any kind on account of or in connection with or with respect to any such Claims or Interests released or settled pursuant to the Plan.

The rights afforded in the Plan and the treatment of all Claims and Interests herein shall be in exchange for and in complete satisfaction of Claims and Interests of any nature that arose before the Effective Date whatsoever, including any interest accrued on claims from and after the Petition Date, against the Debtors or any of their assets, property, or Estates. On the Effective Date, all such Claims against the Debtors shall be fully released and discharged, and the Interests shall be cancelled.

Except as otherwise expressly provided for herein or in obligations issued pursuant hereto from and after the Effective Date, all Claims shall be fully released and discharged, and the Interests shall be cancelled, and the Debtors' liability with respect thereto shall be extinguished completely, including any liability of the kind specified under section 502(g) of the Bankruptcy Code. Except as expressly set forth herein, all Entities shall be precluded from asserting against the Debtors, the Debtors' Estates, the Reorganized Debtors, each of their respective successors and assigns, and each of their assets and properties, any other claims or interests based upon any documents, instruments, or any act or omission, transaction, or other activity of any kind or nature that occurred before the Effective Date.

H. Term of Injunctions or Stays

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

ARTICLE IX.

CONDITIONS PRECEDENT TO CONSUMMATION OF THE PLAN

A. Conditions Precedent to the Effective Date

It shall be a condition to the Effective Date of the Plan that the following conditions shall have been satisfied or waived pursuant to the provisions of Article IX.B hereof:

1. The Bankruptcy Court shall have entered the Confirmation Order.
2. Any amendments, modifications, or supplements to the Plan (including the Plan Supplement), if any, shall be reasonably acceptable to the Debtors.

3. All actions, documents, certificates, and agreements necessary to implement this Plan shall have been effected or executed and delivered to the required parties and, to the extent required, Filed with the applicable Governmental Units in accordance with applicable laws.

4. Reorganized BRA shall have executed the Amended Stockholders Agreement.

5. The Professional Fee Escrow Account shall have been established and funded.

B. Waiver of Conditions

The conditions to Consummation set forth in Article IX may be waived only by the Person whom is entitled to satisfaction of such condition, without notice, leave, or order of the Bankruptcy Court or any formal action other than proceeding to confirm or consummate the Plan.

C. Effect of Failure of Conditions.

If the Consummation of the Plan does not occur within one month of entry of the Confirmation Order, the Plan shall be null and void in all respects and nothing contained in the Plan or the Disclosure Statement shall: (i) constitute a waiver or release of any claims or Causes of Action by the Debtors, any Holders, or any other Entity; (ii) prejudice in any manner the rights of the Debtors, any Holders, or any other Entity; or (iii) constitute an admission, acknowledgment, offer, or undertaking by the Debtors, any Holders, or any other Entity in any respect.

ARTICLE X.

MODIFICATION, REVOCATION OR WITHDRAWAL OF THE PLAN

A. Modifications and Amendments

Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan and except as otherwise specifically provided herein, the Debtors reserve the right to modify the Plan as to material terms and seek Confirmation consistent with the Bankruptcy Code and, as appropriate, not re-solicit votes on such modified Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, the Debtors expressly reserve their rights to alter, amend or modify materially the Plan with respect to such Debtor, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Bankruptcy Court to so alter, amend or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement or the Confirmation Order, in such matters as may be necessary to carry out the purposes and intent of the Plan

B. Effect of Confirmation on Modifications

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

C. Revocation or Withdrawal of Plan

The Debtors reserve the right to revoke or withdraw the Plan before the Confirmation Date and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or Consummation does not occur, then: (i) the Plan shall be null and void in all respects; (ii) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of the Claims or Interests or Class of Claims or Interests), assumption or rejection of Executory Contracts or Unexpired Leases effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void; and (iii) nothing contained in the Plan shall: (a) constitute a waiver or release of any Claims or Interests; (b) prejudice in any manner the rights of such Debtor, any Holder, or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by such Debtor, any Holder or any other Entity.

**ARTICLE XI.
RETENTION OF JURISDICTION**

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

1. allow, disallow, determine, liquidate, classify, estimate, or establish the priority, Secured or unsecured status, or amount of any Claim or Interest, including the resolution of any request for payment of any Administrative Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;
2. decide and resolve all matters related to the determination of a whether a Claim shall be deemed a Subordinated Claim in connection with the Plan;
3. decide and resolve all matters related to the granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals (including Fee Claims) authorized pursuant to the Bankruptcy Code or the Plan;
4. resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract or Unexpired Lease to which a Debtor is party or with respect to which a Debtor may be liable, and to hear, determine and, if necessary, liquidate, any Claims arising therefrom, including Cure Claims pursuant to section 365 of the Bankruptcy Code;

(b) any potential contractual obligation under any Executory Contract or Unexpired Lease that is assumed; (c) the Reorganized Debtors amending, modifying, or supplementing, after the Effective Date, pursuant to Article V, the Executory Contracts and Unexpired Leases to be assumed or rejected or otherwise; and (d) any dispute regarding whether a contract or lease is or was executory, expired, or terminated;

5. ensure that distributions to Holders of Allowed Claims and Interests are accomplished pursuant to the provisions of the Plan;
6. adjudicate, decide, or resolve any motions, adversary proceedings, contested or litigated matters, and any other matters, and grant or deny any applications involving a Debtor, or the Estates that may be pending on the Effective Date;
7. adjudicate, decide, or resolve any and all matters related to section 1141 of the Bankruptcy Code;
8. adjudicate, decide, and resolve any and all Causes of Action arising under the Bankruptcy Code, including without limitation sections 502(d), 510, 542-551 and 553;
9. enter and implement such orders as may be necessary or appropriate to execute, implement, or consummate the provisions of the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan, the Plan Supplement, or the Disclosure Statement;
10. resolve any cases, controversies, suits, disputes, or Causes of Action that may arise in connection with Consummation, including interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;
11. issue injunctions, enter and implement other orders, or take such other actions as may be necessary or appropriate to restrain interference by any Entity with Consummation or enforcement of the Plan;
12. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the releases, injunctions, and other provisions contained in Article VIII, and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;
13. resolve any cases, controversies, suits, disputes, or Causes of Action with respect to the repayment or return of distributions and the recovery of additional amounts owed by the Holder of a Claim for amounts not timely repaid;
14. enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked, or vacated;
15. determine any other matters that may arise in connection with or relate to the Plan, the Amended Corporate Governance Documents, the Disclosure Statement, the Confirmation

Order, or any contract, instrument, release, indenture, or other agreement or document created in connection with the Plan or the Disclosure Statement;

16. enter an order or Final Decree concluding or closing any of the Chapter 11 Cases;
17. adjudicate any and all disputes arising from or relating to distributions under the Plan;
18. consider any modifications of the Plan, to cure any defect or omission or to reconcile any inconsistency in any Bankruptcy Court order, including the Confirmation Order;
19. determine requests for the payment of Claims entitled to priority pursuant to section 507 of the Bankruptcy Code;
20. hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan or the Confirmation Order, including disputes arising in connection with the implementation of the agreements, documents, or instruments executed in connection with the Plan;
21. hear and determine matters concerning state, local, and federal taxes in accordance with sections 346, 505, and 1146 of the Bankruptcy Code;
22. hear and determine all disputes involving the existence, nature, scope, or enforcement of any exculpations, discharges, injunctions, and releases granted in connection with and under the Plan, including under Article VIII;
23. enforce all orders previously entered by the Bankruptcy Court, resolve any cases, controversies, suits, or disputes that may arise in connection with any Entity's rights arising from or obligations incurred in connection with the Plan; and
24. hear any other matter not inconsistent with the Bankruptcy Code.

For the avoidance of doubt, the Bankruptcy Court shall not retain jurisdiction over any Causes of Action arising under state or other federal law (other than Causes of Action arising under the Bankruptcy Code) brought by the Reorganized Debtors in a state or other federal court of competent jurisdiction; provided, however, that nothing herein limits the jurisdiction of the Bankruptcy Court to interpret and enforce the Plan and all contracts, instruments, releases, indentures, and other agreements or documents created in connection with the Plan, the Plan Supplement or the Disclosure Statement, without regard to whether the controversy with respect to which such interpretation or enforcement relates may be pending in any state or other federal court of competent jurisdiction.

**ARTICLE XII.
MISCELLANEOUS PROVISIONS**

A. Immediate Binding Effect

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

B. Additional Documents

On or before the Effective Date, the Debtors may File with the Bankruptcy Court such agreements and other documents as may be necessary or appropriate to effectuate and further evidence the terms and conditions of the Plan. The Debtors or Reorganized Debtors, as applicable, and all Holders receiving distributions pursuant to the Plan and all other parties in interest may, from time to time, prepare, execute, and deliver any agreements or documents and take any other actions as may be necessary or advisable to effectuate the provisions and intent of the Plan.

C. Statutory Committee and Cessation of Fee and Expense Payment

On the Effective Date, any Committee appointed in the Chapter 11 Cases shall dissolve and members thereof shall be released and discharged from all rights and duties from or related to the Chapter 11 Cases. The Reorganized Debtors shall no longer be responsible for paying any fees or expenses incurred by any statutory committees after the Effective Date.

D. Reservation of Rights

Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court enters the Confirmation Order, and the Confirmation Order shall have no force or effect if the Effective Date does not occur. None of the Filing of the Plan, any statement or provision contained in the Plan, or the taking of any action by any Debtor with respect to the Plan, the Disclosure Statement, or the Plan Supplement shall be or shall be deemed to be an admission or waiver of any rights of any Debtor with respect to the Holders before the Effective Date.

E. Successors and Assigns

The rights, benefits, and obligations of any Entity named or referred to in the Plan shall be binding on, and shall inure to the benefit of any heir, executor, administrator, successor, or assign, Affiliate, officer, director, agent, representative, attorney, beneficiaries, or guardian, if any, of each Entity.

F. Notices

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

If to the Debtors:

Boston Restaurant Associates, Inc.
48 Cummings Park
Woburn, MA 01801-2123
Attn: Fran V. Ross

With copies to:

CROSS & SIMON, LLC
1105 North Market Street, Suite 901
Wilmington, Delaware 19801
Telephone: (302) 777-4200
Facsimile: (302) 777-4224
Attn: Christopher P. Simon
Email: csimon@crosslaw.com

-and-

NIXON PEABODY LLP
437 Madison Avenue
New York, NY 10022
Telephone: (212) 940-3000
Facsimile: (212) 940-3111
Attn: Victor G. Milione, Lee Harrington, Christopher M. Desiderio and Christopher J. Fong
Emails: vmilione@nixonpeabody.com; lharrington@nixonpeabody.com;
cdesiderio@nixonpeabody.com; cfong@nixonpeabody.com

After the Effective Date, the Reorganized Debtors may, in their sole discretion, notify Entities that, in order to continue to receive documents pursuant to Bankruptcy Rule 2002, such Entity must File a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date, the Reorganized Debtors are authorized to limit the list of Entities receiving documents pursuant to Bankruptcy Rule 2002 to those Entities who have Filed such renewed requests.

G. Entire Agreement

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

H. Exhibits

All exhibits and documents included in the Plan Supplement are incorporated into and are a part of the Plan as if set forth in full in the Plan. After the exhibits and documents are Filed, copies of such exhibits and documents shall be available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the website of the Debtors' notice and claims agent at <http://cases.gcginc.com/brs/> or the Bankruptcy Court's website at <http://www.deb.uscourts.gov>. To the extent any exhibit or document is inconsistent with the terms of the Plan, unless otherwise ordered by the Bankruptcy Court, the non-exhibit or nondocument portion of the Plan shall control.

I. Severability of Plan Provisions

If, before Confirmation, any term or provision of the Plan is held by the Bankruptcy Court to be invalid, void, or unenforceable, the Bankruptcy Court shall have the power to alter and interpret such term or provision to make it valid or enforceable to the maximum extent practicable, consistent with the original purpose of the term or provision held to be invalid, void, or unenforceable, and such term or provision shall then be applicable as altered or interpreted. Notwithstanding any such holding, alteration, or interpretation, the remainder of the terms and provisions of the Plan will remain in full force and effect and will in no way be affected, impaired, or invalidated by such holding, alteration, or interpretation. The Confirmation Order shall constitute a judicial determination and shall provide that each term and provision of the Plan is: (i) valid and enforceable pursuant to its terms; (ii) integral to the Plan and may not be deleted or modified without the consent of the parties thereto; and (iii) non-severable and mutually dependent.

J. Votes Solicited in Good Faith

Upon entry of the Confirmation Order, the Debtors will be deemed to have solicited votes on the Plan in good faith and in compliance with the Bankruptcy Code, and pursuant to section 1125(e), 1125(g), and 1126(b) of the Bankruptcy Code, the Debtors and each of their respective Affiliates, agents, representatives, members, principals, shareholders, officers, directors, employees, advisors, and attorneys will be deemed to have participated in good faith and in compliance with the Bankruptcy Code in the issuance of Securities offered under the Plan and any previous plan and, therefore, no such parties, individuals, or the Reorganized Debtors will have any liability for the violation of any applicable law, rule, or regulation governing the solicitation of votes on the Plan or the offer of the Securities offered under the Plan or any previous plan.

K. Closing of Chapter 11 Cases

The Reorganized Debtors shall, promptly after the full administration of the Chapter 11 Cases, File with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any applicable order necessary to close the Chapter 11 Cases.

L. Conflicts

To the extent that any provision of the Disclosure Statement, the Plan Supplement, or any other document referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing), conflicts with or is in anyway inconsistent with the Plan, then the Plan shall govern and control. To the extent any provision of the Disclosure Statement, the Plan, the Plan Supplement, or any other document referenced in the Plan (or any exhibits, schedules, appendices, supplements, or amendments to any of the foregoing) are in any way inconsistent with the Confirmation Order, the Confirmation Order shall govern and control.

Dated: August 17, 2015

BOSTON RESTAURANT ASSOCIATES, INC.,
on behalf of itself and its Debtor affiliates

By: /s/ Peter E. Salas

Name: Peter E. Salas

Title: President

EXHIBIT B

CONFIRMATION NOTICE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE

-----X
: Chapter 11
In re: :
: :
: Case No. 15-11101 (BLS)
BOSTON RESTAURANT ASSOCIATES, INC., :
et al., : **Jointly Administered**
: :
: **Debtors.**¹ : **Re: Docket Nos. _____**
-----X

NOTICE OF (I) ENTRY OF ORDER APPROVING THE DEBTORS' DISCLOSURE STATEMENT FOR, AND CONFIRMING, FIRST AMENDED JOINT CHAPTER 11 PLAN OF REORGANIZATION OF BOSTON RESTAURANT ASSOCIATES, INC. AND ITS AFFILIATED DEBTORS (II) OCCURRENCE OF EFFECTIVE DATE AND (III) DEADLINE TO FILE ADMINISTRATIVE CLAIMS

PLEASE TAKE NOTICE that on _____, 2015, the Honorable Brendan L. Shannon, United States Bankruptcy Judge for the United States Bankruptcy Court for the District of Delaware (the "Court"), entered an order [Docket No. ____] (the "Confirmation Order") confirming the *First Amended Joint Chapter 11 Plan of Reorganization of Boston Restaurant Associates, Inc. and its Affiliated Debtors* [Docket No. 227] (including all exhibits thereto and as amended, supplemented, or otherwise modified from time to time, the "Plan")² and approving the *Disclosure Statement for Joint Chapter 11 Plan of Reorganization of Boston Restaurant Associates, Inc. and its Affiliated Debtors* [Docket No. 166] (the "Disclosure Statement") of the above-captioned debtors and debtors in possession (the "Debtors").

PLEASE TAKE FURTHER NOTICE that the Effective Date of the Plan occurred on _____, 2015. Each of the conditions precedent to consummation of the Plan enumerated in Article IX of the Plan have been satisfied or waived in accordance with the Plan and the Confirmation Order.

PLEASE TAKE FURTHER NOTICE that pursuant to the Confirmation Order, the release, injunction, and exculpation provisions in Article VIII of the Plan are now in full force and effect.

PLEASE TAKE FURTHER NOTICE that except as otherwise provided in Article II.A of the Plan, requests for payment of Administrative Claims must be Filed and served on the Reorganized Debtors pursuant to the procedures specified in the Confirmation Order and the

¹ The Debtors, along with the last four digits of each debtor's tax identification number, as applicable, are: Boston Restaurant Associates, Inc. (2263); Pizzeria Regina of Kingston, Inc. (2531); Pizzeria Regina of Medford, Inc. (4952); Ocean, Inc. (6400); Fantail Restaurant, Inc. (6556); Regina Pizzeria at Fenway, Inc. (4457); Polcari's, Inc. (5395); Polcari's of Woburn, Inc. (9677); Polcari Enterprises, Inc. (0989). The Debtors' corporate headquarters is located at 48 Cummings Park, Woburn, MA 01801.

² Capitalized terms used but not otherwise defined herein have the meanings ascribed to them in the Plan.

notice of entry of the Confirmation Order no later than _____ (the "Administrative Claims Bar Date"). Holders of Administrative Claims that are required to, but do not, File and serve a request for payment of such Administrative Claims by such date shall be forever barred, estopped, and enjoined from asserting such Administrative Claims against the Debtors or their property and such Administrative Claims shall be deemed discharged as of the Effective Date.

PLEASE TAKE FURTHER NOTICE that if you would like copies of the documents included in the Plan, the Plan Supplement, the Confirmation Order, the Disclosure Statement, or any other document filed in these chapter 11 cases, you may contact Garden City Group LLC, the notice, claims, and solicitations agent retained by the Debtors in the Chapter 11 Cases, by: (a) visiting the Debtors' restructuring website at: <http://cases.gcginc.com/brs/>; or (b) contacting Debtors' counsel at the address listed below. You may also obtain copies of any pleadings filed in the Chapter 11 Cases for a fee via PACER at: www.deb.uscourts.gov.

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

Dated: _____, 2015

CROSS & SIMON, LLC

By: /s/ _____
Christopher P. Simon (Del. Bar No. 3697)
1105 North Market Street, Suite 901
Wilmington, Delaware 19801
Telephone: (302) 777-4200
Facsimile: (302) 777-4224

and

NIXON PEABODY LLP
Victor G. Milione
Lee Harrington
Christopher M. Desiderio
Christopher J. Fong
437 Madison Avenue
New York, NY 10022
Telephone: (212) 940-3000
Facsimile: (212) 940-3111

Counsel to the Debtors and Debtors in Possession