No.

IN THE

Supreme Court of the United States

LAW DEBENTURE TRUST COMPANY OF NEW YORK, AND R^2 INVESTMENTS, LDC,

Petitioners,

v.

CHARTER COMMUNICATIONS, INC., CCH I, LLC, CCH I CAPITAL CORPORATION, CCH II, LLC, CCH II CAPITAL CORPORATION, PAUL G. ALLEN, AND OFFICIAL COMMITTEE OF UNSECURED CREDITORS,

Respondents.

On Petition For A Writ Of Certiorari To The United States Court of Appeals For The Second Circuit

APPENDIX TO PETITION FOR A WRIT OF CERTIORARI

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APPENDIX A

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

August Term 2011

(Argued: March 26, 2012 Decided: August 31, 2012)

Docket Nos. 11-1710-bk, 11-1726-bk

In re CHARTER COMMUNICATIONS, INC.

R² INVESTMENTS, LDC,

Appellant,

-- v. --

CHARTER COMMUNICATIONS, INC., CCH I, LLC, CCH I CAPITAL CORPORATION, CCH II, LLC, CCH II CAPITAL CORPORATION,

Debtors-Appellees,

PAUL G. ALLEN, OFFICIAL COMMITTEE OF UNSECURED CREDITORS,

Appellees.

LAW DEBENTURE TRUST COMPANY OF NEW YORK,

Appellant,

-- v. --

CHARTER COMMUNICATIONS, INC., CCH I, LLC, CCH I CAPITALCORPORATION, CCH II, LLC, CCH II CAPITAL CORPORATION,

Debtors-Appellees,

PAUL G. ALLEN, OFFICIAL COMMITTEE
OF UNSECURED CREDITORS,

Appellees.*

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B e f o r e : WALKER, LYNCH and LOHIER, Circuit Judges.

Appellants Law Debenture Trust Company of New York ("LDT") and R² Investments, LDC ("R²") appeal from an order of the United States District Court for the Southern District of New York (George B. Daniels, Judge) dismissing as equitably moot their appeals from the bankruptcy court order (James M. Peck, Bankruptcy Judge) confirming the Chapter 11 reorganization plan of Charter Communications, Inc. and its affiliated debtors. See R² Invs., LDC v. Charter Commc'ns, Inc. (In re Charter Commc'ns), 449 B.R. 14 (S.D.N.Y. 2011); JPMorgan Chase Bank, N.A. v. Charter Commc'ns Operating, LLC (In re Charter Commc'ns), 419 B.R. 221 (Bankr. S.D.N.Y. 2009). We agree with the district court that it would be inequitable to grant LDT and R² the relief they seek now that the reorganization plan has been substantially consummated. AFFIRMED.

LAWRENCE S. ROBBINS (Mark T. Stancil, Matthew M. Madden, on the brief), Robbins, Russell, Englert, Orseck, Untereiner & Sauber LLP, Washington, D.C., for Appellant R² Investments, LDC.

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* The Clerk of the Court is directed to amend the official captions as set forth above, which reflects the true status of the parties.

ANDREW W. HAMMOND, White & Case LLP, New York, N.Y., for Appellant Law Debenture Trust Company of New York.

JOHN C. O'QUINN, Kirkland & Ellis LLP, Washington, D.C. (Richard M. Cieri, Paul M. Basta, Kirkland & Ellis LLP, New York, N.Y., Jeffrey S. Powell, Daniel T. Donovan, Kirkland & Ellis LLP, Washington, D.C., on the brief), for Debtors-Appellees Charter Communications, Inc., CCH I, LLC, CCH I Capital Corporation, CCH II, LLC, CCH II Capital Corporation.

JEREMY A. BERMAN (Robert E. Zimet, Jay M. Goffman, Sean J. Young, on the brief), Skadden, Arps, Slate, Meagher & Flom LLP, New York, N.Y., for Appellee Paul G. Allen.

DAVID S. ELKIND (Mark R. Somerstein, Keith H. Wofford, Darren Azman, on the brief), Ropes & Gray LLP, New York, N.Y., for Appellee Official Committee of Unsecured Creditors.

JOHN M. WALKER, JR., Circuit Judge:

On March 27, 2009, Charter Communications, Inc. ("CCI" and, together with its affiliated debtors, "Charter") filed what the Bankruptcy Court for the Southern District of New York (James M. Peck, Bankruptcy Judge) described as "perhaps the largest and most complex prearranged bankruptcies ever attempted, and in all likelihood . . . among the most ambitious and contentious as well." JPMorgan Chase Bank, N.A. v. Charter Commc'ns Operating, LLC (In re Charter Commc'ns), 419 B.R. 221, 230 (Bankr.

S.D.N.Y. 2009). Following the bankruptcy court's confirmation of Charter's proposed plan of reorganization (the "Plan"), the Law Debenture Trust Company of New York ("LDT"), as indenture trustee for certain notes issued by CCI, and R² Investments, LDC ("R²"), a CCI shareholder, appealed the confirmation order to the District Court for the Southern District of New York. The district court (George B. Daniels, Judge) dismissed those appeals under the doctrine of equitable mootness. R² Invs., LDC v. Charter Commc'ns, Inc. (In re Charter Commc'ns), 449 B.R. 14 (S.D.N.Y. 2011). LDT and R² now appeal that dismissal. We agree with the district court that the appeals are equitably moot and affirm.

BACKGROUND

We recite only those facts necessary to this appeal. A full recitation of the facts may be found in the district court and bankruptcy court opinions. See In re Charter Commc'ns, 449 B.R. 14; In re Charter Commc'ns, 419 B.R. 221.

In 2008, Charter, the nation's fourth-largest cable television company and a leading provider of cable and a broadband service, was operationally sound but carried almost $22 billion in debt at various levels of its corporate structure.[1] In re Charter Commc'ns, 419 B.R. at 230-31. After the September 2008 collapse of Lehman Brothers and the

[1] Charter's corporate structure consisted of a publicly traded parent holding company, CCI, sitting atop a chain of subsidiaries. See Br. of Debtors-Appellees at 10. Charter's publicly traded debt was issued by eight holding companies stacked between CCI and Charter Communications Operating, LLC, the primary operating company. Id.

financial crisis that ensued, Charter could no longer service its debt due to the tightening credit markets, Charter's excessive leverage, and lower valuations of companies in the cable sector. Id. at 232-33. Charter began negotiating with Paul G. Allen, a major investor whose ownership stake gave him control of the company, and a group of junior bondholders (referred to as the "Crossover Committee"). Id. The negotiations culminated in a settlement (the "Allen Settlement") that contemplated Charter's prenegotiated reorganization in bankruptcy. Id. Charter then filed for Chapter 11 bankruptcy, using the Allen Settlement as the cornerstone of its prenegotiated Plan. Id.; 449 B.R. at 17. Left out of the negotiations, however, were LDT, the trustee for $479 million in aggregate principal of convertible notes issued by CCI; R^2, a CCI shareholder; and J.P. Morgan Chase N.A. ("JPMorgan"), the holder of Charter's senior debt. These entities had no input into the Allen Settlement or the prepackaged Plan. Id. at 17; 419 B.R. at 233.

To fully appreciate the key role Paul Allen played in Charter's reorganization requires delving a bit into the weeds of the negotiations underlying the Allen Settlement. Charter's reorganization strategy was driven by the goal of reinstating its senior credit facility with JPMorgan--that is, curing any breaches in its contracts with JPMorgan so that JPMorgan would be classified as an unimpaired creditor. See 11 U.S.C. § 1124(2). Charter wanted to avoid renegotiating its senior debt during the financial turmoil of late 2008 and early 2009 because it believed such renegotiation would at best lead to a higher interest rate and at worst result in Charter being closed off to new financing altogether. In re

Charter Commc'ns, 419 B.R. at 233. Charter thus needed to structure its reorganization in a way that would avoid triggering a default under the credit agreement with JPMorgan. One condition Charter had consented to in the credit agreement was that Allen would retain thirty-five percent of the ordinary voting power of Charter Communications Operating, LLC ("CCO"), the obligor under the senior credit agreements. Id. at 230, 237-38. For the reorganization plan to succeed, Charter thus needed to induce Allen to retain these voting rights, even though most of his investment in Charter would be wiped out. Id. at 230-31. In addition, for Charter to preserve roughly $2.85 billion of net operating losses, a valuable tax attribute, it needed Allen to forgo exercising contractual exchange rights and to maintain a one percent ownership interest in Charter Communications Holding Company, LLC ("Holdco"). Id. at 253. Because Charter's main goals in restructuring, namely reinstating its senior debt and obtaining tax savings though preserving net operating losses, required Allen's cooperation, Allen alone was in a position to provide "uniquely personal" benefits to Charter. Id. at 259.

Following "a spirited negotiation in which sophisticated adversaries and their expert advisors bargained with each other aggressively and in good faith," id. at 241, Charter, the Crossover Committee, and Allen agreed to the Allen Settlement. As part of the Settlement, Allen agreed to retain a thirty-five percent voting interest in CCO and a one percent ownership interest in Holdco, and to refrain from exercising his contractual exchange rights. Id. at 253-54. In return for these concessions, Allen would receive $375 million, of which $180 million was

classified as pure settlement consideration. Id. at 241. The Allen Settlement further provided for a "$1.6 billion rights offering, a stepped-up tax basis in a significant portion of [Charter's] assets, and the purchase of [Allen's]" preferred shares in CC VIII, LLC, a Charter subsidiary. Id. at 253. Allen also successfully negotiated for a liability release (other third parties, including the management of Charter, were released as well). Id. at 257-58 & n.26. Under the reorganization Plan that resulted from the Allen Settlement, the CCI noteholders, represented by LDT, would receive approximately 32.7 percent of their claims, id. at 242, and R^2 and other equity holders of CCI would receive nothing, see Debtor's Disclosure Statement at 33.

On November 17, 2009, after a nineteen-day hearing, the bankruptcy court overruled all objections and confirmed the Plan as submitted by Charter. 419 B.R. at 271. The following week, the bankruptcy court denied R^2 and LDT's motions for an emergency stay of the confirmation order. The district court (Sidney H. Stein, Judge, sitting in Part I) denied a stay pending appeal to that court, and the confirmation order and the Plan took effect on November 30, 2009. See In re Charter Commc'ns, 449 B.R. at 21. Charter immediately took actions under the Plan, including cancelling the equity issued by the prepetition Charter, issuing shares in the reorganized Charter, converting notes issued by the prepetition Charter entities into new notes, and issuing warrants to Charter's prepetition noteholders. Id. at 24 nn.19-20.

R^2 and LDT have objected to the Plan at every stage of these proceedings. Before the district court, they raised several overlapping challenges to the

Plan's confirmation. Their objections, viewed broadly, related to the Allen Settlement, the bankruptcy court's valuation of Charter, and compliance with the Bankruptcy Code's cramdown provisions for approving a plan over the objections of creditors. See id. at 21. Charter, Allen, and the Committee of Unsecured Creditors argued that, whatever the merit of R²'s and LDT's legal claims, the relief they sought could not be granted without upsetting the already-consummated Plan and that the doctrine of equitable mootness barred the appeals. Id. at 17. The district court agreed and dismissed the appeals as equitably moot. R² and LDT filed separate appeals from that dismissal, which were argued in tandem.

DISCUSSION

I. Legal Standard for Equitable Mootness

This appeal concerns equitable mootness, a prudential doctrine under which the district court may dismiss a bankruptcy appeal "when, even though effective relief could conceivably be fashioned, implementation of that relief would be inequitable." Official Comm. of Unsecured Creditors of LTV Aerospace & Def. Co. v. Official Comm. of Unsecured Creditors of LTV Steel Co. (In re Chateaugay Corp.), 988 F.2d 322, 325 (2d Cir. 1993) ("Chateaugay I"). Unlike constitutional mootness, which turns on the threshold question of whether a justiciable case or controversy exists, equitable mootness in the context presented here is concerned with whether a particular remedy can be granted without unjustly upsetting a debtor's plan of reorganization. See Deutsche Bank AG v. Metromedia Fiber Network, Inc. (In re Metromedia Fiber Network, Inc.), 416 F.3d 136, 143-44 (2d Cir. 2005); see also In re UNR Indus.,

20 F.3d 766, 769 (7th Cir. 1994) ("There is a big difference between inability to alter the outcome (real mootness) and unwillingness to alter the outcome ('equitable mootness')."). Equitable mootness in the bankruptcy setting thus requires the district court to carefully balance the importance of finality in bankruptcy proceedings against the appellant's right to review and relief. See Chateaugay I, 988 F.2d at 325-26; Bank of N.Y. Trust Co., NA v. Official Unsecured Creditors' Comm. (In re Pac. Lumber Co.), 584 F.3d 229, 240 (5th Cir. 2009) (noting that equitable mootness is "a judicial anomaly" because it creates an exception to courts' "virtually unflagging obligation to exercise jurisdiction" (internal quotation marks omitted)). "[E]quitable mootness applies to specific claims, not entire appeals" and must be applied "with a scalpel rather than an axe." In re Pac. Lumber, 584 F.3d at 240-41.

In this circuit, an appeal is presumed equitably moot where the debtor's plan of reorganization has been substantially consummated. Aetna Cas. & Sur. Co. v. LTV Steel Co. (In re Chateaugay Corp.), 94 F.3d 772, 776 (2d Cir. 1996) ("Chateaugay III"); Frito-Lay, Inc. v. LTV Steel Co. (In re Chateaugay Corp.), 10 F.3d 944, 952-53 (2d Cir. 1993) ("Chateaugay II"). "Substantial consummation" is defined in the Bankruptcy Code to require that all or substantially all of the proposed transfers in a plan are consummated, that the successor company has assumed the business or management of the property dealt with by the plan, and that the distributions called for by the plan have commenced. See 11 U.S.C. § 1101(2).

The presumption of equitable mootness can be overcome, however, if all five of the "Chateaugay factors" are met:

> (1) "the court can still order some effective relief";
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> (2) "such relief will not affect the re-emergence of the debtor as a revitalized corporate entity";
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> (3) "such relief will not unravel intricate transactions so as to knock the props out from under the authorization for every transaction that has taken place and create an unmanageable, uncontrollable situation for the Bankruptcy Court";
>
> (4) "the parties who would be adversely affected by the modification have notice of the appeal and an opportunity to participate in the proceedings"; and
>
> (5) "the appellant pursued with diligence all available remedies to obtain a stay of execution of the objectionable order if the failure to do so creates a situation rendering it inequitable to reverse the orders appealed from."

Chateaugay II, 10 F.3d at 952-53 (internal citations, quotations, and alterations omitted). Substantial consummation thus "does not necessarily make it impossible or inequitable for an appellate court to grant effective relief." Id. at 952. Nor is a claim automatically equitably moot if the relief requested would require that a confirmed plan be altered. In this regard, we disagree with the district court's overly broad statement that invalidating a plan and

remanding for renegotiation renders a request "per se equitably moot." In re Charter Commc'ns, 449 B.R. at 24 n.21. The Chateaugay factors ensure that there is no per se equitable mootness by requiring a court to examine the actual effects of the requested relief. Finally, in examining a debtor's contention that a claim is equitably moot, we cannot rely solely on the debtor's conclusory predictions or opinions that the requested relief would doom the reorganized company. Instead, Chateaugay II requires an analytical inquiry into the likely effects of the relief an appellant seeks and must be based on facts. Only if all five Chateaugay factors are met, and if the appellant prevails on the merits of its legal claims, will relief be granted.

II. Standard of Review

We turn first to the standard of review in appeals of equitable mootness determinations.[2] Generally in bankruptcy appeals, the district court

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[2] No published Second Circuit decision has addressed this question directly. In a non-precedential summary order we determined that abuse of discretion review was appropriate. See Ad Hoc Comm. Of Kenton Cnty. Bondholders v. Delta Air Lines, Inc., 309 F. App'x 455, 457 (2d Cir. 2009). In prior decisions we have described the general standard of review in bankruptcy cases involving de novo review of legal conclusions and then proceeded to address equitable mootness without further discussion or application of a particular standard of review. See, e.g., In re Metromedia, 416 F.3d at 139; South St. Seaport Ltd. P'ship v. Burger Boys, Inc. (In re Burger Boys, Inc.), 94 F.3d 755, 759 (2d Cir. 1996); Resolution Trust Corp. v. Best Prods. Co. (In re Best Prods. Co.), 68 F.3d 26, 29 (2d Cir. 1995). To the extent these cases suggested that de novo review may apply to district court determinations regarding equitable mootness, they did so in dicta.

reviews the bankruptcy court's factual findings for clear error and its conclusions of law de novo. Fed. R. Bankr. P. 8013. On appeal to this court, we ordinarily review the district court's decision de novo. In re Metromedia, 416 F.3d at 139. Equitable mootness appeals arise in a somewhat different procedural posture: in an equitable mootness dismissal, the district court is not reviewing the bankruptcy court at all, but exercising its own discretion in the first instance. In so doing, the district court may rely on the bankruptcy court's factual findings, unless clearly erroneous, and if necessary receive additional evidence. Perhaps because of the unusual nature of equitable mootness dismissals, the courts of appeals are split over whether a de novo or abuse of discretion standard of review should be applied by a court of appeals. Compare Curreys of Neb., Inc. v. United Producers, Inc. (In re United Producers, Inc.), 526 F.3d 942, 946-47 (6th Cir. 2008) (reviewing determination of equitable mootness de novo), Liquidity Solutions, Inc. v. Winn-Dixie Stores, Inc. (In re Winn-Dixie Store, Inc.), 286 F. App'x 619, 622 & n.2 (11th Cir. 2008) (same), and United States v. Gen. Wireless, Inc. (In re GWI PCS 1 Inc.), 230 F.3d 788, 799-800 (5th Cir. 2000) (same), with Search Mkt. Direct, Inc. v. Jubber (In re Paige), 584 F.3d 1327, 1334-1335 (10th Cir. 2009) (reviewing determination of equitable mootness for abuse of discretion), and Nordhoff Invs., Inc. v. Zenith Elecs. Corp., 258 F.3d 180, 182 (3d Cir. 2001) (same).

We join those circuits that apply an abuse-of-discretion standard, finding it significant that we are reviewing the district court's own exercise of discretion as to whether it is practicable to grant relief. A somewhat analogous situation arises when

Article III mootness turns on the defendant's voluntary cessation of allegedly illegal conduct. There, the voluntary cessation "bear[s] on whether the court should, in the exercise of its discretion, dismiss the case as moot." Harrison & Burrowes Bridge Constructors, Inc. v. Cuomo, 981 F.2d 50, 59 (2d Cir. 1992). In such a case, because dismissal "lies within the sound discretion of the district court," we review for abuse of discretion. Id.; Granite State Outdoor Adver., Inc. v. Zoning Bd. of Stamford, 38 F. App'x 680, 683 (2d Cir. 2002); cf. In re Paige, 584 F.3d at 1334-35 (reviewing equitable mootness for abuse of discretion in part because of its similarities to prudential mootness, reviewed in the Tenth Circuit for abuse of discretion). More generally, equitable mootness determinations involve "a discretionary balancing of equitable and prudential factors," the type of determination we usually review for abuse of discretion. In re Cont'l Airlines, 91 F.3d 553, 560 (3d Cir. 1996) (en banc). Accordingly, we will review the district court's decision for abuse of discretion.

III. Objections to the Allen Settlement and Third-Party Releases are Equitably Moot

R[2] and LDT both challenge the compensation Paul Allen received under the Allen Settlement as contravening the absolute priority rule and Delaware's entire fairness standard. They further argue that the third-party releases, which originated in the Allen Settlement and were incorporated into the confirmed Plan, do not comply with SEC v. Drexel Burnham Lambert Group, Inc. (In re Drexel Burnham Lambert Group, Inc.), 960 F.2d 285, 293 (2d Cir. 1992), limiting third-party releases to unique circumstances. Appellants claim that these legal

errors can be redressed through a prospective monetary award, without undoing the Allen Settlement or reopening the bankruptcy proceedings. LDT suggests that Allen be required to disgorge some or all of his $180 million in settlement consideration or that Charter pay a similar amount directly to LDT. R² presents a different alternative: that the bankruptcy court determine the lowest payout Allen would have been willing to accept, and order him to disgorge the excess. And R² maintains that the third-party releases can be surgically excised from the Allen Settlement and the Plan.

We begin by noting that LDT and R² have met their burden with respect to several of the Chateaugay factors. First, it is not impossible to grant LDT and R² relief, in the sense that the appeals are not constitutionally moot (factor 1). See Dean v. Blumenthal, 577 F.3d 60, 66 (2d Cir. 2009) (claims for monetary relief automatically avoid constitutional mootness). Next, LDT and R² were diligent in seeking a stay of the confirmation order (factor 5).[3] That LDT and R² were not granted a stay does not affect the analysis under Chateaugay II, which looks only to diligence in seeking a stay. Chateaugay II, 10 F.3d at 954; In re Metromedia, 416 F.3d at 144-45.

Next, LDT and R² are correct that the relief they seek would not adversely affect parties without

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[3] Although no stay was sought from this court, under the circumstances we do not fault LDT and R² for the omission: the district court denied a stay on the evening of Wednesday November 25, 2009, the day before Thanksgiving, and this court was closed until the following Monday when the Plan became effective and was substantially consummated, leaving no time to move this court for a stay.

an opportunity to participate in the appeal (factor 4). See Chateaugay II, 10 F.3d at 953. Even assuming that the relief requested would send Charter back into bankruptcy, the parties most affected would be Charter itself, Allen, and Charter's creditors, all of whom are either parties to this appeal or participated actively in the bankruptcy proceedings. Cf. Kenton Cnty. Bondholders Comm. v. Delta Air Lines, Inc. (In re Delta Air Lines, Inc.), 374 B.R. 516, 524 (S.D.N.Y. 2007) (finding appeal of a settlement equitably moot in part because distributions under the settlement had been made to innocent third parties that were not participating in the appeal). In any event, if the Allen Settlement were unlawful, it would not be inequitable to require the parties to that agreement to disgorge their ill-gotten gains, participation in the appeal or not. See Motor Vehicle Cas. Co. v. Thorpe Insulation Co. (In re Thorpe Insulation Co.), 677 F.3d 869, 882 (9th Cir. 2012) ("[T]he question is not whether . . . no third party interests are affected" but whether any effects on third parties would be inequitable.). Likewise, striking the third-party releases from the Plan would affect only those third parties that benefited from the releases. See Hilal v. Williams (In re Hilal), 534 F.3d 498, 500 (5th Cir. 2008); Gillman v. Cont'l Airlines (In re Cont'l Airlines), 203 F.3d 203, 210 (3d Cir. 2000) (finding appeal of third-party releases not equitably moot where the defendant presented no arguments that investors or creditors relied on the presence of releases in supporting the plan). Less direct effects may be felt by reorganized Charter's shareholders, since either a limited remand or a payout would affect the value of the company. However, Charter has regularly and fully disclosed the existence of this

appeal and the possibility of an adverse ruling as a risk factor in publicly filed annual and quarterly reports. See, e.g., Charter Communications, Inc., Annual Report (Form 10-K), at 29 (Mar. 1, 2011). A prudent investor would take this information into account before purchasing shares in Charter. See In re Cont'l Airlines, 91 F.3d at 572 (Alito, J., dissenting).

However, LDT and R² have failed to establish that the relief they request would not affect Charter's emergence as a revitalized entity and would not require unraveling complex transactions undertaken after the Plan was consummated (factors 2 and 3). See Chateaugay II, 10 F.3d at 953. R² and LDT are correct that any disgorgement by Allen would not impact reorganized Charter's financial health. And, as Appellants stress, reorganized Charter has been quite successful, with substantial assets and cash flow, access to an $800 million revolving line of credit, and long-term debt structured on favorable terms. Charter makes no claim that a payment in the range of $200 million would send it spiraling back into bankruptcy. LDT and R² ignore, however, that we must also consider the heavy transactional costs associated with the monetary relief they seek. Modifying the terms of the Allen Settlement, including striking the releases, would be no ministerial task. The Allen Settlement was the product of an intense multi-party negotiation, and removing a critical piece of the Allen Settlement—such as Allen's compensation and the third-party releases—would impact other terms of the agreement and throw into doubt the viability of the entire Plan. See In re Metromedia, 416 F.3d at 145.

LDT and R² maintain that in refusing to alter the Allen Settlement, the district court gave too much weight to the nonseverability clause contained in the Settlement and the Plan. See In re Charter Commc'ns, 449 B.R. at 20, 24-25, 25 n.22, 28-29, 30. We agree with LDT and R² that normally a nonseverability clause standing on its own cannot support a finding of equitable mootness. Allowing a boilerplate nonseverability clause, without more, to determine the equitable mootness question would give the debtor and other negotiating parties too much power to constrain Article III review. See Nordhoff Invs., Inc., 258 F.3d at 192 (Alito, J., concurring in the judgment) (expressing concern that the "equitable mootness doctrine can easily be used as a weapon to prevent any appellate review of bankruptcy court orders confirming reorganization plans"). Given the ubiquity of nonseverability clauses in prenegotiated plans, such a rule could moot virtually every appeal where a stay had not been granted. See R² Br. at 41-42 & 42 n.10 (noting that of the top ten prenegotiated bankruptcies filed in 2010 by value of the debtor's assets, each contained a nonseverability clause in either the confirmation order or in the reorganization plan). More importantly, equitable mootness is a practical doctrine that requires courts to consider the actual effects of the relief requested on a debtor's emergence from bankruptcy. While a nonseverability clause may be one indication that a particular term was important to the bargaining parties, a district court cannot rely on such a clause to the exclusion of other

evidence.[4] See Trans World Airlines, Inc. v. Texaco, Inc. (In re Texaco, Inc.), 92 B.R. 38, 47-49 (S.D.N.Y. 1988) (looking to both nonseverability clause and testimony about the importance of release provisions to determine that severing the provisions "would undermine both the Settlement Agreement and the Reorganization Plan"); see also Behrmann v. Nat'l Heritage Found., 663 F.3d 704, 713-14 (4th Cir. 2011) (finding an appeal of a release provision not equitably moot where the bankruptcy court concluded that the releases were "important" to the Plan without adequate factual support).

In these appeals, however, the district court did not rest its decision exclusively on the nonseverability clause. The bankruptcy court found that the compensation to Allen and the third-party releases were critical to the bargain that allowed Charter to successfully restructure and that undoing them, as the plaintiffs urge, would cut the heart out of the reorganization. Crediting multiple witnesses, it also found that Allen was in a unique position to create a successful arrangement because only through his forbearance of exchange rights and agreement to maintain voting power could Charter reinstate its senior debt and preserve valuable net operating losses. See Findings of Fact, Conclusions of Law, and Order Confirming Debtors' Joint Plan of

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[4] Reliance on the nonseverability clause alone would be particularly inappropriate here with respect to the third-party releases because the "term sheet" incorporated into the Allen Settlement expressly provided that the debtors' failure to secure the releases as part of the approved Plan would not breach the Allen Settlement. These dueling contractual provisions only underscore the need to examine the totality of evidence to determine the importance of a particular provision.

Reorganization ("Conf. Order") ¶¶ 32, 43; see also JA 462, 589, 605, 611. The releases, like the compensation, were important in inducing Allen to settle. See Conf. Order ¶ 32; see also JA 463, 589, 605, 611. In the face of witnesses representing that the releases and compensation were important to Allen, LDT and R[2] can point to no evidence that the settlement consideration paid to Allen or the third-party releases were simply incidental to the bargain that was struck. Compare In re Metromedia, 416 F.3d at 145 (request to strike third-party releases equitably moot because "it [was] as likely as not that the bargain struck by the debtor and the released parties might have been different without the releases") with In re Cont'l Airlines, 203 F.3d at 210-11 (appeal of third-party releases not equitably moot where there was "[n]o evidence or arguments . . . that Plaintiffs' appeal, if successful, would necessitate the reversal or unraveling of the entire plan of reorganization").

Even if LDT and R[2] are correct that the settlement consideration and releases are legally unsupportable, these provisions could not be excised without seriously threatening Charter's ability to re-emerge successfully from bankruptcy.[5] Nor could the monetary relief requested be achieved by a quick,

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[5] This risk—supported in the record—that the parties might be unable to compromise if the bankruptcy proceedings were reopened, is what we understand the district court to have meant when it wrote that relief would "nullify the plan." See 449 B.R. at 24, 25, 26, 27 n.29, 28. Technically speaking, any vacatur of a confirmation order, no matter how limited, would "nullify" the plan, at least temporarily and in part, but we understand the district court's use of "nullification" to have referred to a nullification of the ability to reorganize at all.

surgical change to the confirmation order. Allen may not be willing to give up the benefit he received from the Allen Settlement without also reneging on at least part of the benefit he bestowed on Charter. Thus the parties would have to enter renewed negotiations, casting uncertainty over Charter's operations until the issue's resolution. We therefore find no abuse of discretion in the district court's conclusion that these claims relating to the Allen Settlement are equitably moot.

IV. R²'s Claim for the Revaluation of CCI is Equitably Moot

R²'s next claim of error relates to the valuation of Charter. The bankruptcies of Charter's 131 affiliated entities were consolidated for procedural, not substantive, purposes. 419 B.R. at 269-70. The Plan, however, values all Charter entities as one. Id. R², an equity holder in CCI, argues that CCI should have been valued separately, taking into account the value of the net operating losses, which R² argues "belong" to CCI. Here again, R² claims that simple relief is available: remand the case to the bankruptcy court for a limited valuation of CCI as a stand-alone entity, and distribute any surplus to CCI's shareholders, R² among them.

As with challenges to the Allen Settlement, R² has met the Chateaugay factors relating to ability to grant effective relief, diligence in seeking a stay, and effect on third parties. However, we could not grant the relief R² seeks without requiring a significant revision of Charter's reorganization. R²'s argument is, in effect, an attack on the bankruptcy court's determination that it was appropriate for the Plan to consider all the Charter entities together, even

though the bankruptcies were never substantively consolidated. In order to grant a separate valuation of CCI, the district court would have had to overturn the bankruptcy court's determination that a joint Plan was appropriate. That legal conclusion would require not just that CCI be separately valued, but that all the Charter subsidiaries be revalued and the proceeds of the bankruptcy distributed accordingly. See Compania Internacional Financiera S.A. v. Calpine Corp. (In re Calpine Corp.), 390 B.R. 508, 519-20 (S.D.N.Y. 2008) (holding that the debtor's valuation was a "'key issue'" in a reorganization, and therefore even if a remand resulted in a higher valuation, the plan would need to be substantially changed), aff'd 354 F. App'x 479 (2d Cir. 2009). This is not the type of relief that can be undertaken without knocking the props out from under completed transactions or affecting the re-emergence of the debtor from bankruptcy.[6] See Chateaugay II, 10 F.3d at 952-53. Thus, the district court did not abuse its

[6] The district court erred, however, when it held that the relief requested could not be granted because the confirmation order rendered R²'s claims "cancelled, released, and extinguished" with the holders "receiving no distribution under the Plan." 449 B.R. at 28 (internal quotation marks and alteration omitted). When the confirmation order is on appeal, the legal effects of that order—such as extinguishing equity—cannot themselves preclude review. See Chateaugay II, 10 F.3d at 953-54, (rejecting the argument that because the confirmation order provided that certain assets were to re-vest in the debtor "free and clear of all claims and interests" we could not correct a legal error in their distribution (internal quotation marks omitted)). Nevertheless, the district court's alternative holding that equitable mootness barred the appeal notwithstanding the this provision was independently sufficient to support its judgment.

discretion in dismissing this claim for revaluation of CCI as equitably moot.

V. LDT's Claim that the Plan Violates 11 U.S.C. § 1129's Cramdown Provisions is Equitably Moot

LDT appeals the bankruptcy court's determination that the Plan complies with the cramdown provisions of 11 U.S.C. § 1129. First, LDT argues that, as a creditor of CCI, it had a more senior claim to the value of the net operating losses than the Crossover Committee members, who held the debt of other Charter entities. See § 1129(b)(2)(B)(ii). Second, LDT argues that creditors were "gerrymandered" into separate classes to satisfy the provisions of § 1129(a)(10), which requires that at least one class of impaired creditors accept a plan. It further argues that the bankruptcy court erred by holding that § 1129(a)(10) was satisfied if an impaired class of any of the debtors accepted the Plan. As relief for all these alleged errors, LDT seeks the payment in full of the CCI notes, at a cost to Charter of about $330 million. 449 B.R. at 29 n.38.

As with R²'s claims regarding valuation, LDT may be correct that the simple payment of $330 million would satisfy the Chateaugay factors. However, as with R²'s revaluation claim, the legal conclusions required to find for LDT would require much more than simply paying the CCI Noteholders' claims in full. The legal errors that LDT alleges, if proven, would require unwinding the Plan and reclassifying creditors. This is the opposite of a surgical change to the Plan. See In re Pac. Lumber, 584 F.3d at 251 (finding claims of artificial impairment and misclassification is "no remedy . . .

practicable other than unwinding the plan"). We therefore affirm the district court's exercise of its discretion in dismissing the claim that the cramdown provisions were violated as equitably moot as well.

CONCLUSION

For the foregoing reasons, the district court's order dismissing LDT and R[2]'s appeals as equitably moot is AFFIRMED.

APPENDIX B

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

09 **CIVIL** 10506 (GBD)
09 **CIVIL** 10566 (GBD)

----------X
In re CHARTER COMMUNICATIONS, INC.

Debtors.
----------X
R^2 INVESTMENTS, LDC,

Appellant,

v.

CHARTER COMMUNICATIONS, INC., et al.,

Appellees.
----------X
LAW DEBENTURE TRUST CO.,

Appellant,

v.

CHARTER COMMUNICATIONS, INC., et al.,

Appellees.
----------X

MEMORANDUM DECISION AND ORDER

GEORGE B. DANIELS, District Judge:

Appellants R^2 Investments, LDC, ("R^2") and Law Debenture Trust Co. ("LDT") appeal from the Confirmation Order of the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") dated November 17, 2009, wherein the Bankruptcy Court issued extensive

findings of fact and conclusions of law, and confirmed the pre-negotiated Chapter 11 Plan of Reorganization (hereinafter, the "Plan") by Charter Communications, Inc. ("CCI" and, together with its 130 affiliated debtors, "Charter" or the "Debtors").[1] See LDT Designated Record (LDT-DR), Item 4. R[2] also appeals from the Opinion on Confirmation of Plan of Reorganization and Adjudication of Related Adversary Proceeding issued the same day. See JP Morgan Chase, N.A. v. Charter Commc'ns Operating, LLC (In re Charter Commc'ns), 419 B.R. 221 (S.D.N.Y. 2009), also available at LDT-DR, Item 165. Appellants assert that the Bankruptcy Court erred as a matter of fact and/or law on several issues, and, as a consequence, LDT requests an order vacating, in part, the Confirmation Order. R[2] also requests an order vacating the entire Confirmation Order and remanding this matter to the Bankruptcy Court with instructions for specific relief or, in the alternative, further proceedings. Appellees Charter, Paul Allen, and the Official Committee of Unsecured Creditors

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[1] CCI is a publicly traded holding company whose principal asset is its 55% equity interest in Charter Communications Holding Company LLC ("Holdco"), the direct parent of CCHC, LLC ("CCHC"), and whose only business is to act as the managing member of Holdco and its subsidiaries. See LDT-DR, Item 12, Debtor's Disclosure Statement, at 14. Charter Communications Holdings, LLC ("CCH"), one of the Holdco subsidiaries, operates the broadband business. Id. Another group of subsidiaries were formed and exist solely as co-issuers of debt issued with their parent companies. Id. at 14-15. Allen owns 100% equity interest in Charter Investment, Inc. ("CII"), which owns 45% equity interest in Holdco. Id. at 15. Allen also controls CCI through a voting control interest of 91%. Id. For a graphical depiction of the pre-petition organizational and capital structure, see id. at 16.

separately move to dismiss the appeals as equitably moot.

BACKGROUND

A. THE PARTIES

In 2009, Charter was the fourth largest cable television company in the United States. In re Charter Commc'ns, 419 B.R. at 230. On March 27, 2009, Charter filed voluntary petitions for bankruptcy protections under Chapter 11 of the Bankruptcy Code *and* a pre-negotiated reorganization plan, commencing what the Bankruptcy Court described as "perhaps the largest and most complex prearranged bankruptcies ever attempted, and in all likelihood . . . among the most ambitious and contentious as well." Id. Charter had "a large operationally sound business saddled with almost twenty-two billion dollars in debt at various levels of a capital structure stacked with multiple intermediate limited liability holding companies." Id. at 231. "[D]ue to the dislocation of the credit markets, lower valuation multiples applicable to peer companies in the cable sector and its own excessive leverage," "Charter needed to restructure promptly to avoid a potentially catastrophic free-fall bankruptcy." Id. at 232.

Charter was effectively a Paul Allen company at that time. See id. at 231. Allen was Chairman of CCI's Board of Directors. See id. at 240. Allen was a controlling shareholder. See id.; see also, supra, note 1. Allen had invested billions of dollars in Charter over the years. See In re Charter Commc'ns, 419 B.R. at 230; see also LDT-DR, Item 38, 9/2/2009 Hearing, at 121-125 (describing Allen's assistance organizing

and financing Charter). Allen's maintenance of at least 35% voting interest in the operating company, COO, was an express condition in Charter's senior secured credit agreement to avoid a change of control default. See In re Charter Commc'ns, 419 B.R. at 238-240. Allen, pursuant to the Exchange Agreement, had the right to exchange his Holdco units for CCI common stock on a tax-free basis, though doing so would trigger negative tax consequences to Charter—namely, "a material limitation on the use of a substantial amount of [Charter's] existing net operating loss carried forward." LDT-DR, Item 38, at 130-132; see also LDT-DR, Item 49, 11/12/1999 Exchange Agreement.

Appellant Law Debenture Trust Company ("LDT") served as the indenture trustee for the holders (the "CCI Noteholders") of $479 million in aggregate principal of convertible notes issued by CCI, the "most structurally subordinated creditor" in Charter's capital structure, and furthest removed from the operational assets. 6/25/2010 Charter Br., Tab 31, Transcript of Confirmation Hearing – Closing Arguments (Oct. 1, 2009), at 41-43; In re Charter Commc'ns, 419 B.R. at 231. Appellant R^2 Investments, LDC ("R^2") owned convertible notes represented by LDT, and, became a substantial shareholder of CCI during the bankruptcy proceedings. See 6/25/2010 Charter Br., Tab 4, 5/28/2009 Declaration of Status by R^2 Investments.

B. THE PLAN

Lazard Freres & Co. LLC, the "chief architect" of the Plan, determined that it was in Charter's best interest to "engage in a high velocity negotiation with bondholders while leaving the senior debt in place to

take full advantage of favorable pricing applicable to the existing indebtedness."[2] In re Charter Commc'ns, 419 B.R. at 231, 233-34. To do so, Lazard "recognized the vital importance" of avoiding a change of control default, which would have precluded reinstatement of senior debt. Id. at 231, 233. Lazard also sought to "trim debt and raise new equity by having holders of fulcrum debt securities convert their bonds to equity interests and agree to invest in the reorganized capital structure." Id. at 233.

After aggressive, arms length, good-faith pre-petition negotiations between Charter, Allen, and the Crossover Committee,[3] all of whom were represented by separate and sophisticated legal and financial advisors, an agreement (i.e. the CII Settlement), "that . . . bec[a]me the foundation of Charter's pre-negotiated Plan," was reached.[4] See id. at 233, 256-57, 260-61; Confirmation Order ¶¶ 36-37. The Plan "removed more than $8 billion from Charter's highly leveraged capital structure; secured the investment of approximately $1.6 billion in new capital by means of a rights offering during an exceptionally difficult and

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[2] There were uncertainties present within the credit markets following the collapse of Lehman Brothers regarding the potential inability to obtain such a large amount of alternative financing, or, even if replacement credit facilities could have been obtained, the ability to acquire terms as favorable as those present within their pre-existing senior debt. See In re Charter Commc'ns, 419 B.R. at 231, 233, 233 n.5.

[3] The Crossover Committee was "[a]n ad hoc committee [of bondholders] . . . consisting of unaffiliated holders of 11% senior secured notes due 2015 issued by CCHI, LLC and CCH I Capital Corporation and the 10.25% Senior Notes due 2010 of CCH II, LLC and CCH II Capital Corporation." Id. at 233, 233 n.7.

[4] The Plan is attached to the Confirmation Order as Exhibit A.

uncertain time in the credit markets; reinstated a $12 billion senior credit facility and certain junior secured debt that preserved favorable existing credit terms and saved hundreds of millions of dollars in annual interest expense that would have been payable if the senior credit facility had to be replaced at current market pricing; and preserved billions of dollars of [Net Operating Losses or] NOLs." 6/25/2010 Charter Br., at 7; In re Charter Commc'ns, 419 B.R. at 230, 259. The Plan also "effectively wipes out []Allen's eight billion dollar investment in Charter and strips him of any meaningful ongoing economic interest in the company," such that New or Restructured Charter "will ceases to be a Paul Allen company" and "new investors [may now] influence the management." Id. at 230-31.

The important aspects of the Plan relevant to the pending appeals are as follows. First, in Article VI.C, the Plan provides for the CII Settlement.[5] Allen agreed to: "(i) prospectively obligate himself to maintain a 35% voting (but not equity) interest in Charter; (iii) designate four of the eleven directors on Charter's Board; (iii) refrain from exercising his pre-petition exchange rights; (iv) retain a 1% interest in Holdco upon consummation of the Plan; (v) relinquish various claims against, and interests in, Charter held independently of his status as a Charter stockholder; and (vi) enter into a new exchange agreement with

[5] The CII Settlement was the product of intensive arms length, good faith negotiations between Allen, CCI's Board of Directors and Management (absent Allen and his affiliated directors, or their undue influence), and the Crossover Committee, an ad hoc committee of bondholders. Confirmation Order ¶¶ 36-37; In re Charter Commc'ns, 419 B.R. at 231, 233.

Charter under which, if he exercised his rights to exchange Holdco units for Charter stock in a taxable transaction, he would provide Charter with a step up in the tax basis of its assets." 6/25/2010 Paul Allen Br., at 4; Confirmation Order ¶¶ 31, 32, 43; In re Charter Commc'ns, 419 B.R. at 253-54. Allen's cooperation and participation created in excess of $3 billion in value for Charter, including 1.14 billion cash tax savings associated with preservation of $2.8 billion of NOLs, hundreds of millions of dollars for preservation of reinstatement ability, a step up in tax basis, and $1.6 billion infusion of new capital through the rights offering. See In re Charter Commc'ns, 419 B.R. at 240-41, 241 n.15, 253; Confirmation Order ¶ 33. Debtors (except CCI) paid Allen $180 million in settlement consideration.[6] See In re Charter Commc'ns, 419 B.R. at 253; Confirmation Order ¶ 136.

Second, the Plan provides for Third Party Releases in conjunction with the CII Settlement. See In re Charter Commc'ns, 419 B.R. at 257; Confirmation Order ¶¶ 43, 44-45. Article X.E reads: "[T]he Holders of Claims and Interests shall be deemed to provide a full discharge and release to the Debtor Releases and their respective property from any and all Causes of Action, whether known or unknown, whether for tort, contract, violations of federal or state securities laws or otherwise, arising from or related in any way to the Debtors, including

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[6] Debtors (except CCI) also paid Allen $175 million in claim and sale consideration, and $20 million in fee reimbursement, making his total compensation under the settlement $375 million. See In re Charter Commc'ns, 419 B.R. at 253; Confirmation Order ¶ 136.

those in any way related to the Chapter 11 Cases or the Plan." Exceptions are made for "any Causes of Action expressly set forth in and preserved by the Plan," the impairment of certain rights, and actions by governmental authorities. Id.

Third, the Plan provided for the following payments to Appellants. The CCI Noteholders, including R² and others represented by LDT, received approximately 32.7% of their claims, but would have only be entitled to 18.4% in the event of liquidation under Chapter 7. See In re Charter Commc'ns, 419 B.R. at 261; Plan Art. IV, A-4. CCI shareholders who were not parties to the CII Settlement, including R², lost their equity interest in CCI and received no distribution under the Plan. See In re Charter Commc'ns, 419 B.R. at 231 ("all CCI shareholders will lose everything as their equity is cancelled"); Plan Art. IV, A-6. However, there were several classes of claims that were deemed impaired by the Plan,[7] and all of the holders of section 510(b) claims had their interests cancelled without receiving a distribution under the Plan.[8] See Plan Arts. IV-V.

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[7] See Plan Art. V (18 classes impaired with right to vote, 14 classes impaired and deemed conclusively to have rejected the Plan, and 26 classes unimpaired and deemed conclusively to have accepted the Plan).

[8] Section 510(b) of the Bankruptcy Code provides for the treatment of claims for rescission of, or damages that arise from, a purchase or sale of securities of a debtor or a debtor's affiliate – namely, the subordination "to all claims or interests that are senior to or equal the claim or interest represented by such security, except that if such security is common stock, such claim has the same priority as common stock."

C. CONFIRMATION

CCI's Board of Directors unanimously approved both the Plan and the CII Settlement.[9] In re Charter Commc'ns, 419 B.R. at 241. The Plan, including the CII Settlement, was ratified by seventeen of the eighteen classes eligible to vote,[10] with the lone objector being the CCI Noteholders. See Confirmation Order ¶¶ 12-13; Plan Art. III.A-4. Both Appellants subsequently filed objections to the Plan's confirmation with the Bankruptcy Court.[11] See LDT-DR, Item 5, LDT Objection to Confirmation; id., Item 7, LDT Post-Trial Brief; id., Item 8, R² Objection to Confirmation; id. Item 9, R² Post-Trial Brief.

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[9] "The CII Settlement was reviewed and approved by independent directors of Charter's board of directors who, while not members of a formal special committee, functioned as an independent group within the board. The independent directors . . . [were] highly qualified individuals who had a regular practice during board meetings of convening separately from []Allen and his designated directors to consider what was in Charter's best interest." In re Charter Commc'ns, 419 B.R. at 241; Confirmation Order ¶ 37.

[10] Twenty-six classes were unimpaired and deemed to accept the Plan without voting. Fourteen classes, including R²'s equity interests, were deemed to reject the Plan without voting because they were to receive no value whatsoever. Confirmation Order ¶¶ 12-13.

[11] R² even attempted to form an Equity Committee, but the Bankruptcy Court denied the motion because R² presented no evidence that Charter was "anything other than hopelessly involvement at the equity level" or that "the issues that might be vetted by a committee are not currently being adequately addressed by others." 6/25/2010 Charter Br., Tab 20, Trial Transcript (6/17/2009), at 53.

After hearing "extensive testimony and argument for nineteen days during the period from July 20 through October 1, 2009," the Bankruptcy Court determined that the Plan satisfies all of the confirmation requirements of 11 U.S.C. 1129, overruled all objections to the confirmation,[12] and confirmed the Plan on November 17, 2009. In re Charter Commc'ns, 419 B.R. at 230, 27; LDT-DR, Item 43, 10/15/2009 Hearing Transcript. The Bankruptcy Court also adopted the non-severability provision proposed in the Plan, providing that:

> Each term and provision of the Plan, and the transactions related thereto as it is heretofore may have been altered or interpreted by the Bankruptcy Court is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and the transactions related thereto and may not be deleted or modified without the consent of the Debtors, the Crossover Committee, and Mr. Allen; and (3) nonseverable and mutually dependent. It is further acknowledged that the participants in the Rights Offering, among

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[12] In part, the Bankruptcy Court determined that: (1) the CCI Noteholders, which were structurally subordinated in the right of payment, received in excess to what they were entitled to receive under the Bankruptcy Code and were not entitled to a share of the NOLs, id. at 242, 261; (2) the Plan did not "unfairly discriminate" against LDT and was fair and equitable thereby satisfying the "cram down" provision under 11 U.S.C. § 1129(b)(1), id. at 266; (3) the settlement with Allen was fair and in the best interests of the corporation when viewed with "heightened scrutiny and some skepticism," id. at 240, and did not constitute a recovery on account of Allen's prepetition stock interests, id. at 241 n.15; and (4) the Plan's Debtors Releases were an integral part of a comprehensive Plan that provides substantial value to the estate, id. at 257.

> others, will be advancing substantial sums to the Reorganized Company or taking other action contemplated by the Plan and this Order, including the reinstatement of the Senior Debt, which monies or other action will enable the Reorganized Company to make the distributions and other payments contemplated by the Plan and to reorganize as contemplated by the Plan.

Confirmation Order ¶ 152; see also Plan, Art XV.K.

Appellants separately filed emergency motions with the Bankruptcy Court pursuant to Fed. R. Bankr. P. 8005 for a stay of the Confirmation Order pending appeal. See LDT-DR, Item 166, LDT's Motion; id., Item 171, R²'s Motion. Both motions were denied on November 23, 2009. See 6/25/2010 Charter Br., Tab 32, Hearing Transcript (Nov. 23, 2009), at 57-61. LDT also sought a stay pending appeal from the United States District Court for the Southern District of New York (Stein, J.), which was denied on November 25, 2009. See id., Tab 34, Order Denying Stay; id., Tab 33, Hearing Transcript (Nov. 25, 2009). The Confirmation Order became effective on November 30, 2009.

D. PENDING APPEALS

Appellant R² contends that the Bankruptcy Court committed three legal errors in confirming Charter's Plan: (1) the Plan improperly extinguished the equity interests of Charter's public shareholders without establishing that the their investments had no value; (2) the Paul Allen settlement violated the "absolute priority rule" and the "entire fairness" standard and thus was invalid; and (3) the Plain

unjustifiably released Allen, his affiliates, certain of debtor's bondholders, the debtor's directors and officers, and others from all potential lawsuits related to the debtors and the plan of reorganization. Appellant R[2] specifically requests as relief for its respective claims that this Court reverse the Confirmation Order and remand this matter to the Bankruptcy Court with instructions to: (1) conduct a proper standalone valuation of CCI and direct the payment of the excess value to CCI's shareholders; (2) void the payment of $200 million in cash and securities to Allen,[13] and either direct Allen to return the entire payment or direct the Bankruptcy Court to conduct further proceedings to determine what Allen would have been willing to accept had competing plans been presented; and (3) strike the third-party releases bestowed upon Allen and others.

Appellant LDT contends that the Bankruptcy Court erred in (1) holding that acceptance of the Plan by the CCI General Unsecured Claims Class satisfied the cramdown requirements of 11 U.S.C. § 1129(a)(10); (2) finding that the CCI General Unsecured Claims were legitimately impaired for purposes of satisfying section 1129(a)(10); and (3) holding that allowing junior claims or interests to retain or receive the value of CCI's net operating losses satisfied the absolute priority rule. LDT specifically requests that this Court vacate in part the Confirmation Order, or in the alterative, direct New Charter to pay the CCI Noteholders all or a

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[13] Although not specified by R[2], this Court understands this amount to reflect both the $180 million in settlement consideration and the $20 million in fee reimbursement.

portion of $330 million plus interest.[14] LDT also contends that (4) the Bankruptcy Court erred in holding that the Allen Settlement is not subject to entire fairness review and thus the Plan could not satisfy 11 U.S.C. § 1129(a)(3). Appellant LDT specifically requests payment of the same amount of consideration that Allen received for his participation in the CII Settlement, or, in the alternative, invalidation of the payment of $200 million to Allen.

JURISDICTION & STANDARD OF REVIEW

District courts have jurisdiction to hear appeals from final orders issued by Bankruptcy Courts pursuant to 28 U.S.C. § 158(a)(l) and Fed. R. Bankr. P. 8001(a). "On an appeal the district court or bankruptcy appellate panel may affirm, modify, or reverse a bankruptcy judge's judgment, order, decree or remand with instructions for further proceedings." Fed. R. Bankr. P. 8013. The Bankruptcy Court's legal conclusions are subject to *de novo* review, factual findings are subject to a clearly erroneous standard, and decisions based on equitable relief are subject to an abuse of discretion review. See Jackson v. Novak (In re Jackson), 593 F.3d 171, 176 (2d Cir. 2010) (quoting In re Momentum Manufacturing Corp., 25 F.3d 1132, 1136 (2d Cir. 1994); In re Ames Department Stores, Inc., 582 F.3d 422, 426 (2d Cir. 2009)); Nevada Power Co. v. Calpine Corp. (In re Calpine Corp.), 365 B.R. 401, 407 (S.D.N.Y. 2007); In

[14] This figure is the current deficiency of the aggregate amount of CCI Notes claims allowed ($497 million), after taking account of payments such as $24.5 million in cash, preferred stock redeemed for $143 million, and any monies that may be distributed in the future from the $27 million in "Litigation Settlement Fund Proceeds" held by New Charter.

re Adelphia Communications Corp., 2006 U.S. Dist. LEXIS 37112, at *6 (S.D.N.Y. June 6, 2006).

EQUITABLE MOOTNESS

A. LEGAL STANDARD

"[A]n appeal should . . . be dismissed as [equitably] moot when, even though effective relief could conceivably be fashioned, implementation of that relief would be inequitable." Official Comm. of Unsecured Creditors of LTV Aerospace & Def. Co. v. Official Comm. of Unsecured Creditors of LTV Steel Co. (In re Chateaugay Corp.), 988 F.2d 322, 325 (2d Cir. 1993) ("Chateaugay I"). In the bankruptcy context, "where the ability to achieve finality is essential to the fashioning of effective remedies," equitable mootness serves as "a prudential doctrine [for declining to exercise constitutionally permissible jurisdiction] that is invoked to avoid disturbing a reorganization plan once implemented." Id. at 325-26 (citations omitted); see also Deutsche Bank AG v. Metromdedia Fiber Network, Inc. (In re Metromedia Fiber Network, Inc.), 416 F.3d 136, 144 (2d Cir. 2005) (collecting cases). The doctrine "does not involve a court's inability to alter the outcome by fashioning relief, but rather, a court's unwillingness to do so." Bernardez v. Pawlowski (In re Pawlowski), 428 B.R. 545, 550 (E.D.N.Y. 2010) (quoting In re Box Bros. Holding Co., 194 B.R. 32, 39 (Bankr. D. Del. 1996) (quoting In re UNR Indus., 20 F.3d 766, 769 (7th Cir. 1994)).

It is well-established that bankruptcy appeals are strongly presumed to be equitably moot where the reorganization plan has been "substantially

consummated."[15] See Aetna Cas. & Sur. Co. v. LTV Steel Co. (In re Chateaugay Corp.), 94 F.3d 772, 776 (2d Cir. 1996) ("Chateaugay III") ("Reviewing courts presume that it will be inequitable or impractical to grant relief after substantial consummation of a plan of reorganization."); Chateaugay I, 988 F.2d at 326 ("As a practical matter, completed acts in accordance with an unstayed order of the bankruptcy court must not thereafter be routinely vulnerable to nullification if a plan of reorganization is to succeed."); In re Texaco, Inc., 92 B.R. 38 (S.D.N.Y. 1988) ("When a confirmed plan of reorganization is involved, . . . it is not hard to imagine that hundreds or even thousands of good-faith transactions by innocent parties may be undertaken in reliance thereon before an appeal is decided on the merits. Under such circumstances, it would be manifestly unjust to reverse on appeal . . . .").[16] Nevertheless, an appellant may

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[15] The Bankruptcy Code defines "substantial consummation" as: "(A) transfer of all or substantially all of the property proposed by the plan to be transferred; (B) assumption by the debtor or by the successor to the debtor under the plan of the business or of the management of all or substantially all of the property dealt with by the plan; and (C) commencement of distribution under the plan." 11 U.S.C. § 1101(2).

[16] For examples of recent cases within this district applying this presumption, see In re Metromedia Fiber Network, Inc., 416 F.3d 136, 144 (2d Cir. 2005); Freeman v. Journal Register Co., 2010 U.S. Dist. LEXIS 21054 (S.D.N.Y. Mar. 5, 2010); A&K Endowment, Inc. v. Gen. Growth Props., Inc. (In re General Growth Props., Inc.), 423 B.R. 716 (S.D.N.Y. Feb. 16, 2010); Windels Marx Lane & Mittendorf, LLP v. Source Enters. (In re Source Enters.), 392 B.R. 541, 549 (S.D.N.Y. 2008); Compania Internacional Financiera S.A. v. Calpine Corp. (In re Calpine Corp.), 390 B.R. 508 (S.D.N.Y. 2008); Foster v. Granite Broad. Corp. (In re Granite Broad. Corp.), 385 B.R. 41 (S.D.N.Y. 2008).

overcome the presumption by establishing *all* five "Chateaugay factors" remedy-by-remedy for each specific claim:[17]

> (a) the court can still order some effective relief; (b) such relief will not affect the re-emergence of the debtor as a revitalized corporate entity; (c) such relief will not unravel intricate transactions so as to knock the props out from under the authorization for every transaction that has taken place and create an unmanageable, uncontrollable situation for the Bankruptcy Court; (d) the parties who would be adversely affected by the modification have notice of the appeal and an opportunity to participate in the proceedings; and (e) the appellant pursued with diligence all available remedies to obtain a stay of execution of the objectionable order . . . if the failure to do so creates a situation rendering it inequitable to reverse the orders appealed from.

Chateaugay II, 10 F.3d at 952-53 (alteration in original) (internal quotation marks and citations

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[17] "[E]quitable mootness applies to specific claims, not entire appeals." Bank of New York Trust Co., NA v. Official Unsecured Creditors' Comm. (In re Pacific Lumber Co.), 584 F.3d 229, 241 (5th Cir. Tex. 2009) (citing In re AOV Industries Inc., 792 F.2d 1140, 1148, 253 U.S. App. D.C. 186 (D.C. Cir. 1986) ("In exercising its discretionary power to dismiss an appeal on mootness grounds, a court cannot avoid its obligation to scrutinize each individual claim, testing the feasibility of granting the relief against its potential impact on the reorganization scheme as a whole.")); see also Deutsche Bank AG, 416 F.3d at 144 ("equitable mootness bears only upon the proper remedy").

omitted); see also Freeman, 2010 U.S. Dist. LEXIS 21054, at *11-12.

B. SUBSTANTIAL CONSUMMATION

It is clear that Charter's Plan is substantially consummated pursuant to 11 U.S.C. § 1101(2).[18] The Plan obtained that status soon after the Confirmation Order became effective on November 30, 2009,[19] and innumerable actions have been taken by Charter and other third-parties in furtherance of and in reliance

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[18] Neither Appellant challenges this conclusion. See 3/25/2010 LDT Br., at 4; 3/24/2010 R[2] Br., at 4-5. Notably, the Bankruptcy Court considered the Plan to be substantially consummated in December 2009. See Declaration of Paul M. Basta in Support of Charter's Motion to Dismiss, Ex. C, Hearing Transcript (Dec. 17, 2009), at 20-22 ("My understanding is that the plan has been substantially consummated. . . . How can you disagree with that proposition? . . . . [Disagreeing] would make you a vexatious litigant in my view.").

[19] The various immediate actions that were taken by Charter in reliance on the Confirmation Order include cancelling all former common and preferred equity in Charter; issuing nearly 89 million shares of new Class A common stock through a rights offering that raised approximately $1.6 billion; converting CCH I Notes into approximately 21.1 million shares of new Class A common stock; exchanging old CCH II Notes for new CCH II Notes valued in an aggregate amount of approximately $1.77 billion; issuing approximately 5.5 million shares of preferred stock to CCI Noteholders (i.e. LTD) who later redeemed them in full for $143 million in cash from New Charter; issuing warrants to holders of CCH Notes and CIH Notes allowing them to purchase approximately 7.7 million shares of new Class A stock; and naming new directors. See 6/25/2010 Charter Br., at 10 (citing Basta's Motion to Dismiss Declaration, Exs. A ("Declaration of Gregory Doody") and B ("Declaration of David Kurtz")).

on the Confirmation Order.[20] The pending appeals of the Bankruptcy Court's Confirmation Order are, therefore, presumed to be equitably moot. Appellants R[2] and LDT may rebut this presumption by establishing the Chateaugay factors with respect to each of their claims; otherwise, dismissal is appropriate regardless of the merits.

C. CHATEAUGAY ANALYSIS

Appellants seek relief that appears to be less in magnitude than directly unraveling the current Plan and directing Charter to renegotiate or implement a whole new plan.[21] However, viewed in the broader context of the Confirmation Order, Plan, and subsequently consummated transactions, each requested remedy requires vacating and modifying cherry-picked provisions of the Plan without any consideration for their substantial impact on the

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[20] Numerous additional transactions have since occurred involving the distribution of New Charter's equity interests, the collection and distribution of hundreds of millions of dollars, and the implementation of operational, governance, and regulatory changes. See id at 15-17 (providing an extensive list) (citing Doddy Declaration ¶¶ 9-12). For example, common stock, notes, and warrants have been trading in the public market, financial statements have been issued, new financing agreements with senior secured lenders have been formed, etc., all in reliance on the finality of Charter's bankruptcy proceedings. See id. at 17-19 (providing more examples of reliance on Confirmation Order).

[21] Such a request is rendered *per se* equitably moot once a reorganization plan has been substantially consummated. Cf. Freeman, 2010 U.S. Dist. LEXIS 21054, at *16 ("[T]his potential need for a new plan of reorganization would implicate the other factors and weigh in favor of finding this appeal equitably moot. . . . [U]nraveling the current Plan and implementing a new plan would be the very definition of knocking the props out from under the current Plan.")

provisions left intact. The Plan was a means to satisfy outstanding financial obligations so that Charter would return to profitability *and* to avoid triggering immediate obligations that would put Charter out-of-business. Appellants' arguments – namely, New Charter's ability to afford the remedy, the impact on a third party's conduct, and unsupported recitations of Chateaugay factors – are wholly unpersuasive and fail to satisfy their burden to demonstrate that the proposed piecemeal dismantling would not jeopardize the bankruptcy's finality or otherwise be inequitable. The pending appeals thus represent the epitome of equitable mootness not only because the Plan has been substantially consummated, but because each requested remedy would be inequitable and would nullify the Plan's authorization by the various constituencies and the Bankruptcy Court, thereby causing the entire Plan to unravel and threatening New Charter's vitality.

1. Allen Settlement Claim (R^2 and LDT)

None of the requested relief – i.e. directing Allen to return some or all of his settlement consideration (R^2 and LDT) or directing New Charter to pay similar consideration to the CCI Noteholders (LDT) – is available. The Plan as adopted by the Confirmation Order expressly provided for the terms of the CII Settlement, making the CII Settlement an agreement within, rather than separate from, the Plan. Pursuant to the Confirmation Order, those terms are "nonseverable and mutually dependent," "integral" and "may not be deleted or modified without the consent of the Debtors, the Crossover

Committee, and Mr. Allen."[22] Confirmation Order ¶ 152. Thus this Court cannot modify the Confirmation Order or the Plan to provide for the requested relief, not even to grant effective relief, without nullifying the Plan's authorization. See Kenton County Bondholders Comm. v. Delta Air Lines, Inc. (In re Delta Air Lines, Inc.), 374 B.R. 516, 523 (S.D.N.Y. 2007) (severance of settlement agreement incorporated into reorganization plan "would treat a non-severable provision . . . as dispensable"); see, e.g., Campbell v. Motors Liquidation Co. (In re Motors Liquidation Co.), 428 B.R. 43 (S.D.N.Y. 2010); In re Source Enterprises, Inc., 392 B.R. at 550; In re Calpine Corp., 390 B.R. at 519.

Even if this Court could modify the Confirmation Order or the Plan, this Court would still be unable to make the desired modifications. The first problem is the effect on the CII Settlement. The requested relief requires modifying the CII Settlement, particularly the terms governing the consideration exchanged between Charter and

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[22] Appellants characterize this language as boilerplate and based upon misplaced reliance on the Plan, but neither demonstrates that the Bankruptcy Court's factual findings regarding the relationships between the various provisions were clearly erroneous, or that it was a legal error to insert such a provision into the Confirmation Order. This Court thus accepts the Bankruptcy Court's factual findings and gives effect to the nonseverability and mutually dependent provision. Substantial consummation of a plan does moot the appeal of plan terms and provisions encompassed under a nonseverability clause because no appellant – including R[2] and LTD – can then demonstrate the availability of effective relief. This result is plainly consistent with Second Circuit law, and it not for this Court to determine whether there should be a reprieve in certain circumstances.

Allen.[23] Such terms were the product of extensive negotiations and tradeoffs between a small number of sophisticated parties. The modifications, which bear on the very heart of the original agreement, are so fundamental and material that the meeting of the minds underlying the CII Settlement would cease to exist. Thus this Court cannot provide for the requested relief because the modifications would invalidate the CII Settlement as agreed to by the Settlement Parties, as well as approved by the voting constituencies and the Bankruptcy Court. See, e.g., In re Delta Air Lines, Inc, 374 B.R. at 523 (severance of settlement agreement incorporated into reorganization plan "would ignore the tradeoff that allowed the parties to settle in the first instance").

The second problem is that the CII Settlement has been substantially, if not fully, performed. Allen, for example, has already done what he agreed he would do, enabling billions of dollars of wealth to be

[23] CII Settlement expressly provides that Allen is to receive $375 million in cash and securities, $180 million of which compensates him for his participation and cooperation in generating $3 billion in value for Charter and its restructuring goals. The CII Settlement does not provide for any conditions under which Allen must return some or all of his settlement consideration, nor does it provide for any such payments to creditors. Appellants' requested remedies seek to alter what consideration and to whom Charter must pay for receiving over $3 billion in benefits.

created for Charter and its stakeholders.[24] It would be inequitable to void his consideration payments from Charter because Allen is entitled to compensation for his detrimental reliance and performance.[25] It would additionally be inequitable to direct him to return even a portion of the consideration, or otherwise place him in a position where the bargain would be changed at this late stage.[26] The benefits received by Charter from Allen

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[24] (1) Allen did not exercise his pre-petition exchange rights; (2) Allen transferred his 30% interest in the preferred stock of CCVIII to Charter; (3) Allen caused CII to exchange a portion of its holdings in Holdco for shares of CCI common stock and cash in a taxable exchange; (4) Allen caused CII to merge with a subsidiary of CCI, with CII surviving as a wholly-owned subsidiary of CCI and Allen receiving shares of CCI stock; and (5) Allen continues to maintain a 35% voting interest in COO. Basta's Motion to Dismiss Declaration, Ex. A, ¶ 19; LDT-DR, Item 12, at 58 (post-effective date organizational and capital structure).

[25] In fact, if directed to return that consideration, Allen would not only be able to seek such compensation from Charter, but he would be at liberty to engage in conduct that would force Charter to return to bankruptcy court – like relinquishing his voting interest in COO. Either activity may not only threaten New Charter's vitality but may force New Charter to return to bankruptcy court.

[26] R[2] has provided no basis to find that the Settlement Parties were obligated to strike an agreement at no more than Allen's reservation or "walk away" price. Thus, it is unclear how further proceedings in the Bankruptcy Court to determine if Allen would have accepted less consideration would be an effective remedy to cure unfairness. Similarly, LTD has provided no explanation for why it would be entitled to any consideration under the CII Settlement, when it was not a party and neither its interests nor an involvement were implicated.

far outweigh Allen's recovery in settlement and sale/claim consideration.[27]

Granting the requested relief would both affect the re-emergence of Debtor Charter as New Charter and unravel the Plan. There could not have been a Plan without the CII Settlement. The CII Settlement was "a cornerstone of the Debtor's Plan." Confirmation Order ¶ 31. The Bankruptcy Court found that the CII Settlement was the basis upon which other Plan provisions were drafted and other parties agreed to lend their support. Id. ¶ 30 ("The Plan is premised upon the CII Settlement."); In re Charter Commc'ns, 419 B.R. at 252 ("The CII Settlement is a key component of the Plan that . . . is a necessary condition for Charter to reinstate its senior secured debt."). The Bankruptcy Court described the CII Settlement as not only "a necessary component to the feasibility of the Plan," but also "an essential element of the Plan." Confirmation Order ¶ 39. In fact, absent its approval, the Bankruptcy Court opined that Charter would have "remain[ed] in bankruptcy, inevitably face[d] materially higher borrowing costs, and potentially forfeit[ed] billions of dollars in tax savings." In re Charter Commc'ns, 419 B.R. at 255.

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[27] The Bankruptcy Court provided the following explanation for its approval of the CII Settlement: "[T]he numbers themselves are undeniably powerful. . . . The amounts to be paid to Mr. Allen, while significant in absolute dollars, are not excessive in comparison to what Charter is to receive. And that is the main economic reason for approving the CII Settlement. The direct and indirect value to the estate and its creditors outweighs by a high multiple the amounts allocated to Mr. Allen." In re Charter Commc'ns, 419 B.R. at 241. Neither Appellant has made a showing that these factual findings were clearly erroneous.

Neither Appellant has demonstrated that any of the Bankruptcy Court's findings were clearly erroneous. The inevitable and unavoidable impact of the CII Settlement on the Plan is clearly borne out by the facts. Allen's voluntary assumption of duties and forbearance of rights under the CII Settlement was necessary for Charter to achieve its restructuring goals. Allen was solely responsible for the reinstatement of senior debt and the NOL future tax savings — the two goals that made the Plan possible. Allen also generated over $1 billion in other benefits that permitted Charter to, for example, pay distribution to certain claims and obtain operating capital for New Charter. Thus, invalidating an integral aspect of the Plan like the CII Settlement would nullify the entire Plan.[28] The requested relief is not, as Appellants contend, an "intermediate option" that would not necessitate reversal or unraveling the Plan.

As a consequence, the very circumstances that the mootness presumption is designed to avoid in the bankruptcy context would occur.[29] First, New

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[28] See, e.g., In re Delta Air Lines, Inc, 374 B.R. at 523 (severance of settlement agreement incorporated into reorganization); Six W. Retail Acquisition, Inc. v. Loews Cineplex Entm't Corp., 286 B.R. 239, 246 (S.D.N.Y. 2002); Resolution Trust Corp. v. Best Prods. Co. (In re Best Prods. Co.), 177 B.R. 791, 801-02 (S.D.N.Y. 1995); see also Texaco, 92 B.R. at 46 (calling it a "common-sense notion" that the "piecemeal dismantling of the Reorganization Plan in subsequent appeals of individual transactions is, in practical terms if nothing else, a virtually impossible task") (internal quotation marks and citations omitted).

[29] This is applicable to any claim or remedy that results in the nullification or renegotiation of Charter's Plan.

Charter would be forced back into bankruptcy to renegotiate a whole new plan as Debtor Charter – an undeniable threat to the vitality of any reemerged entity – because there would no longer be authorization for the reorganization or the numerous transactions consummated in reliance on the Plan. Second, this particular case would present the Bankruptcy Court with an untenable situation of an extraordinary magnitude because of, for example: (i) the sheer quantity, size, and in many instances irreversibility of consummated transactions in furtherance of and in reliance on the Confirmation Order that would need to be unwound;[30] (ii) the

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[30] Charter poignantly demonstrates why unwinding the entire Plan would likely be impossible and certainly inequitable to Charter and third-parties:

> Charter has already raised $1.6 billion dollars of funds based on the Plan, and used those funds to execute multiple postconfirmation transactions . . . . Charter would have to return the $1.6 billion in new investment received from 193 new stockholders and reclaim the 88.7 million shares of Class A stock which were given in exchange for that new investment as an initial matter. . . . Over 5 million shares have traded already, as well as hundreds of millions of dollars worth of bonds and hundreds of thousands of warrants. . . . Similarly, Charter has now paid tens of millions of dollars in fees . . . , tens of millions in interest payments to holders of CCH I and CCH II notes, and hundreds of millions tothe holders of CCH II Notes as part of the notes exchange. If the Plan were invalidated on appeal, these disbursements would have to be returned to Charter—a daunting, if not impossible task. . . . Unwinding the Plan would further require the reinstatement of the old Charter common stock outstanding prior to November 30, 2009, which was delisted during the course of the chapter 11 cases and cancelled upon the Plan becoming effective . . . . And Charter obtained necessary regulatory approvals upon emergence from the FCC and other state and local

ambitious and contentious nature of the original confirmation process; (iii) the need to compensate Allen for his completed performance of the CII Settlement *and* allow him the opportunity to walk away from Charter or otherwise decline to cooperate in achieving the restructuring goals.

Having failed to demonstrate the five Chateaugay factors, Appellants cannot as a matter of law rebut the mootness presumption. Accordingly, the Allen Settlement Claims, both as asserted by R[2] and LDT, are DISMISSED AS MOOT.

2. Nondebtor/Third-Party Releases Claim (R2)

The Nondebtor/Third-Party Release Claim is equitably moot for the same reasons articulated regarding the Allen Settlement Claim. The releases were granted to Allen and other parties as a "required" term of the CII Settlement. Confirmation Order ¶¶ 34, 44. The Bankruptcy Court also found that the releases were essential to the CII Settlement itself, as the releases were "very substantial consideration" for the Settlement parties' participation and independently vital, as they were "necessary to" and a "critical component of" the Plan.[31] In re Charter Commc'ns, 419 B.R. at 258-59;

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governmental agencies (regarding the transfer of telecommunications licenses), all of which would have to be undone were the Plan overturned.

See 6/25/2010 Charter Br., at 21-23 (citations omitted).

[31] In fact, with respect to the two pending appeals not being addressed, the Bankruptcy Court acknowledged this very point: "[T]he plan is predicated on the release, the very release that you seek to challenge. . . . You represent a real and present threat to the viability of the operation and to the integrity of the

Confirmation Order ¶¶ 42, 47.[32] Thus, the requested relief – striking the third party release provisions from the Plan[33] – is not available in light of the necessary modifications to the CII Settlement.[34] Granting the requested relief would nullify and unravel the Plan.[35] R² cannot as a matter of law rebut

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plan. You're more of a threat than if there were a pending appeal." Basta's Motion to Dismiss Declaration, Ex. C, at 20.

[32] "[T]he enjoined claims would indirectly impact the Debtors' reorganization as many of the Debtor Releasees are beneficiaries of indemnity obligations (including, significantly [] Allen, in his capacity as a director of Debtor CCI) such that there is an identity of interest between the Debtors and other Debtor Releasees." Confirmation Order ¶ 47.

[33] Although not determinative of the issue, it is important to note that R² never articulates how it was harmed by this provision. R² does not allege that it had or would like to pursue a claim that was enjoined by the third party releases.

[34] Contrary to R²'s contention, whether it was legally permissible for the Confirmation Order to approve the third party releases –and hence whether the circumstances were truly unusual to render the releases themselves successful to the Plan – is a merits issue that is wholly irrelevant to the present analysis. The releases will unravel the Plan because of how they were integrated into the Plan – that is, through the CII Settlement as an important term. R² notably has failed to demonstrate that the Bankruptcy Court's factual findings on this issue were clearly erroneous, and thus R² has not provided a basis to carve out the provision to provide relief.

[35] Such a finding is entirely consistent with other cases within this circuit rejecting attempts to challenge releases given as a part of a quid pro quo for a settlement important to the plan of reorganization. See In re Delta Air Lines, Inc., 374 B.R. at 523-24 ("[T]hose releases were an integral part of the entire Settlement and cannot equitably be undone in isolation from the distributions to the Bondholders which the appellants do not seek to reverse."); see also Metromedia, 416 F.3d at 144; Enron, 326 B.R. at 503; Texaco, 92 B.R. at 45-50.

the mootness presumption, and therefore the Nondebtor Releases Claim is DISMISSED AS EQUITABLY MOOT.

3. Valuation Claim (R2)

The requested relief – a standalone valuation of CCI with equity distributed to shareholders – cannot be granted.[36] The Plan expressly provides for the classification and treatment of claims and interests in great detail. See Plan, Arts. III-IV. Class A-6 claims, the category in which R² falls as a CCI shareholder, were "cancelled, released, and extinguished" with the holders "receiv[ing] no distribution under the Plan." Plan, Art. IV-A(6)(c). Thus the previously discussed nonseverability and mutually dependent provisions in the Confirmation Order bars the modifications required to provide for the requested relief. See, e.g., In re Calpine Corp., 365 B.R. at 519 (valuation request not effective relief given nonseverability provision).

Even if the Plan could be modified, granting the requested relief would be impermissible and doing so would nullify the Plan. A key issue of the reorganization was "the value of the reorganized Debtors, and how much equity in the reorganized Debtors would go to creditors and how much would go to shareholders." In re Calpine, 365 B.R. at 519. This Court "does not see how such relief will have only minimal interference to other interests or that it would not [inequitably] disturb numerous

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[36] It is unclear whether the requested relief would actually constitute effective relief. CCI shareholders are subordinated to creditors. R² has made no showing that it would be guaranteed a recovery in the event that CCI was found to have some value.

consummated transactions and further transactions taken in reliance thereon." Id. Changing the treatment of a particular group of shareholders or creditors, or even allowing the possibility for such changes, cannot be done in isolation irrespective of the nonseverability/mutually dependent provision. "Because the Plan was a way of distributing the limited assets of the debtor, any recovery would [necessarily] disrupt the recovery of [other constituencies entitled to distributions under the Plan] and require an entirely new reorganization plan." Freeman, 2010 U.S. Dist. LEXIS 21054, at *16. Attempting to grant a recovery after the distributions have been made raises insurmountable concerns for the first three Chateaugay factors.[37] See, e.g., In re Calpine, 365 B.R. at 519-20 (discussing the complications of revaluation); Loral Stockholders Protective Comm. v. Loral Space & Communs. Ltd. (In re Loral Space & Communs. Ltd.), 342 B.R. 132, 139 (S.D.N.Y. 2006).

Granting the requested relief would also nullify the Plan because R²'s requested relief is premised upon a fundamental disagreement with how Charter decided to pursue the reorganization process. The Plan was designed based upon the understanding that "Charter is an integrated enterprise, and the financial condition of one affiliate

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[37] The practical implications of conducting a standalone valuation after the Plan's substantial consummation would, regardless of the outcome, affect New Charter's vitality and the risk for unraveling. R²'s argument – the fact that the proceeding may be easy to orchestrate and that New Charter could afford an amount of relief for which R² provides no estimate – do not address the impact on the Plan or consummated transactions.

affects the others." In re Charter Commc'ns, 419 B.R. at 251; id. at 261 ("[T]he business of Charter is managed by CCI on an integrated basis making it reasonable and administratively convenient to propose a joint plan."). The Plan simultaneously restructures CCI and its affiliated debtors based upon the enterprise level – that is, overall value, debt, tax savings, etc. – not standalone valuations. The requested relief requires this Court to find that the latter approach is legally required. Doing so would invalidate the Bankruptcy Court's approval of the distributions to creditors and shareholders, as well as the other terms of the Plan, all of which are wholly inconsistent with the standalone valuation approach. It would thus be necessary to unwind the current Plan and rewrite the Plan beginning anew.

Having failed to demonstrate the five Chateaugay factors, R^2 cannot as a matter of law rebut the mootness presumption. Accordingly, the Valuation Claim is DISMISSED AS EQUITABLY MOOT.

4. Improper Classification, Artificial Impairment, Absolute Priority Rule Claims (LDT) [38]

Should LDT prevail on its claim that the CCI General Unsecured Claim were not legitimately impaired, LDT would not be entitled to any relief. The Bankruptcy Court found, and LDT has not

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[38] These claims are jointly considered because both claims are based upon the upon the same argument – that the Plan did not satisfy the requirements of 11 U.S. 1129(a) – and seek the same relief – payment in full of the CCI Noteholders' claims, or approximately $330 million in additional compensation.

disputed that, "given the Plan's structure, the requirement of section 1129(a)(10) would be satisfied even if [the CCI General Unsecured Claims at issue] were not deemed to be legitimately impaired." In re Charter Commc'ns, 419 B.R. at 266. The Plan "has been accepted by numerous other impaired accepting classes, thereby satisfying the requirement of section 1129(a)(10)." Id. Thus the alleged error could not have had a prejudicial effect on LDT or the confirmation process.[39]

If LDT was granted relief on any of the claims at issue (i.e modifying particular classification provisions or awarding the payment of $300 million), the requested remedy would not be available. The nonseverability and mutually dependent provisions in the Confirmation Order prevent this Court from modifying the distributions under the Plan. See Plan Art. IV (classifying claims and noting distribution entitlements). It is not possible to modify such a key issue of the reorganization without nullifying the Plan and requiring a negotiation of an entirely new plan. Too much speculation and guesswork would be involved in restoring LDT to the unknown position that it would have held had the Plan contained different provisions regarding LDT's treatment.[40]

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[39] To the extent that LDT seeks to argue as it did in opposition to the Confirmation that compliance should be tested on a per-debtor basis rather than a per-plan basis, this Court has already rejected this argument as a basis to rebut the mootness presumption.

[40] "Had the Bankruptcy Court agreed that the Plan was not confirmable in light of improper classification or artificial impairment, that would have only put LDT back at the negotiating table. The outcome of a different, hypothetical negotiating process, however, is indeterminate – LDT might

Aside from conclusory assertions, LDT has made no effort to demonstrate that doing so would not adversely affect and be grossly inequitable to creditors, shareholders, and other third-parties who have relied on the Confirmation Order.[41]

Finally, LDT's claims attack the entire Plan's validity, rather than some discrete aspect of the Plan. If the confirmation was improper due to the Plan's failure to satisfy one of the necessary confirmation or cramdown requirements of 11 U.S.C. § 1129, as LDT argues, this Court would have to find that the Plan's authorization was invalid and thus reverse the Confirmation Order. This Court would be unable to avoid forcing New Charter back into bankruptcy simply because LDT, the most structurally subordinated creditor, is willing to accept a seemingly less severe form of relief. In addition to the requested relief being unavailable, as previously discussed, such a finding would implicate all of the creditors and shareholders, as well as the participants in the innumerable post-effective date transactions, and necessitate a renegotiation of a new distribution scheme.

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have receiv[ed] nothing at all. There is simply no way to know. This is especially true with regard to LDT, which was furthest removed from Charter's operating assets." 10/1/2010 Charter Br., at 10 n.4. Accordingly, it is inappropriate to construe LDT's request as a mere attempt to recover a distribution to which it was or should have been entitled.

[41] Contrary to LDT's assertion, LDT – not Charter or any of the other Appellees – bear the burden of demonstrating that the requested monetary judgement would not unwind the Plan. LDT does not satisfy such a burden by noting the value of New Charter's assets.

Having failed to demonstrate the five Chateaugay factors, LDT cannot as a matter of law rebut the mootness presumption. Accordingly, the Improper Classification, Artificial Impairment, and Absolute Priority Rule Claims are DISMISSED AS EQUITABLY MOOT.

CONCLUSION

The motions to dismiss the appeal of Appellant R^2 Investments by Appellees Charter, Paul Allen, and the Official Committee of Unsecured Creditors are GRANTED. Appellant R^2's appeal of the Bankruptcy Court's Confirmation Order is DISMISSED AS MOOT. The Clerk of the Court is directed to close 09-cv-10506.

The motions to dismiss the appeal of Appellant Law Debenture Trust by Appellees Charter, Paul Allen, and the Official Committee of Unsecured Creditors are GRANTED. Appellant LDT's appeal of the Bankruptcy Court's Confirmation Order is DISMISSED AS MOOT. The Clerk of the Court is directed to close 09-cv-10566.[42]

Dated: New York, New York
March 29, 2011

SO ORDERED:

/s/
GEORGE B. DANIELS
United States District Judge

[42] This Court will issue a separate opinion regarding the remaining appeals, 10-cv-02929 and 10-cv-02930.

APPENDIX C

FOR PUBLICATION

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

Chapter 11
Case No. 09-11435 (JMP)
(Jointly Administered)

Adversary Proceeding
Case No. 09-01132 (JMP)

In re	:
	:
CHARTER COMMUNICATIONS, *et. al.*,	:
	:
Debtors.	:
JPMORGAN CHASE BANK, N.A.	:
as Administrative Agent,	:
Plaintiff,	:
-against-	:
	:
CHARTER COMMUNICATIONS	:
OPERATING, LLC and CCO HOLDINGS,	:
LLC,	:
Defendants.	:

OPINION ON CONFIRMATION OF PLAN OF REORGANIZATION AND ADJUDICATION OF RELATED ADVERSARY PROCEEDING

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UNITED STATES BANKRUPTCY JUDGE

Introduction

Since these cases were filed on March 27, 2009, Charter Communications, Inc. ("CCI" and, together with its affiliated debtors, "Charter" or the "Debtors") has been engaged in one of the most hotly contested confirmation battles ever conducted. The conflict

certainly is one of the longest and no doubt also among the most costly. The Court heard extensive testimony and argument for nineteen days during the period from July 20 through October 1, 2009. At stake is the reorganization and recapitalization of the country's fourth largest cable television company, a leading provider of broadband and cable television services now under the control of Paul Allen, co-founder of Microsoft and a public figure due to his personal wealth and accomplishments. Partly due to the importance of the issues and partly due to Mr. Allen's prominence and the billions that he has invested in Charter, these cases are highly visible and have generated considerable public interest.

These are perhaps the largest and most complex prearranged bankruptcies ever attempted, and in all likelihood rank among the most ambitious and contentious as well. The business proposition presented aims high, particularly at a time of great dislocation, uncertainty and volatility in the economy. Charter seeks to remove more than eight billion dollars from its highly leveraged capital structure, to secure the investment of approximately $1.6 billion in new capital through a rights offering back-stopped by a group of bondholders that will be appointing members of CCI's reconstituted board and to reinstate a senior secured credit facility and certain junior secured debt with the objective of preserving favorable existing credit terms and saving hundreds of millions of dollars in incremental annual interest expense that otherwise would be payable if this senior secured debt had to be replaced at current market pricing.

JPMorgan Chase Bank, N.A.[1] ("JPMorgan"), as agent for a syndicate of senior lenders, forcefully and skillfully asserts that reinstatement is not an available option here due both to existing events of default relating to the prepetition financial condition of certain holding companies within the Charter corporate structure and to a change of control default that they claim will occur on the effective date of the Debtors' proposed plan of reorganization (the "Plan") in violation of covenants in the senior secured credit agreement mandating that Mr. Allen retain a stipulated minimum percentage of voting control.

The restructuring premise depends upon Mr. Allen's holding not less than thirty-five percent in voting power over the management of Charter Communications Operating, LLC ("CCO" or the "Borrower"), the operating company borrower named in the senior credit agreement. This aspect of the transaction requires approval of a settlement between Mr. Allen and Charter (the "CII Settlement" or "Settlement") in which Mr. Allen agrees to maintain his voting percentage at thirty-five percent as a means to avoid triggering the applicable change of control covenants and to preserve valuable tax attributes.

This nominal retention of voting power has been attacked as a gimmick fashioned by corporate lawyers to obscure a takeover of the company by bondholders that are well known for their use of so-

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[1] JPMorgan is supported in its objections by a group of separately represented senior lenders from the bank syndicate and by second and third lien lenders that also oppose reinstatement.

called "loan to own" strategies. The restructuring effectively wipes out Mr. Allen's eight billion dollar investment in Charter and strips him of any meaningful ongoing economic interest in the company. Regardless of the residual voting power to be held by Mr. Allen, no one seriously disputes that Mr. Allen is walking away from his investment in Charter and is agreeing to maintain his voting power as a structuring device that benefits Charter and its stakeholders. In practical terms, Charter will cease to be a Paul Allen company assuming that the Plan is consummated. His exit clears the way for new investors to influence the management of a restructured Charter.

While this creative arrangement to preserve value clearly benefits Mr. Allen, it was not his idea. Lazard Frères & Co. LLC ("Lazard"), as restructuring advisor to Charter, was the chief architect. Lazard recognized the vital importance to the reorganization of avoiding a change of control by means of a structure in which Mr. Allen would agree to retain the requisite voting power. As a consequence and despite the fact that all CCI shareholders will lose everything as their equity is cancelled, Mr. Allen as controlling shareholder occupies a position of strength in these cases.

His willingness to participate in the structure is pivotal to two sources of value for the Charter estates – the ability to hold on to attractively priced financing and to preserve net operating losses to shelter future income. Mr. Allen, acting through his representatives, has demanded and has secured the right to receive substantial compensation in exchange for his cooperation. These bargained-for "gives" and

"gets" relating to the settlement with Mr. Allen[2] have been challenged by Law Debenture Trust Company, the indenture trustee for the holders (the "CCI Noteholders") of $479 million in aggregate principal amount of 6.50% Convertible Senior Notes due 2027 issued by CCI (the "CCI Notes"). The CCI Noteholders also complain at length that they have been shortchanged and that the Plan has not treated them fairly and is not confirmable.

As expected in cases involving billions of dollars and unusually complex legal issues that are both fact-intensive and subject to differing interpretations and characterizations, tremendous resources have been dedicated to this litigation. The issues presented are important ones – whether the restructuring arrangements negotiated prepetition with an informal committee of bondholders known as the "Crossover Committee" are appropriate and should be confirmed, whether defaults exist that preclude reinstatement of senior secured indebtedness, whether the most junior creditors in the capital structure are receiving more value than they would receive in a liquidation and whether the so-called linchpin settlement between Charter and Mr. Allen is reasonable and should be approved.

Notably, the issues presented arise in an uncommonly complicated setting – a large operationally sound business saddled with almost twenty-two billion dollars in debt at various levels of

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[2] Mr. Allen is to receive aggregate compensation that totals approximately $375 million. Charter will benefit to the extent of interest savings and preserved tax attributes estimated to be in the billions of dollars.

a capital structure stacked with multiple intermediate limited liability holding companies. This complex enterprise is endeavoring with singular creativity and determination to reduce its heavy debt load and recapitalize itself during perhaps the most challenging period in the modern era of global corporate finance. Given the state of the capital markets, the restructuring proposed here by Charter represents an extraordinary achievement provided that the resulting Plan is confirmable as a matter of bankruptcy law. And that is the task for the Court – to determine based on the evidence whether this Plan designed in the midst of an historic financial crisis succeeds in reaching its lofty goals.

This subject matter – reinstatement, the CII Settlement and fairness of treatment proposed under the Plan – is addressed generally in this introduction and in greater depth in later sections of this opinion. Following careful deliberation, the Court finds that Charter has met its burden and that the Plan should be confirmed.

Prepetition Negotiations At A Time of Crisis

Following the bankruptcy of Lehman Brothers Holdings, Inc. on September 15, 2008, the global credit markets went into the financial equivalent of cardiac arrest. Commercial lending came to a virtual halt. Smart, sophisticated and otherwise confident business people panicked. No one who lived through the period will ever forget the fear engendered by a worldwide crisis of confidence and the inability to obtain credit by conventional means.

This was the context for much of the evidence presented during the trial of this matter[3]. Charter was a highly leveraged company under the control of a prominent man with enormous personal wealth. The company had a patron with deep pockets and a variety of financing and refinancing options available to it during normal market conditions. Those options became far more limited in the immediate aftermath of the upheaval of last fall[4].

The board, senior management and Charter's advisors certainly were aware that the company was in serious trouble due to the dislocation of the credit markets, lower valuation multiples applicable to peer

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[3] The trial consisted of Charter's contested confirmation hearing and JPMorgan's adversary proceeding seeking a determination that reinstatement is not permitted due to prepetition defaults under the senior credit agreement. This opinion relates to both the adversary proceeding and to plan confirmation.

[4] The Court notes that global economic conditions have improved and stabilized greatly in the last year. In the quarter just ended, the Dow and S&P 500 experienced their best gains in a decade. The credit markets also are in better shape than they were last year, but reportedly are still not functioning normally. Thus, timing of the negotiations is a factor that cannot be ignored. The crisis mentality of last fall spawned this restructuring, but it is being evaluated from the perspective of a now more stable and stronger financial sector. The Court recognizes that given the positive turn in the markets, the valuation of Charter by Lazard for purposes of this restructuring may have been performed at a trough in the market for peer companies in the cable industry. That does not alter the facts, however. No expert has given a credible opinion as to value that contradicts the Plan value, and the expert called by JPMorgan with regard to surplus calculations indicated that the absence of a competing transaction at a higher value tends to confirm the reliability of the value of the transaction described in Charter's Plan.

companies in the cable sector and its own excessive language. Charter needed to restructure promptly to avoid a potentially catastrophic free-fall bankruptcy, and it did so in what may be record time.

The principal architect of Charter's strategy during the period from November 2008 through February 2009 was Jim Millstein, who at the time was co-head of the restructuring practice at Lazard and who now works as the senior restructuring officer for the U.S. Treasury. Mr. Millstein had been an advisor to Charter for a number of years and had worked on the design of Charter's many-layered, tax driven holding company structure. His advice helped to guide Charter's board throughout this critical period. Mr. Millstein was behind the decision to engage in a high velocity negotiation with the bondholders while leaving the senior debt in place to take full advantage of favorable pricing applicable to the existing senior indebtedness. Given the uncertainty in the credit markets at the time, it was also unclear whether a senior credit facility this large could be replaced at all on any terms[5].

His strategy was to prevent a change of control by motivating Mr. Allen to retain his voting power over management, to encourage the bondholders to organize an ad hoc committee (i.e., the "Crossover Committee") that would retain experienced restructuring professionals at Charter's expense, and to trim debt and raise new equity by having holders

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[5] It is unknown whether the credit markets have improved to the point that a financing of this size could be replaced today (and, if so, on what terms), and the relative difficulty or ease of obtaining such replacement financing has played no part in this decision.

of fulcrum[6] debt securities convert their bonds to equity interests and agree to invest in the reorganized capital structure. Mr. Millstein and his colleagues at Lazard started to implement this strategy in December. On December 12, 2008, the Company issued a press release announcing the commencement of discussions with bondholders about potential restructuring options and through Lazard urged the bondholders to get organized[7]. The negotiations were given an added sense of urgency when Charter elected not to make an interest installment due in the middle of January and took advantage of the thirty-day grace period applicable to this interest payment. That decision not to pay interest energized the discussions among Charter, the Crossover Committee and Mr. Allen relating to a so-called "strawman" proposal for restructuring the enterprise.

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[6] This is the term used to describe those debt securities within a given capital structure that, based on the assumed enterprise value, would not be entitled to receive a full recovery in cash, thereby making it rational for holders to consider other forms of consideration such as a debt for equity exchange. In effect, holders of fulcrum securities are at the tipping point of the capital structure (neither entirely in nor entirely out of the money) and given their impairment and entitlement to vote for or against a chapter 11 plan are in a position to have considerable influence over the outcome of a restructuring.

[7] An ad hoc committee was formed shortly thereafter consisting of unaffiliated holders of 11% senior secured notes due 2015 issued by CCHI, LLC and CCH I Capital Corporation and the 10.25% Senior Notes due 2010 of CCH II, LLC and CCH II Capital Corporation. This ad hoc committee calls itself the "Crossover Committee."

All parties who participated in this process confirm that the negotiations were pursued aggressively, at arms length and in good faith, resulting in an agreement among Mr. Allen and certain members of the Crossover Committee that has become the foundation of Charter's pre-negotiated Plan. This agreement succeeded in eliminating the risks of a "free fall" bankruptcy while providing for new investment, debt forgiveness, preservation of intangible assets and a stripping down of Mr. Allen's economic stake.

The resulting Plan, however, has attracted quite a lot of criticism. Parties who were not at the table during this process have become the main objectors to confirmation. The senior lenders complain that their secured claims are impaired and that their debt may not be reinstated. They allege a series of non-monetary defaults under the senior credit agreement, but they openly admit that their goal here is to obtain an increased interest rate that reflects what would be charged for a new loan in the current market for syndicated commercial loans. The senior lenders have been paid everything that they are owed under the existing facility and have even received default interest during the bankruptcy cases.

The claimed defaults are the means by which the lenders hope to improve their return by obtaining a premium over amounts payable under the existing loan documentation. JPMorgan and other members of the lending syndicate are troubled that they are being denied the chance to renegotiate the terms of the loan and that bondholders who invested at a junior level of the capital structure are poised to

greatly improve their own internal rate of return at the lenders' expense. Viewed simplistically, the litigation over confirmation amounts to an inter-creditor dispute over which class of creditors should receive enhanced returns. Viewed more theoretically, the litigation is a test of the chapter 11 process itself. The parties who negotiated the Plan did so knowing that this major struggle with the lenders would follow. Accordingly, this contest is the culmination of calculated pre-bankruptcy planning (that might even be called a gamble) designed to obtain significant restructuring benefits over the foreseeable strenuous objections of formidable adversaries.

Surplus And The Ability To Pay Debts As They Come Due

JPMorgan contends that Charter had reason to know that it was in serious financial trouble on November 5, 2008 when it elected to draw down $250 million on its senior credit facility at a time that its enterprise value was depressed to the point that financial disaster was likely. The case against reinstatement really starts here at a board meeting convened in November 2008 to consider whether there was adequate surplus to move cash from one level of the capital structure to another by means of dividends from CCO to those Designated Holding Companies (as defined in the senior credit agreement)[8] that needed to make upcoming scheduled interest payments.

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[8] The Designated Holding Companies are CCO Holdings, LLC ("CCOH"), CCH II, LLC (CCH II), CCH I, LLC ("CCH I"), CCH I Holdings, LLC ("CIH") and Charter Communications Holdings, LLC ("CCH").

JPMorgan contends that Charter recognized the gravity of the situation and knew that it was in the midst of a genuine crisis at this point. The Court heard a great deal of testimony from a number of witnesses regarding Charter's corporate state of mind in November 2008 and its self-awareness as to the fair value of the enterprise. JPMorgan's thesis is that there is a connection between the determination of surplus for purposes of being able to make a permissible cash distribution under Delaware corporate law and the occurrence of a default under the senior credit agreement. Expert witnesses offered conflicting opinions during the trial on the question of whether certain of Charter's Designated Holding Companies had adequate surplus as of the date that Charter drew down $250 million under its senior credit facility. A finding of surplus would require a total enterprise value of not less than $18.7 billion. Notably, the enterprise value for purposes of Charter's Plan is well below that figure at $15.4 billion[9].

The surplus calculation relates to the contention of JPMorgan that certain Designated Holding Companies at the time could not prospectively pay their debts as they came due in

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[9] The $3.3 billion negative variance in enterprise value is hard to ignore. The Court considers the Plan valuation to be credible but understands that valuation judgments include multiple subjective elements and that opinions as to value are given for particular purposes, are highly dependent on assumptions and speak only as of specified dates. The lower Plan value when compared to the number needed for surplus, however, does lead the Court to question the reliability of higher values ascribed to the business during the period leading up the restructuring negotiations.

violation of section 8(g)(v) of the credit agreement. This alleged default is central to JPMorgan's adversary complaint seeking a determination that the default precludes reinstatement of the indebtedness evidenced by the senior credit facility. The Court is satisfied that the Charter board acted reasonably when it relied on its advisors in determining that there was adequate surplus at the Designated Holding Company level even though in hindsight other plausible alternative valuation scenarios might place Charter's enterprise value below the minimum amount needed for finding surplus. The Court does not believe that sufficient evidence has been presented to establish that Designated Holding Companies were unable to meet their obligations as they came due.

Valuing a business such as Charter's is neither simple nor objective, and no single generally accepted standard exists for measuring value. Valuation of an enterprise as complex as this one calls for using multiple approaches to value, comparing the business to be valued with others having similar characteristics, making appropriate adjustments and reasoning by analogy. The art of valuing a business requires the exercise of well informed judgment. Experts in corporate valuation are often required to weigh multiple valuation methodologies that are not always congruent or consistent. These methodologies include comparable companies, precedent transactions, publicly available market data (including the views of Wall Street analysts) and the use of a discounted cash flow analysis that depends on projections of future free cash flows and mathematical calculations. In the case of Charter, other factors to be considered include the treatment

of tax attributes and the possible addition of a so-called control premium.

In part due to the complexity of the valuation process and in part due to the frequent role of the valuation expert as an advocate for a particular value proposition, bankruptcy courts commonly confront conflicting opinions as to value offered by qualified professionals. This case is no exception. Witnesses testified regarding valuation issues from Lazard, FTI Consulting, Alix Partners, Alvarez & Marsal, and Duff & Phelps. Not surprisingly, these witnesses focused on different considerations and did not agree with each other. Depending on the weight given to the testimony of these witnesses, the Court could conclude that Charter's business was worth more than $21 billion in November 2008 or as little as $15.4 billion in September 2009. The swing in value is major and hard to reconcile. The challenge in fairly valuing Charter is also illustrated by the fact that conflicting indications of value were offered by Charter itself[10].

With respect to the subject of Charter's provable enterprise value at different points in time, the Court finds itself in the quandary of wondering what happened to all that money and questioning the dependability of much of the valuation evidence that has been presented. Billions of notional dollars have disappeared during a period when the markets have stabilized and when no corporate event has taken

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[10] Charter called witnesses from Lazard and from Alix Partners. The Lazard witnesses supported the $15.4 billion Plan value while the witness from Alix Partners testified that Charter was worth in excess of the $18.7 billion needed for a finding of surplus.

place that would explain any sharp decline in value. Conveniently, Charter asserts that its business was worth more during the turbulent markets of last fall when it needed surplus to move funds through its capital structure than it is deemed to be worth in the fall of 2009.

What this demonstrates is that valuation is a malleable concept, tough to measure and tougher to pin down without a host of explanations, sensitivities and qualifiers. Because point of view is an important part of the process, outcomes are also highly dependent on the perspectives and biases of those doing the measuring. When it comes to valuation, there is no revealed, objectively verifiable truth. Values can and do vary, and consistency among valuation experts is rare, especially in the context of high stakes litigation[11].

It is the considerable challenge of proving a reliable value for Charter as of November 2008 coupled with Charter's well-understood ability to move funds throughout its highly leveraged capital structure by means of inter-company transfers that defeats JPMorgan's very skillfully presented arguments against reinstatement, particularly in relation to an awkwardly constructed loan covenant referencing the ability of structurally subordinated companies in the capital structure to pay debts as

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[11] The Court's decision in *Iridium* recognized the importance of unbiased data derived from the public markets and commented on the tendency of valuation litigation to become a battle of the experts in which the "hired guns" for each side function as advocates for a parochial value proposition. *See Official Comm. of Unsecured Creditors v. Motorola, Inc. (In re Iridium Operating LLC),* 373 B.R. 283 (Bankr. S.D.N.Y. 2007).

they come due. That covenant is painfully hard to apply and cannot reasonably be interpreted as having prospective application.

Much has been said and written throughout this litigation concerning the meaning of Section 8(g)(v) of the loan agreement. JPMorgan contends that the provision is forward-looking and designed to address the ability of Designated Holding Companies to meet identifiable obligations as they shall come due in the future. That interpretation is not practical, especially for a company like Charter that has a variety of options to fund or defer future obligations.

The language used in the loan agreement is not a model of clarity, leaving open the prospective gloss urged by JPMorgan as one of the possible interpretations of the provision[12]. Nonetheless, the Court is convinced that the language is not prospective and that, fairly read, the covenant deals with a present inability to pay debts as they come due, not one that may occur at some point in the future. A covenant tied to events that might or might not come to pass lacks specificity and is virtually impossible to apply in practice.

The forward-looking reading suggested by JPMorgan is not the best way to construe the language. Looking into a future filled with payables that are coming due is a speculative and unworkable exercise for an enterprise such as this. Given the

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[12] JPMorgan cites cases prospectively construing similar language in the context of chapter 9 of the Bankruptcy Code. These cases are inapposite to the present situation but do demonstrate that the words are capable of being read in the manner urged by JPMorgan.

inherent unpredictability of future events and Charter's multiple strategies for moving cash within the corporate family, it is not practical for a lender to declare a default based on what may seem to be well-founded presumptions as to the ability of a holding company to pay debts in the future. Those presumptions could well be wrong. Additionally, rational loan administration requires measurable and verifiable events of default not based on speculation. The provision is most logically read as addressing the actual as opposed to the possible future inability to pay a debt that shall come due.

The evidence demonstrates that Charter had concerns during relevant periods prior the restructuring about available surplus and the ability to transfer funds between companies within its capital structure, but such concerns did not rise to the level of establishing lack of surplus and are not the stuff of which covenant defaults are made. A number of witnesses employed by the lenders testified that an event of default such as the one set forth in Section 8(g)(v) had never been called before in their experience. This adds credence to the notion that in the context of Charter's publicly announced restructuring discussions with its bondholders, JPMorgan issued a notice of default on February 5, 2009 as a strategy to gain leverage and as a means to get a seat at the table with the objective of increasing the pricing of the senior debt.

Even if Section 8(g)(v) were to be read as applying to a provable prospective inability of a holding company to pay its debts as they shall come due, the evidence is still inconclusive in demonstrating a future inability to pay such debts.

JPMorgan did prove that Charter had doubts as to the adequacy of surplus and changed its public disclosures on the issue. JPMorgan's expert witness, Carlyn Taylor, offered credible testimony that the value of Charter was less than the $18.7 billion threshold needed for there to be surplus at the level of CCH I (one of the Designated Holding Companies), but that testimony was not by itself sufficient given the contradictory evidence presented by Charter concerning surplus and the ability to move funds regardless of surplus.

The surplus question is a close call, but the answer is not decisive in determining whether Charter had the ability to pay holding company debts when due. Charter knew that it needed to restructure itself and was running out of time to do so, but Charter's board relied on its advisors to conclude that the enterprise had adequate surplus and also had various other permissible means to move funds to levels where cash was needed. Despite a very well-presented case, JPMorgan failed to show convincingly that any Designated Holding Company was unable to pay debts within the meaning of Section 8(g)(v) of the credit agreement.

Consummation Of The Plan Will Not Result In A "Change Of Control" Because Paul Allen Will Retain Sufficient Voting Power And The Bondholders Have Not Acted as a Group

The change of control inquiry requires an examination of the relevant covenants of the credit agreement between JPMorgan and CCO dealing with the percentage of voting power that must be held by the Paul Allen Group (as defined in the senior credit agreement). These are provisions that have evolved

over time to make it easier for Charter to enter into transactions that dilute Mr. Allen's influence as measured by voting power.

Under the 2002 version of the credit agreement, the Paul Allen Group was required to have the power to vote or direct the voting of equity interests having at least 51% of the ordinary voting power for the management of the borrower and to own at least 25% of Charter's economic interests. That ownership requirement has been watered down to a point that Mr. Allen no longer needs to be in "control" in the traditional sense of the word.

Sections 8(k)(i) and 8(k)(ii) under the currently applicable form of the credit agreement reduce the minimum voting percentage from 51% to 35% and eliminate the requirement that Mr. Allen hold any economic interests in Charter. The changes appear to have been intended to make it easier for Charter to reduce its dependence on Mr. Allen and to attract equity investments from persons other than Mr. Allen while at the same time continuing to impose a minimum level of voting control. These provisions appear designed to allow for a formalistic retention of control but for the economic reality to shift in the very manner proposed by Charter in its Plan. Section 8(k), as it has changed over time, almost invites smart lawyers to come up with a transaction or series of transactions to restructure Charter without tripping the covenant. Charter's advisors have managed to accomplish that objective.

Section 8(k)(i) makes it an event of default if the Paul Allen Group ceases to have at least 35% (determined on a fully diluted basis) of the ordinary voting power for the management of the Borrower.

Section 8(k)(ii) complicates the analysis by also mandating against "the consummation of any transaction ... the result of which is that any `person' or `group' (as such terms are used in Section 13(d)[13] and 14(d) of the Securities Exchange Act of 1934, as amended), other than the Paul Allen Group has the power, directly or indirectly, to vote or direct the voting of Equity Interests having more than 35% . . . of the ordinary voting power for the management of the Borrower, unless the Paul Allen Group has the power, directly or indirectly, to vote or direct the voting of Equity Interests having a greater percentage ... of the ordinary voting power for the management of the Borrower than such `person' or `group' ... ." JPX 2, at JPM-CH00006003 (emphasis added). Thus, a default can occur only on consummation of a transaction that results in a change of control as described in these two sections.

The change of control issue presented in the above language is the most challenging problem for Charter in seeking reinstatement. Finding a change of control would defeat reinstatement and result in denial of confirmation. The analysis calls for a determination of what is meant by the phrase "ordinary voting power for the management of the borrower" and whether certain members of the Crossover Committee should be considered a group as that term is used in Section 13(d).

Both subsections of section 8(k) deal with Mr. Allen's retained power to control Charter following

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[13] The term "group" is defined in § 13(d) as having members who "agree to act together for the purpose of acquiring, holding, or disposing of securities." 15 U.S.C. §78m(d)(3).

hypothetical corporate transactions that would have the effect of reducing the ordinary voting power for the management of the borrower. Because the Borrower is a limited liability company with membership interests that are 100% owned by one of a number of intermediate holding companies within the organizational structure, the measurement of voting power must occur at the CCI level. CCI, the public company, directs activity within each of the business units through its board of directors. Thus, it is from this vantage point, removed from the operating assets, that the ordinary voting power for the management of the Borrower is exercised by means of shareholder votes for directors who in turn govern the management of CCI and its subsidiaries, including CCO.

Section 8(k)(i) imposes the requirement that Mr. Allen have not less than 35% of the ordinary voting power for the management of CCO. The restructuring satisfies that requirement by granting Mr. Allen equity that on a fully diluted basis has the right to appoint four out of eleven directors to the board of reorganized CCI, but the analysis does not end there. Section 8(k)(ii) adds the element of relative voting power in situations where any group may end up with more that 35% of the ordinary voting power unless Mr. Allen has a greater percentage. This additional measurement comes into play only if a group formed for the purpose of acquiring, holding, or disposing of Charter's securities holds more than 35% of the ordinary voting power for the management of CCO.

Section 8(k)(ii) calls for a mathematical balancing of relative voting percentages in those

instances where a person or group acquires more than 35% of ordinary voting power. The provision is something of a mystery, however. Throughout the trial, all parties assumed that the formula, if applicable and if out of balance, had the potential of derailing the Plan, but no one offered a cogent explanation as to the practical importance of the covenant that went beyond its mere existence and mandated technical requirements.

The business rationale for the formula is unstated. Presumably, the provision is intended to serve as a proxy for ongoing control by Mr. Allen despite material new investment by another investor or group of investors. But given the modification over time to the change of control covenants in the loan agreement, it is difficult to discern how a slight variation in the percentages, one way or the other, could have any impact on the credit risk of the borrower. It is simply part of the bargain that Charter struck with its lenders, a corporate land mine to be avoided if reinstatement is to be achieved.

The Court has deliberated at length regarding the conduct of the bondholder members of the Crossover Committee in relation to Section 8(k)(ii) and has concluded that these bondholders do not constitute a group. Just because parties are similarly situated and perhaps also similarly motivated does not necessarily lead to the conclusion that they constitute a group as that term is used in Section 8(k)(ii). Accordingly, this loan covenant does not apply to the restructuring transactions set forth in the Plan.

The term "group" for purposes of Section 8(k)(ii) is given a meaning that is borrowed from the

definition that appears in Section 13(d) of the Securities Exchange Act, but the application of the defined term is different. Section 13(d) is a regulatory provision that speaks to disclosure obligations and, as a result, should be liberally construed to achieve the statutory objectives of increased reporting and transparency while Section 8(k)(ii) is a loan covenant that prohibits only a limited category of change of control transactions as such transactions are described and shaped by the language of that covenant. Because the covenant functions as a trigger to a potential default under a credit facility, it should be construed narrowly so as to enable the Borrower to engage in permissible corporate engineering. With that perspective in mind, the most active members of the Crossover Committee (i.e., Apollo Management L.P. ("Apollo"), Oaktree Capital Management, L.P. ("Oaktree") and Crestview Partners, L.P. ("Crestview")) do not constitute a group for purposes of Section 8(k)(ii)[14].

Apollo, Oaktree and Crestview certainly are members of a group in the sense that they are working together to maximize their investments in Charter and to achieve common economic goals, but they do not fit the definition of a group as used in Section 13(d). Separate investors would be considered a group and would have reporting obligations under the securities laws when two or more parties have agreed to acquire, hold, or dispose of shares of an issuer. Here, members of the purported group clearly

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[14] JPMorgan includes Franklin Advisers, Inc. ("Franklin"), another member of the Crossover Committee, as a "supporting player" in its alleged 13(d) group. The Court finds that there is no 13(d) group with or without the support of Franklin.

are working cooperatively and have done so in the past in other comparable transactions, but they are not connected by any formal or informal agreement to act jointly with respect to Charter's securities.

There are, however, certain informal indications of cooperative behavior and overlapping business objectives to be achieved collectively. JPMorgan has focused on a number of statements made in internal e-mails (particularly those at Crestview) commenting about controlling a reorganized Charter and the willingness of Apollo and Oaktree to appoint Jeff Marcus of Crestview to the board even though Crestview's ownership percentage was below the minimum needed for board representation. Crestview also prepared internal memoranda describing the arrangements among the bondholders as a joint effort to control Charter. These statements, in the Court's view, candidly reflect how the business people involved in the transaction felt at the time and viewed their parallel interests – the theme is one of "we are in this together" with coordination being in everyone's best interest.

The Court simply is not convinced that these bondholders that found themselves by happenstance conscripted into the same restructuring were acting as a partnership, syndicate or other group for purposes of acquiring, holding or disposing of securities. No agreements, express or implied, have been shown to exist, and the testimony of the bondholders makes this point emphatically clear. The Court also does not find the expert testimony of JPMorgan's expert on this issue to be persuasive. Certain of the bondholders may be private equity firms with "loan to own" investment strategies, but

their prime objective in these cases based on the testimony is a combination of loss mitigation and opportunism in their capacity as holders of Charter debt. Wanting to maximize a recovery by means of joining an ad hoc committee of bondholders is not equivalent to forming a group to acquire securities in the sense that 13(d) uses that term.

The Court concludes that the bondholders worked collectively and in a coordinated fashion but never formed a 13(d) group; they are independent actors who were brought together in this transaction by the unwanted circumstances of a restructuring initiated by Charter. Consequently, regardless of the aggregate equity or relative board power held by the so-called "takeover group," Section 8(k)(ii) does not apply to the transaction, and Mr. Allen's board representation satisfies the requirement of Section 8(k)(i) that he hold not less than 35% of the ordinary voting power for the management of CCO.

Following Careful Scrutiny, The Settlement With Paul Allen Should Be Approved

The agreement with Paul Allen is a central but controversial feature of the proposed restructuring of Charter. The Court has focused considerable attention on this aspect of the Plan and has concluded that it represents an appropriate compromise of conflicting positions, negotiated vigorously and in good faith and otherwise satisfies the *Iridium* factors for approval of a settlement. It is uniquely valuable to the Charter estate by establishing the grounds for reinstatement of the senior debt and for realizing potential tax savings that aggregate billions of dollars.

Nonetheless, given Mr. Allen's position as chairman of Charter's board and controlling shareholder, the Court has viewed the CII Settlement with heightened scrutiny and some skepticism. The Court has even questioned why Mr. Allen should be receiving any valuable consideration at all for cooperating with Charter and doing things for the benefit of Charter that seem to fall into the category of the proper thing to do. After all, Mr. Allen has been closely associated with Charter for years and the involvement of such a well-heeled sponsor no doubt has been, until recently, an ongoing source of comfort to shareholders and creditors alike. Although the Hippocratic Oath does not apply, it is not unreasonable to expect someone in Mr. Allen's position to do no harm to those stakeholders.

Skepticism notwithstanding, the Court recognizes that Mr. Allen is a businessman and that Charter is not and never was a philanthropic venture. As explained by Mr. Milstein in his rebuttal testimony, the restructuring premise from the outset assumed that Mr. Allen would be entitled to compensation for his cooperation in preventing a change of control that, depending on one's perspective, either created or avoided the destruction of substantial value for other stakeholders. The CII Settlement also indisputably is the product of a spirited negotiation in which sophisticated adversaries and their expert advisors bargained with each other aggressively and in good faith at a time when the prospect of a free-fall bankruptcy loomed large in the minds of the negotiators. The give and take of that process helps to validate the fairness of the result.

Additionally, the numbers themselves are undeniably powerful. Mr. Allen is to receive $375 million including approximately $180 million classified as pure settlement consideration[15] while the benefits to the estate from reinstatement, future tax savings and proceeds of the rights offering are estimated to total well over $3 billion. The amounts to be paid to Mr. Allen, while significant in absolute dollars, are not excessive in comparison to what Charter is to receive. And that is the main economic reason for approving the CII Settlement. The direct and indirect value to the estate and its creditors outweighs by a high multiple the amounts allocated to Mr. Allen.

Importantly, the CII Settlement was reviewed and approved by independent directors of Charter's board of directors who, while not members of a formal special committee, functioned as an independent group within the board. The independent directors, some of whom testified during the trial, are highly qualified individuals who had a regular practice during board meetings of convening separately from Mr. Allen and his designated directors to consider what was in Charter's best interest. These independent directors considered and approved the

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[15] The argument of the CCI Noteholders that the CII Settlement is on account of his equity in CCI and, therefore, the Plan impermissibly diverts value from CCI to Mr. Allen is unfounded. The Court is convinced, based on the evidence in the record, that the consideration to be paid to Mr. Allen is to be paid entirely on account of his concessions under the CII Settlement, including his agreements to cooperate to enable the senior debt to be reinstated and to enable the Debtors' NOLs (defined below) to be preserved, his transfer of his interests in CC VIII, LLC and his compromise of various contract claims.

CII Settlement and concluded unanimously that approval was in the best interest of Charter. Given the role played by the independent directors and the evidence indicating that Mr. Allen did not exert any undue influence over Charter in negotiating the CII Settlement, the CII Settlement should be evaluated under the standards applicable to approval of bankruptcy settlements in this Circuit and not under the "entire fairness" standard of Delaware law applicable to transactions with controlling insiders.

After giving this subject considerable thought, the Court is satisfied that the CII Settlement is fair, in the best interests of the estate, and should be approved. The releases relating to the CII Settlement are also appropriate under the circumstances presented and are enforceable.

The CCI Noteholders Have Failed To Show That They Are Not Being Treated Fairly

Under the provisions of 11 U.S.C. §§ 101 *et seq.* (the "Bankruptcy Code"), the CCI Noteholders are entitled to receive distributions "of a value, as of the effective date of the [P]lan, that is not less than the amount that [they] would so receive … if the [Debtors] were liquidated under chapter 7". 11 U.S.C. § 1129(a)(7). The CCI Noteholders are, contrary to their argument, receiving in excess of that. The Debtors' liquidation analysis shows that in a liquidation under chapter 7, the CCI Noteholders would receive recoveries in the range of approximately 18.4% of their claims. Their recoveries under the Plan far exceed that range, providing an estimated recovery of 32.7%. Indeed, the CCI Noteholders are receiving the highest recovery under

the Plan among all of the Debtors' unsecured noteholders.

The CCI Noteholders base their unfair treatment argument in large part on a series of "add-ons," including recoveries from alleged preference and avoidance actions, programming contracts, stock options and other intercompany receivables, that their expert witness, Edward McDonough, identified as sources from which the Debtors and, thereby, the CCI Noteholders, may receive additional recoveries in a liquidation. The CCI Noteholders failed, however, to present any evidence as to the likelihood that there will be any actual or meaningful recoveries on account of the "add-ons." Indeed, Mr. McDonough admitted during cross examination that the CCI Noteholders' potential recovery from the additional sources he identified could be lower than as stated in his expert report – he even admitted that the potential recovery from any or all of the additional sources could be zero. As such, his testimony is largely speculative.

The CCI Noteholders also claim that net operating losses ("NOLs") generated through losses of the operating companies "belong" to CCI and that the CCI Noteholders therefore should receive additional distributions under the Plan to compensate them for the NOLs. Notably, every witness who testified during the trial with respect to the NOLs claimed not to be a tax expert. Furthermore, there is no evidence in the record that establishes CCI's right to independently exploit and derive value from the NOLs, regardless of which Charter entity actually "owns" them.

Finally, the CCI Noteholders also failed to produce any evidence (or rebut the Debtors' evidence via Mr. Doody's testimony to the contrary) that their claims were improperly classified separately from Class A-3 CCI General Unsecured Claims.

The various challenges to confirmation of the Plan presented by the CCI Noteholders are long on rhetoric but short on proof. These creditors have been unable to show that they will not be receiving under the Plan more value than they would receive in a liquidation nor have they succeeded in proving that the Plan fails to satisfy all applicable standards for confirmation.

In the following sections of this Opinion the Court will address, in turn, issues related to reinstatement of the credit agreement, the settlement with Paul Allen (including releases to be given in connection with that settlement) and those confirmation requirements that have been contested by the CCI Noteholders.

Reinstatement

Under the Plan, the Debtors propose to reinstate the claims of their senior secured lenders pursuant to Section 1124(2) of the Bankruptcy Code. The Debtors maintain that reinstatement will leave the senior lenders unimpaired and entitle them to payment in full in accordance with the credit agreement. JPMorgan, as agent, objects to confirmation of the Plan, asserting the existence of various defaults that preclude reinstatement. Anticipating the reinstatement issue, on the petition date, JPMorgan for itself and as agent, filed an adversary complaint, docketed at Adversary

Proceeding No. 09-01132 (JMP)[16], (i) asserting the occurrence of a prepetition default identical to the alleged default identified in JPMorgan's objection to Plan confirmation, (ii) asserting that the adversary proceeding is not a core proceeding and (iii) refusing to consent to entry of final orders or a judgment by this Court. *See generally*, *JPMorgan Chase Bank, N.A. v. Charter Comm'ns Operating, LLC (In re Charter Comm'ns)*, 409 B.R. 649, 651-53 (Bankr. S.D.N.Y. 2009) (providing procedural and factual background of Adversary Proceeding No. 09-01132 (JMP)).

The Debtors moved to dismiss the adversary complaint and also sought a determination as to whether the litigation brought by JPMorgan is a core proceeding under 28 U.S.C. § 157. (Adv. Proc. Mot. Dismiss.) At a hearing held on May 5, 2009, the Court issued an oral ruling on the record holding that the dispute is core. Adv. Proc. Tr. 58: 14-23 (May 5, 2009). In a Memorandum Decision dated July 7, 2009, the Court further explained its ruling but declined to make a determination with respect to the alleged prepetition default, which determination would likely be dispositive of whether or not reinstatement is permissible as contemplated in the Plan. *In re Charter Comm'ns*, 409 B.R. at 657 (internal quotation marks and citations omitted).

Given the extensive trial record, it is now appropriate for the Court to address all alleged defaults in the context of both JPMorgan's objection

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[16] Pleadings to which the Court cites herein which are designated with the prefix "Adv. Proc." refer to pleadings filed in Adversary Proceeding No. 09-01132 (JMP).

to Plan confirmation and the adversary proceeding. As explained in the introduction and for the reasons that follow, JPMorgan's objections to the Plan on the grounds of reinstatement are overruled, and judgment will be entered for Charter with respect to the adversary proceeding.

The basis for JPMorgan's Plan objection comprises three alleged defaults under the credit agreement. Specifically, JPMorgan asserts that (i) the Designated Holding Companies were unable to pay their debts as they become due in violation of section 8(g)(v) of the credit agreement; (ii) the consummation of the Plan will cause a change of control to occur in violation of section 8(k) of the credit agreement; and (iii) an acceleration of debt of the Designated Holding Companies due to the filing of the bankruptcy cases has caused a cross-acceleration default under the credit agreement. JPMorgan Br. Opp'n at 42, 66, 84. In the adversary proceeding, JPMorgan confines its arguments to those related to section 8(g)(v) of the credit agreement.

Burden of Proof

As Plan proponent, Charter bears the burden of establishing compliance with the factors set forth in Bankruptcy Code section 1129. *See*, *e.g.*, *Heartland Fed. Sav. & Loan Ass'n v. Briscoe Enters. (In re Briscoe Enters.)*, 994 F.2d 1160, 1165 (5th Cir. 1993) (stating that "[t]he combination of legislative silence, Supreme Court holdings, and the structure of the Code leads this Court to conclude that preponderance of the evidence is the debtor's appropriate standard of proof both under § 1129(a) and in a cramdown"); *In re World Com, Inc.* 2003 Bankr. LEXIS 1401 at *136 (Bankr. S.D.N.Y. 2003) (citing *Briscoe*).

However, as the party objecting to reinstatement under the Plan and as plaintiff in the adversary proceeding, JPMorgan has the burden of producing evidence to support the occurrence of defaults under the credit agreement. This finding that JPMorgan has the burden to prove a default under the credit agreement is based on a long line of cases addressing the issue of burden of proof with respect to contract assumption in the bankruptcy context. *See*, *e.g.*, *In re Cellnet Data Systems, Inc.*, 313 B.R. 604, 608 (Bankr. D. Del. 2004) (stating that "the nonbankrupt party [to an executory contract] bears [the] burden to assert any defaults prior to" assumption of such contract) (internal quotation marks and citations omitted); *Kings Terrace Nursing Home v. New York State Dep't of Soc. Servs. (In re Kings Terrace)*, 1995 WL 65531 at *9 (explaining that a party opposing contract assumption "has the burden of coming forward with all alleged defaults and demonstrating that those defaults have been properly noticed on the debtor") (citations omitted).

The Debtors and JPMorgan each has the independent concurrent burden to persuade the Court by a preponderance of the evidence that, in the case of the Debtors, reinstatement is appropriate because no defaults have occurred or will occur under the credit agreement and, in the case of JPMorgan, that such defaults have occurred or will occur. It is a curious posture that could create a dilemma if neither party had succeeded in carrying its burden. The Court is satisfied, however, that the Debtors have met their burden in establishing the grounds for reinstatement and that JPMorgan has failed to prove the occurrence of defaults under the credit agreement.

Standard for Reinstatement

It is an axiomatic principle of chapter 11 practice that creditors cannot be elevated to a better position than their pre-petition legal entitlements. *Butner v. United States*, 440 U.S. 48, 55 (1979). To that end, Bankruptcy Code sections 1123 and 1129 provide that a chapter 11 plan of reorganization may in appropriate circumstances treat certain obligations as unimpaired and reinstate the terms of a pre-petition debt obligation. 11 U.S.C. §§ 1123(b)(1), 1123(b)(5), 1129(a)(1). *See also* 7 Collier on Bankruptcy ¶ 1124.03 (15th ed. Rev.) (explaining that the Bankruptcy Code "permits the plan to reinstate the original maturity of the claim or interest as it existed before the default without impairing the claim or interest").

To reinstate a pre-petition obligation, a plan must de-accelerate any acceleration of such debt, reinstate the original maturity applicable to the debt, and provide for the cure of certain defaults that my have occurred. 11 U.S.C. § 1124(2). Bankruptcy Code section 1124 allows a debtor to cure any defaults, nullifying any consequences of such defaults, and returning the parties to pre-default conditions. *See Southland Corp. v. Toronto Dominion (In re Southland Corp.)*, 160 F.3d 1054, 1058 (5th Cir. 1998). When a debt obligation is reinstated, a creditor is "thereby given the full benefit of his original bargain." *In re Gillette Assocs., Ltd.*, 101 B.R. 866, 875 (Bankr. N.D. Ohio 1989). "The holder of a claim or interest who under the plan is restored to his original position, when others receive less or nothing at all, is fortunate indeed and has no cause to complain." S. Rep. 95-598, at 120 (1978).

Applying this standard to the present controversy leads to a determination of whether defaults have occurred or will occur under the credit agreement and whether it is appropriate to treat JPMorgan and the other senior lenders as unimpaired creditors who are not entitled to vote for or against the Plan. This determination calls for a careful examination of the credit agreement itself and the disputed facts regarding Charter's value and sources of liquidity.

Surplus

JPMorgan alleges various defaults under the credit agreement pursuant to section 8(g)(v) thereof. JPMorgan argues that (i) when CCO drew down $250 million under the credit agreement on November 5, 2008, such borrowing was based on a misrepresentation that CIH and CCH were able to pay their debts as they become due, and (ii) when CCO requested additional funds on February 3, 2009, such request also was based on a misrepresentation that CIH and CCH were able to pay their debts as they become due. JPMorgan Br. Opp'n at 66. JPMorgan further asserts that, at a November 14, 2008 meeting, the Debtors' board of directors improperly determined that CCH I had a surplus sufficient to make a dividend to CIH, which dividend enabled CIH to make an interest payment on its debt. (The distribution to CCH enabling it to make its interest payment was made through payment of an intercompany account.)

JPMorgan bases its assertions on the claim that in November 2008, CIH and CCH had $224 million of interest payments due between November 2008 and April 2009 and no available source of cash

to make those interest payments. JPMorgan Br. Opp'n at 66. Further, as of February 3, 2009, CIH and CCH had not made their $72 million January 2009 interest payments, had $81 million of debt due in April 2009, and no available source of cash to make those payments. JPMorgan Br. Opp'n at 66. JPMorgan asserts that CCO's alleged misrepresentations that CCH and CIH had the ability to pay their debts as they become due were contractual defaults that preclude reinstatement of the credit agreement. JPMorgan Br. Opp'n at 66.

Section 8(g)(v) of the credit agreement provides that it shall be an event of default if any of the Designated Holding Companies "shall generally not, or shall be unable to, or shall admit in writing its inability to, pay its debts as they become due." JPX 2 § 8(g)(v). JPMorgan asserts that section 8(g)(v) is prospective in nature leading to the conclusion that a prepetition default has occurred that is not curable and that precludes reinstatement. The Court disagrees.

Representatives from various participants in the lender syndicate testified at trial – none could identify an instance where a lender had declared an event of default based on a prospective assessment of what *may* occur at an unspecified time in the future. Notably, JPMorgan's own witness, who has 29 years of banking experience, had never called a default based on a prospective reading of a clause like 8(g)(v), nor is she generally aware of JPMorgan's ever having called such a default. 8/25/09 Tr. 116:14-25 (Kurinskas). Moreover, no witness from any of the lenders under the credit agreement who testified with respect to 8(g)(v) could describe definitively how far

into the future such a prospective obligation should extend. 7/31/09 Tr. 49:5-50:8 (Hooker) (unsure as to how far in the future); 8/18/09 Tr. 14:25 (Kurinskas) (4-5 quarters into the future); 8/18/09 Tr. 13:24 (Ojea-Quintana) (no specific period of time applies); 8/18/09 Tr. 75:12 (Morris) (6-12 months into the future).

These varying estimates of the forward looking time period covered by the covenant support the Court's conclusion that the provision is simply too uncertain as a financial benchmark if it were interpreted as having prospective application. Despite the varying views expressed as to the period covered by the test of the ability to pay debts, it is JPMorgan's position that section 8(g)(v) is intentionally vague. 8/25/09 Tr. 30:9 (Kurinskas). But vagueness is hardly a desirable characteristic for identifying a potential default under a multi-billion dollar credit facility. Making a covenant such as this intentionally vague as to future events would naturally invite disputes as to the proper way to apply the provision. Given the disagreement among the lenders as to how long the prospective period of 8(g)(v) should be construed and the obvious problem in applying an "intentionally vague" covenant, the Court finds that a prospective reading of 8(g)(v) is so speculative, so impractical and so potentially problematic in its application as to be unworkable and implausible.

As argued by the Debtors, such a forward-looking interpretation "would leave the borrower in the dark as to whether or when to report that a default has occurred." Debtors' Br. Supp. at 14. Accordingly, the most logical and commercially realistic reading of 8(g)(v) is that it relates to the

actual inability to pay a debt that shall become due. Such a reading of the language of section 8(g)(v) from a linguistic perspective is also fully consistent with other triggering events within the same section of the credit agreement that use the word "shall" in terms of the present tense, not the future ("shall generally not" … "shall admit in writing").

Even if the Court were to agree with JPMorgan and interpret section 8(g)(v) prospectively, the evidence is inconclusive in demonstrating that CCH and CIH would be unable to pay their debts as of any future date. JPMorgan has proven that there was doubt on the part of the Debtors as to the adequacy of surplus – indeed, the Debtors deleted the representation from their traditional public disclosure that "we believe that our relevant subsidiaries currently have surplus and are not insolvent" just after the November 5, 2008 draw-down. JPX 69 at 38 (stating that "[p]rimarily in light of the economic environment, it is uncertain whether we will have, at the relevant times, sufficient surplus at CIH and its parents, or potentially its subsidiaries, to make distributions"). Additionally, JPMorgan's expert credibly testified that the valuation of the Debtors as of November 5, 2008 was less than the $18.7 billion threshold needed for surplus. *See* 8/31/09 Tr. 27:4-30:10 (Taylor). The credit agreement, however, does not require that the Designated Holding Companies have surplus or even be solvent. *See* 8/25/09 Tr. 84:7-8, 119:22-120:1 (Kurinskas). Rather, surplus is a requirement under Delaware law, to be measured at the time a dividend is declared. Del. Code Ann. Tit. 8, § 170(a).

The Court finds persuasive the record evidence regarding various other methods that the Debtors had available to enable the Designated Holding Companies to pay scheduled future debts. The declaration of a dividend (requiring surplus) is not the only means by which the Designated Holding Companies may make and have made interest payments. *See* 8/25/09 Tr. 120:15-124:12 (Kurinskas). The Debtors have, for example, used intercompany notes and intercompany transfers to make interest payments from the Designated Holding Companies. *See* CX101, §§ 7.6, 7.8; CX 110 at JPM-CH 00029446; CX 305; 7/31/09 Tr. 81:22-82:21 (Schmitz). These alternative payment methods do not require surplus. *See* 7/21/09 Tr. 205:14-16 (Smit); 8/25/09 Tr. 121 (Kurinskas). Here, it is significant that the Designated Holding Companies in fact paid all of their debts as they became due prior the filing of these chapter 11 cases. The Debtors have shown that they had the flexibility and ingenuity to access capital and distribute funds throughout their corporate structure in order to make interest payments such that there has been no prepetition violation of section 8(g)(v).

Given that flexibility in moving funds and the role played by Charter's legal and financial advisors, the Debtors' board of directors did not act improperly in evaluating the surplus question. Under Delaware law, a determination of surplus is subject to the business judgment standard and may be set aside only on a finding of bad faith or fraud on the part of the board. *See Klang v. Smith's Food & Drug Ctrs., Inc.*, 702 A.2d 150, 156 (Del. 1997) (explaining that, in determining a claim based upon a section of the Delaware General Corporation Law (Del. Code Ann.,

tit. 8) requiring surplus, the "court may defer to the board's measurement of surplus" and that "[i]n the absence of bad faith or fraud on the part of the board, courts will not substitute [their] concepts of wisdom for that of the directors") (internal quotation marks and citations omitted).

There are sufficient facts presented here for the Court to defer to the Charter board. At its November 14, 2008 meeting, the Charter board of directors decided with input from its advisors that there was sufficient surplus to make a distribution to CIH through the payment of a dividend. 7/31/09 Tr. 85-100 (Schmitz); 7/21/09 Tr. 206:13-215:4 (Smit); 7/22/09 Tr. 186-95 (Merritt); 7/21/09 Tr. 36-42 (Millstein). Specifically, the board considered a draft Duff & Phelps analysis prepared in connection with the Debtors' annual franchise impairment valuation on October 1, 2008. The analysis showed a total enterprise value of $21.6 billion and a surplus at the relevant Designated Holding Company of $2.839 billion. *See* CX 225 at 4; 7/21/09 Tr. 208:23-209:18, 211:14-212:25 (Smit).

The board also reviewed information that sensitized the financial projections, utilizing substantially lower levels of assumed EBITDA growth, and still concluded that there would be sufficient surplus for a dividend of $62,812,000 to CIH. CX 225 at 5; 7/21/09 Tr. 209:18-210:4, 213:1-214:21 (Smit). Finally, the board sought and obtained the advice of its financial advisor, who confirmed the reasonableness of the Duff & Phelps analysis. 7/21/09 Tr. 37:9-42:9 (Millstein). While not determinative, it is worth noting that the estimates of value used by the board were either lower than, or equivalent to,

contemporaneous enterprise valuations prepared by JPMorgan itself and various other market analysts. CX 33; 8/3/09 Tr. 122:8-125:10 (DenUyl). This contemporaneous corroboration by informed market participants supports a finding that the board acted reasonably in its deliberations regarding surplus.

Given the foregoing, there is no showing of bad faith or fraud, and the Court will not substitute its judgment for that of the board. Importantly, regardless of whether the ability to pay debts as they become due is to be measured under section 8(g)(v) as of the present or as of an unspecified future date, JPMorgan has not established that there has been a pre-petition breach of this section of the credit agreement. JPMorgan's Plan objection based on section 8(g)(v) is, therefore, overruled and its adversary proceeding for a declaratory judgment as to the occurrence of a pre-petition default under this section is dismissed.

Change of Control

JPMorgan next argues that implementation of the Plan will result in a change of control under sections 8(k)(i) and 8(k)(ii) of the credit agreement, thereby triggering a default under the credit agreement that impairs JPMorgan's contractual rights and prevents reinstatement. JPMorgan Br. Opp'n at 42.

Section 8(k) of the credit agreement provides, in relevant part, that it shall be an event of default for certain specified changes to occur in the ordinary voting power for the management of the Borrower, as noted below:

> (i) the Paul Allen Group shall cease to have the power, directly or indirectly, to vote or direct the voting of Equity Interests having at least 35% (determined on a fully diluted basis) of the ordinary voting power for the management of the Borrower, [or]
>
> (ii) the consummation of any transaction . . . the result of which is that any 'person' or 'group' (as such terms are used in section 13(d) and 14(d) of the Securities Exchange Act of 1934, as amended), other than the Paul Allen Group has the power, directly or indirectly, to vote or direct the voting of Equity Interests having more than 35% (determined on a fully diluted basis) of the ordinary voting power for the management of the Borrower, unless the Paul Allen Group has the power, directly or indirectly, to vote or direct the voting of Equity Interests having a greater percentage (determined on a fully diluted basis) of the ordinary voting power for the management of the Borrower than such 'person' or 'group' ….

JPX 2 §§ 8(k)(i), (ii).

Although the phrase "ordinary voting power for the management of the Borrower" is undefined, based on the record and a fair reading of the language, given Charter's holding company structure that voting power only can be exercised at the CCI level. Voting power at the parent necessarily extends to the management of all Debtor entities, including the Borrower (CCO). Because CCO is a limited liability company with membership interests that are 100% owned by an intermediate holding company within the organizational structure of the Debtors, the

measurement of the percentage of voting power must occur at CCI. Indeed, CCO and its immediate parent entities have no separate boards of directors or other management - the board and management of CCI manage all Debtor entities, including CCO. 7/21/09 Tr. 191:16-193:11 (Smit). In addition, there is a Management Agreement between CCO and CCI (the "Management Agreement"), pursuant to which CCO appoints CCI as its manager and CCI agrees to provide all "management services" for CCO. *See* CX 305.

The board of CCI, which governs the management of CCI and its subsidiaries, including CCO, is elected by the shareholders of CCI. Under the Plan and Certificate of Incorporation for reorganized CCI, the Paul Allen Group will have more than 38.4% of the voting power of the shares of CCI on a fully-diluted basis and will also control four of the eleven board seats (36.36%) at CCI. 8/24/09 Tr. 20-21 (Goldstein); CX 406 at 4. Therefore, the restructuring proposed in the Plan easily satisfies the requirements of section 8(k)(i) of the credit agreement.

The more complicated question involves the balancing of relative percentages of ownership to the extent that section 8(k)(ii) is deemed to apply due to the existence of a section 13(d) group, consisting of Apollo, Oaktree, Crestview and Franklin (these members of the Crossover Committee are referred to collectively as the "Bondholders"). Upon Plan consummation, the shareholdings of these Bondholders will aggregate in excess of 35% of the voting rights of the equity of the reorganized debtors. JPMorgan alleges that the Bondholders – colorfully

dubbed the "Takeover Group" – have acted and are acting together in a concerted effort to acquire equity securities of the Debtors. Accordingly, if the Bondholders really are a "Takeover Group," the restructuring will violate section 8(k)(ii) of the credit agreement.

The Securities Exchange Act of 1934 characterizes a 13(d) "group" as two or more persons who "agree" to "act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of securities of an issuer … ." 15 U.S.C. § 78m(d)(3); Rule 13d-5(b)(1), 17 C.F.R. § 240.13d-5(b)(1). The evidence in the record does not support a finding that the Bondholders constitute a 13(d) group. The Bondholders came together only after each made an independent decision to purchase Charter debt. *See* 8/24/09 Tr. 233:12-234:18 (Gompers). In fact, it was Charter's financial advisor that suggested the Bondholders form an *ad hoc* committee. 7/21/09 Tr. 50:25-53:21 (Millstein). While each of them may be similarly motivated to make the best of a currently distressed investment, there are no binding agreements of any kind that tie the Bondholders together as a group for purposes of dealing with Charter's equity securities.

To be sure, the record reflects indications of cooperative behavior among the Bondholders, and that is not surprising. *See, e.g.,* 7/28/09 Tr. 73:5-11 (Zinterhofer) (Apollo representative testifying that he considers Oaktree, Crestview and Franklin as "partners" in the Charter investment.) However, the case law makes clear that the existence of a group must be established by proof of an actual agreement. *See, e.g., Quigley Corp. v. Karkus*, 2009 U.S. Dist.

LEXIS 41296, *9-*10 (E.D. Pa. 2009) (stating that a "[m]ere relationship, among persons or entities, whether family, personal or business, is insufficient to create a group … [and] [t]here must be agreement to act in concert") (citation omitted); *Litzler v. CC Invs., L.D.C.,* 411 F. Supp. 2d 411, 415 (S.D.N.Y. 2006) (explaining that "[g]eneral allegations of parallel investments by institutional investors do not suffice to plead a 'group'"). Even JPMorgan's own expert concedes that there is no express agreement or understanding among the Bondholders. 8/24/09 Tr. 243:25-245:21 (Gompers). To the extent that this expert concludes that an agreement can be inferred based on the observed behavior of private equity funds in other transactions, the Court rejects such opinion testimony as speculative, unreliable and of no probative value.

Although the Bondholders worked collectively, they never formed a 13(d) group; they are independent actors who were brought together in this transaction by the restructuring initiated by the Debtors. Consequently, regardless of the aggregate equity or relative board power that the Bondholders hold as a group, Section 8(k)(ii) does not apply to the transaction, and no impermissible change of control will occur under this section upon consummation of

the Plan. Accordingly, JPMorgan's[17] Plan objection based on section 8(k) is overruled.

Cross-Acceleration

JPMorgan's final argument against reinstatement relates to cross acceleration resulting from alleged defaults of the Designated Holding Companies under section 8(f) of the agreement that it claims are not *ipso facto* defaults and for which no cure is provided under the Plan. JPMorgan Br. Opp'n at 84.

Section 8(f) provides, in pertinent part, that it shall be an event of default under the credit agreement if any Designated Holding Company other than CCOH shall (i) fail to pay any installment of principal on any indebtedness exceeding $200 million, or (ii) fail to make an interest payment or cause any other event of default with respect to such indebtedness, provided that the failure to make such interest payment or such other event of default results in the acceleration of such indebtedness. JPX 2 § 8(f).

When CCH, CIH, CCH I and CCH II (each a Designated Holding Company) filed bankruptcy petitions, each had over $200 million in debt governed by indentures which contain identical or nearly identical provisions providing that (i) a

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[17] The Court notes that each of the First Lien Lender Group, Wilmington Trust Company, as Indenture Trustee for the Second Lien Notes and Wells Fargo Bank, N.A. as Successor Administrative Agent and Successor Collateral Agent for the Third Lien Lenders has objected to confirmation of the Plan pursuant to section 8(k)(ii) of the credit agreement. For the reasons set forth herein, each such objection is overruled.

bankruptcy filing is a default and (ii) all outstanding notes shall be accelerated upon a bankruptcy default. JPX 369 (CCH Indenture) at 6.01 and 6.02; JPX 370 (CCH Indenture) at 6.01 and 6.02; JPX 371 (CCH Indenture) 6.01 and 6.02; JPX 372 (CCH Indenture) 6.01 and 6.02; JPX 373 (CIH Indenture) at 6.01 and 6.02; JPX 374 (CCH I Indenture) at 6.01 and 6.02; and JPX 375 (CCH II Indenture) at 6.01 and 6.02.

JPMorgan argues that such acceleration constitutes an event of default under section 8(f) of the credit agreement and that this default is not an *ipso facto* default because its Borrower under the credit agreement, CCO, is solvent. JPMorgan Br. Opp'n at 84. JPMorgan bases its acceleration argument on the fact that section 8(f) does not speak to CCO's financial condition or bankruptcy but rather to the financial condition of affiliated, non-obligor Designated Holding Companies. JPMorgan Br. Opp'n at 87. JPMorgan contends that where a debtor is solvent, a court's role is to enforce creditors' rights pursuant to contract terms, including those terms set forth in section 8(f).

Bankruptcy Code section 365(e) prohibits termination or modification of a contract "solely because of a provision in such contract … that is conditioned on [*inter alia*] the insolvency or financial condition of the debtor [or] the commencement of a case under this title." 11 U.S.C. § 365(e). In addition, Bankruptcy Code section 1124(2)(A) carves out of its cure requirements "a default of a kind specified in section 365(b)(2) … or of a kind that section 365(b)(2) expressly does not require to be cured." 11 U.S.C. § 1124(2)(A). Section 365(b)(2), in turn, specifies that those same two relevant categories of default need

not be cured – i.e., those relating to "the insolvency or financial condition of the debtor at any time before the closing of the case" and "the commencement of a case under this title." 11 U.S.C. § 365(b)(2)(A), (B).

Under relevant case law, because "cross-default provisions are inherently suspect, … [b]efore enforcing them, a court should carefully scrutinize the facts and circumstances surrounding the particular transaction to determine whether enforcement of the provision would contravene an overriding federal bankruptcy policy and thus impermissibly hamper the debtor's reorganization." *Kopel v. Campanile, (In re Kopel)*, 232 B.R. 57, 64 (E.D.N.Y. 1999) (citations omitted); *see also Lifemark Hospitals, Inc. v. Liljeberg Enters. (In re Liljeberg Enters.),* 303 F.3d 410, 445 (5th Cir. 2002) (quoting *In re Kopel)*. Thus, a determination to enforce a cross-default provision necessarily is fact-specific. The question presented is whether the enforcement of section 8(f) urged by JPMorgan would contravene the overriding federal bankruptcy policy that *ipso facto* clauses are, as a general matter, unenforceable. *See, e.g., In re Chateaugay Corp.*, 1993 U.S. Dist. LEXIS 6130, *15-*16 (S.D.N.Y. 1993) (explaining that Bankruptcy Code section 365 "abrogates the power of *ipso facto* clauses" and, therefore, "[n]o default may occur pursuant to an *ipso facto* clause").

The section 8(f) default is one relating to the insolvency or financial condition of a debtor and therefore need not be cured under Bankruptcy Code section 1124. Charter is an integrated enterprise, and the financial condition of one affiliate affects the others. Debtors' Br. Supp. at 69; 7/22/2009 Tr. 209–11 (Merritt). JPMorgan itself has long linked the

financial condition of the Designated Holding Companies to that of CCO.[18] Indeed, JPMorgan's own witness testified that "[t]o the extent that there's a default at one of [CCO's] affiliates, that could have an impact on CCO." 8/25/2009 Tr. 64 (Kurinskas). The record also shows that JPMorgan was the lead underwriter in a March 2008 issuance of CCO notes in which the offering memorandum provided that, because CCI "is [CCO's] sole manager, and because [CCO is] wholly owned by Charter Holdings, CIH, CCH I, CCH II, and CCO Holdings, their financial liquidity problems could cause serious disruption of [CCO's] business and could have a material adverse affect on [CCO's] operations and results." CX 134; 8/25/2009 Tr. 67 (Kurinskas).

The JPMorgan witness further testified that "because of the relationship between CCO at the bottom and the holding companies, including designated holding companies above, JPMorgan specifically negotiated defaults and events of defaults specifically linking the financial condition of the designated holding companies and the financial condition of CCO." 8/25/2009 Tr. 64:23-65:4 (Kurinskas); *see also* Adv. Proc. Compl. ¶¶ 5, 34, *In re Charter Comm'ns*, 409 B.R. at 658 (stating that "[c]oncentrating attention on a single solvent entity within the corporate structure disregards relationships within the integrated corporate enterprise," and noting that in drafting the adversary complaint, "JPMorgan acknowledged the close

[18] The argument concerning the inability to pay debts as they become due under section 8(g)(v) of the credit agreement further demonstrates the relationship between JPMorgan's borrower and affiliates within Charter's capital structure.

relationship between CCI and its affiliates") (internal quotation marks omitted).

Given the foregoing, an event of default based on the financial condition of a Designated Holding Company is necessarily connected both factually and contractually to the financial condition of CCO. Thus, any such cross acceleration event of default is an *ipso facto* default that either is ineffective and unenforceable or does not need not to be cured. Accordingly, section 8(f) of the credit agreement is not a bar to reinstatement.

Motion to Dismiss the JPMorgan Adversary Proceeding Now Moot

The motion to dismiss filed by Charter remains outstanding with respect to the adversary proceeding filed by JPMorgan on the first day of these bankruptcy cases. The Court ruled on the core versus noncore aspect of that motion but held in abeyance any ruling on the adequacy of the complaint. In light of the trial on the merits of JPMorgan's complaint, the motion to dismiss has been rendered moot.

Dismissal on the pleadings is not appropriate because there has been a full evidentiary hearing in which JPMorgan was unable to prove the existence of any prepetition defaults under the credit agreement. As noted above, the Court has concluded that Section 8(g)(v) of the credit agreement should not be read prospectively, and even if it were to be so interpreted, the facts do not support a finding that any of the Designated Holding Companies was unable to pay its debts as they become due. Accordingly, judgment in the adversary proceeding is granted in favor of Charter.

Settlement With Paul Allen

Standard

The CII Settlement is a key component of the Plan that, for reasons noted in those sections of this opinion dealing with reinstatement, is a necessary condition for Charter to reinstate its senior secured debt. To the extent that a Plan includes a settlement, the settlement is to be judged in accordance with the law applicable to the approval of a settlement under Rule 9019 of the Federal Rules of Bankruptcy Procedure. *Motorola, Inc. v. Official Comm. of Unsecured Creditors (In re Iridium Operating LLC)*, 478 F.3d 452, 462 (2d Cir. 2007).

A bankruptcy court may approve a settlement under *Rule 9019* if it is fair and equitable and in the best interests of the estate. *Protective Committee for Independent Stockholders of TMT Trailer Ferry, Inc. v. Anderson*, 390 U.S. 414, 424-425, (1968). In order to determine if a settlement meets these standards a court must be apprised of all "factors relevant to a full and fair assessment of the wisdom of the proposed compromise." *Id.* And while the "approval of a settlement rests in the Court's sound discretion, the debtor's business judgment should not be ignored." *In re Stone Barn Manhattan LLC*, 405 B.R. 68, 75 (Bankr. S.D.N.Y 2009) (internal citations omitted).

Courts in the Second Circuit evaluate whether a proposed settlement is in the best interests of the estate and fair and equitable by applying the factors

set forth in *In re Iridium Operating LLC.*[19] 478 F.3d at 462. The standard does not require that the settlement be the best the debtor could have obtained nor does it require the court to conduct a mini-trial of the questions of law and fact. *In re Adelphia Comm'ns Corp.*, 327 B.R. 143, 159 (Bankr. S.D.N.Y), *adhered to on reconsideration*, 327 B.R. 175 (Bankr. S.D.N.Y 2005), *and aff'd*, 337 B.R. 475 (S.D.N.Y.) *aff'd*, 224 F. App'x 14 (2d Cir. 2006). Rather, the Court must "canvass the issues raised by the parties" and determine whether the settlement is reasonable. *In re Stone Barn Manhattan,* 405 B.R. at 75; *In re Teltronics Servs., Inc.*, 762 F.2d. 185, 189 (2d Cir. 1985).

The CII Settlement

The CII Settlement is the cornerstone of the Plan and the means by which the Debtors avoid a change of control. Reinstatement (made possible by the CII Settlement) will save the Debtors and their

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[19] The Iridium factors are: "(1) the balance between the litigation's possibility of success and the settlement's future benefits; (2) the likelihood of complex and protracted litigation, 'with its attendant expense, inconvenience, and delay,' including the difficulty in collecting on the judgment; (3) 'the paramount interests of the creditors,' including each affected class's relative benefits 'and the degree to which creditors either do not object to or affirmatively support the proposed settlement'; (4) whether other parties in interest support the settlement; (5) the 'competency and experience of counsel' supporting, and '[t]he experience and knowledge of the bankruptcy court judge' reviewing, the settlement; (6) 'the nature and breadth of releases to be obtained by officers and directors'; and (7) 'the extent to which the settlement is the product of arm's length bargaining.'" *Id.* (quoting *In re WorldCom, Inc.*, 347 B.R. 123, 137 (Bankr. S.D.N.Y. 2006)).

estates hundreds of millions of dollars in annual interest expense. 8/24/09 Tr. 16:18-17:3 (Goldstein); VDX 3 (CII Settlement: "Gives" and "Gets"). The Settlement also provides for Mr. Allen's forbearance from exercising his prepetition exchange rights and maintenance of a one percent interest in Charter Communications Holding Company, LLC ("Holdco"). This forbearance results in the Debtors' preservation of approximately $2.85 billion of NOLs, with an estimated cash value of over one billion dollars. *See* Degnan Aff. ¶ 9; 8/24/09 Tr. 16:18-17:3 (Goldstein); VDX 3 (CII Settlement: "Gives" and "Gets"). Additional aspects of the CII Settlement include the $1.6 billion rights offering, a stepped-up tax basis in a significant portion of the Debtors' assets, and the purchase of Mr. Allen's CC VIII Preferred Units. *See* VDX 3 (CII Settlement: "Gives" and "Gets"). The Debtors are receiving in excess of $3 billion in the CII Settlement. In exchange for this value, the Debtors are providing Mr. Allen with approximately $375 million.[20] *Id.* The breakdown of the "gives" and "gets" is as follows:

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[20] Even without the CII Settlement, the Debtors would have been obligated to pay the $25 million Allen Management Receivable, and, to the extent they wished to purchase the remainder of Mr. Allen's CC VIII preferred units, approximately $150 million. CX 211, Debtors' Disclosure Statement at 27; Goldstein Decl. ¶ 26.

Terms of CCI Settlement[21]	
Key Settlement Benefits	**Key Settlement Costs**
• $1.14 billion cash tax savings associated with preservation of $2.8 billion of NOLs • Hundreds of millions of dollars for preservation of reinstatement ability[22] • $135-165 million to purchase the CC VIII Preferred Units • $1.6 billion infusion of new capital through the rights offering[23] • Step-up in tax basis	<u>Claim and Sale Consideration</u> • $150 million to sell the CC VIII Preferred Units • $25 million Allen Management Receivable[24] **Total Claim and Sale: $175 mm**

[21] This chart is based on VDX 3 (CII Settlement: "Gives" and "Gets") and accurately summarizes the CII Settlement; *See also* Debtors' Disclosure Statement at 27-28.

[22] "On the preservation of the ability to reinstate the debt, this -- I think we've been conservative in putting hundreds of millions of dollars, frankly at the time we were negotiating this when there was even more severe dislocation of the credit markets, that was up to billions of dollars. Every hundred basis points of increase in the debt would be a 500 million dollar expense to the company. And so once you start talking about potentially several hundred basis points, you very quickly get into the billions of dollars." 8/24/09 Tr. 16:18-17:3 (Goldstein).

[23] "[W]ithout the CII Settlement, this plan would not be possible at all and therefore the rights offering couldn't happen. . . . the CII Settlement is one of the bases for the plan and which allows the rights offering to happen, allows the debtors to raise this money." 8/17/09 Tr. 34:7-34:12 (Doody).

[24] The "Allen Management Receivable" is a "$25 million [payment] for amounts owing to CII under the Management

	Settlement Consideration • $85 million New CCH II Notes • $60 million 3% Common Equity • $35 million 4% Warrants • $20 million capped fee reimbursement **Total Settlement: $180 mm**
Grand Total: ~ $3.5 billion +	**Grand Total: $375 million**

The CII Settlement Meets the 9019 Standard

The CII Settlement is a controversial feature of the Plan not because of the manifest benefits to the estate but because of the agreement to transfer substantial consideration to Mr. Allen. The Court has carefully considered the relative benefits and costs summarized in the above chart and is convinced for the reasons noted in the following sections that this essential component of the Plan complies in all respects with the *Iridium* standards, is in the best interests of the Debtors' estates and is fair and equitable.

Best Interests of the Estate

The CII Settlement is in the best interests of the Debtors estates because it (i) renders the Debtors' Plan feasible and (ii) is a reasonable settlement. The

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Agreement and predecessor agreements." CX 407, Plan at Article I.A.6; *see also id* at Article VI.A.2(a), (d).

Debtors' Plan is premised on the twin goals of debt reinstatement and preservation of tax attributes. Achieving these goals required an agreement with Mr. Allen to take certain actions that he had no legal duty to perform, and to refrain from taking certain actions he was legally permitted to perform.[25] 8/24/09 Tr. 13:20-14:14, 155:5-156:13 (Goldstein); 7/21/09 Tr. 61:5-62:6 (Millstein). Mr. Allen's agreement to hold a controlling position in Charter within the meaning of the credit agreement was necessary for the reinstatement of the Debtors' senior secured debt. *Id.* at 62:1-6. Likewise, his agreement not to exercise his exchange rights leaves the Debtors' corporate structure in place and preserves an estimated $1.14 billion in NOLs. *Id. See also* 8/24/09 Tr. 155:5-23 (Goldstein).

Fundamental to the Plan is the Debtors' reinstatement of $11.4 billion in senior secured debt at favorable interest rates. Reinstating this credit facility saves the Debtors hundreds of millions of dollars in annual interest expense thereby greatly benefiting the Debtors' estates. 8/24/09 Tr. 16:18-17:3 (Goldstein). Critically, as discussed above, reinstatement depends on the agreement of Mr. Allen to maintain 35% of the voting power of CCI to avoid a change of control default. *See* Goldstein Decl. ¶ 24-25; 9/2/09 Tr. 68:17-23, 148:15-23 (Conn). The CII Settlement, thus, is central to the mechanism by which the Debtors are able to reinstate their senior bank debt.

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[25] The CII Settlement does not compensate Mr. Allen for his equity interests in the Debtors. The settlement compensation is for the prospective duties and obligations Mr. Allen agreed to assume in exchange for consideration.

The CII Settlement will also enable the Debtors to achieve significant tax savings by preserving $2.8 billion of NOLs. Degnan Decl. ¶¶ 8-9; 8/24/09 Tr. 16:9–17 (Goldstein). These potential tax savings are available because the Debtors have had "substantial operating losses as a tax matter for many years." 7/21/09 Tr. 48:2-3 (Millstein). The NOLs are valuable now, because upon emergence from bankruptcy the Debtors project having positive income against which to apply their NOLs. *Id.* 48:4-15. The ability to utilize these valuable tax attributes in the future is purely a function of Mr. Allen's cooperation. 8/31/09 Tr. 184:21–24 (Johri); 7/22/09 Tr. 202:24-203:18 (Merritt); 7/21/09 Tr. 222:19-223:4, 224:2-18 (Smit); 8/17/09 Tr. 239:4-8 (Doody).

The adverse impact to the Debtors if the CII Settlement is not approved is real and significant. The Debtors will remain in bankruptcy, inevitably face materially higher borrowing costs, and potentially forfeit billions of dollars in tax savings. The benefits of the CII Settlement far outweigh its costs. Accordingly, despite the significant consideration being paid to Mr. Allen, the CII Settlement is in the best interests of the estate.

The Benefits of the CII Settlement Outweigh the Likelihood of Success on the Merits

The first factor of the *Iridium* test calls for comparing the likelihood of success in litigation with a settlement's future benefits for the estate. This factor is hard to apply because approval or denial of the settlement will not necessarily result in litigation but rather the inability to confirm a prenegotiated Plan for Charter with resulting incremental administrative expenses and risks to the Debtors'

estates of a potentially prolonged and uncertain bankruptcy process. The settlement has been proposed because of the extreme difficulty in obtaining the benefits of the CII Settlement through litigation. *See* Doody Decl. ¶ 33. The benefits of the CII Settlement are substantial and obvious. The Settlement permits reinstatement by "avoiding a change of control that could trigger the acceleration of the bank debt" and "optimizing the tax structure so as to preserve as much of the NOL[s] as possible." 7/21/09 Tr. 61:24-62:6 (Millstein); 7/22/09 Tr. 202:24 – 203:18 (Merritt).

The Likelihood of Complex and Protracted Litigation

The Plan has already generated complex and protracted litigation relating in part to the proposed Settlement. While it is foreseeable that disapproval of the settlement will defeat the Plan and lead to alternative proposals for restructuring Charter that could involve future litigation among the parties, that adverse outcome will not necessarily be followed by complex and protracted litigation as to the subject matter of the settlement itself. Accordingly, this factor is not relevant to the Court's consideration of the proposed settlement terms.

The Interest of Creditors

The CII Settlement is fundamental to the Debtors' Plan and has the enthusiastic support of the Official Committee for Unsecured Creditors. *See* 7/20/09 Tr. 88:11-89:1 (Elkind); *See also* Comm. Br. Supp. The Settlement brings enormous value to the estate and increases the recoveries for creditors generally. *See* 9/2/09 Tr. 148:15-23 (Conn); 9/10/09 Tr. 25:10-13 (Millstein). Notably, the compromise

reached regarding the amounts to be received by Mr. Allen was the product of intense discussions with Charter's bondholders (who served as a proxy for the interests of other creditors), and reflects agreed payments that creditors themselves recognized were for the good of the enterprise.

Other Parties in Interest

As discussed above, the Crossover Committee and the Creditor's Committee support the Settlement and recognize its central importance to the Plan. The CCI Noteholders, on the other hand, have been vocal in their opposition to the Settlement and have complained that Mr. Allen is receiving too much and that CCI (as opposed to the entire Charter enterprise) is receiving too little (particularly in respect of NOLs allegedly attributable to CCI that are being preserved under the Settlement). *See* Law Debenture Trust Br. Opp'n at 83-90. As discussed below in the section of this opinion dealing with confirmation standards, the CCI Noteholders have not proven that the Settlement as a whole is not beneficial nor have they demonstrated any particularized entitlement to share separately in any portion of the value associated with the NOLs. Charter's many stakeholders, including thousands of employees, are benefited by a Settlement that adds so much value to the enterprise, and so this factor favors approval of the CII Settlement.

The Competency and Experience of Counsel

All parties to the CII Settlement were represented by highly regarded law firms and financial advisors with ample relevant experience in the restructuring field. *See* Doody Decl. ¶ 32; *see also*

8/17/09 Tr. 25:25-26:11 (Doody). The Court also notes that the parties to the Settlement themselves are sophisticated and experienced in high-stakes negotiations. This factor favors approving the settlement.

The Law Debenture Trust Company alleges that no fiduciary or advisor to CCI played a meaningful role during the Settlement negotiations and that this factor detracts from the fairness of the CII Settlement. Law Debenture Trust Br. Opp'n at 68-69. The evidence is otherwise and supports a finding that the Board, in conjunction with its advisors, fulfilled its fiduciary duties and, following independent review, approved a settlement that maximized value for all stakeholders, including the CCI Noteholders. 7/22/09 Tr. 241:2-2:43:11 (Merritt); 8/31/09 Tr. 156:23-157:20 (Johri).

The Nature and Breadth of Releases for Officers and Directors

The CII Settlement does not independently release directors and officers, but it does require that the Plan provide for such releases. 7/16/09 Doody Decl. ¶ 39; *See* CX 407, Plan at Art. X.D, X.E. These releases, discussed in more detail below, are appropriate and justified as essential to the structure of the CII Settlement and are provided in return for substantial and unique consideration from Mr. Allen. *See* 9/2/09 Tr. 86:10-88:20 (Conn); 8/17/09 Tr. 62:18-63:18 (Doody). Indeed, as measured by the difference between the benefits of the CII Settlement and its costs, the resulting net consideration easily amounts to billions of dollars. *See* Goldstein Affidavit ¶ 22-30; 9/2/09 Tr. 176:7-177:13 (Conn). Accordingly, substantial consideration supports the releases.

The Extent to which the CII Settlement is the Result of Arm's-Length Bargaining

The unrebutted testimony proves that the CII Settlement is the product of vigorous and hard-fought three-way negotiations involving the Debtors, Mr. Allen, and the Crossover Committee. *See* 7/21/09 Tr. 55:9-12, 73:4-9 (Millstein); 7/21/09 Tr. 222:19-21, 224:1 (Smit); 8/17/09 Tr. 26:12-19 (Doody); 7/22/09 Tr. 172:19-173:5 (Merritt). These negotiations spanned more than a month, included multiple proposals and counter-proposals, and yielded concessions and modifications from all parties. *See* 8/17/09 Tr. 28:24 – 29:9 (Doody); 7/29/09 Tr. 210:18-211:18 (Liang)

Because these discussions involved parties with clearly divergent economic interests, the negotiations were well suited to develop a practical and fair result. *See* 7/29/09 Tr. 209:24-210:8 (Liang). The outcome is thus market tested in the sense that the Crossover Committee was negotiating as an adversary with its own dollars at stake against Mr. Allen. Any value flowing to Mr. Allen from the CII Settlement came directly from the Crossover Committee's pocket. *Id.* The Court is satisfied that the CII Settlement represents the considered judgment of economically motivated parties who were negotiating at arm's-length to reach the best settlement that could be achieved under the circumstances.

The CII Settlement is Fair, Equitable, and Reasonable

The Court's role in deciding whether to approve a settlement is to canvass the record and ensure that the settlement is (i) fair and equitable

and (ii) does not "fall below the lowest point in the range of reasonableness." *In re Teltronics Servs.*, 762 F.2d. at 189. The extensive record establishes that the CII Settlement is fair and equitable. It unquestionably falls above the lowest point in the range of reasonableness and satisfies the standards required for approval of settlements in this Circuit.

Debtors' Releases

Article X.D of the Debtors' Plan provides that the Debtors shall fully discharge and release all claims and causes of action against the Debtor Releasees[26] arising from or related in any way to the Debtors (the "Debtor Releases"). Debtors are authorized to settle or release their claims in a chapter 11 plan. *See* 11 U.S.C. 1123(b)(3)(A) (permitting a plan to provide for "the settlement or adjustment of any claim or interest belonging to the debtor or to the estate."); *see also In re Adelphia Comm'ns Corp.*, 368 at 264 n.289. When reviewing releases in a debtor's plan, courts consider whether such releases are in the best interest of the estate. *See generally, In re Bally Total Fitness of Greater New York, Inc.,* 2007 WL 2779438, at *12 (Bankr. S.D.N.Y. 2007). Here, the Debtor Releases are an integral part of a comprehensive Plan that provides substantial value to the estates. Doody Decl. ¶ 36*; see also* 7/22/09 Tr. 268:15-269:19 (Merritt). These

[26] The Debtor Releasees include (a) the Debtors; (b) the parties who signed Plan Support Agreements with a Debtor; (c) any statutory committees appointed in the chapter 11 Cases ((a)-(c), collectively, the "Releasing Parties"); and (d) for each of the Releasing Parties, their respective members, officers, directors, agents, financial advisors, attorneys, employees, partners, Affiliates, and representatives. Plan at X.D at 60.

releases have limited value and are procedurally efficient, in view of the fact that most of the Debtor Releasees have indemnification rights such that any claims by the Debtors against them would ultimately lead to claims being asserted against the Debtors. *See* Doody Decl. ¶ 36.

Third Party Releases

In addition to the Debtor Releases, Article X.E of the Plan, in conjunction with the CII Settlement, provides for certain third party releases (the "Third Party Releases"). Certain parties (collectively, the "Release Objectors") object to confirmation on the grounds that these Third Party Releases are improper.[27] The Third Party Releases, under the circumstances presented, satisfy the requirements for such releases in the Second Circuit, and are accordingly approved.

Non-debtor releases are permissible in the Second Circuit where "truly unusual circumstances render the release terms important to success of the plan." *Deutsche Bank AG v. Metromedia Fiber Network, Inc. (In re Metromedia Fiber Network, Inc.*),

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[27] *See* CCI Noteholder Objection at 98-100 [Docket No. 581]; JP Morgan Objection at 32-34 [Docket No. 600] (Filed Under Seal); Objection of Wells Fargo Bank, N.A., as Successor Administrative Agent and Collateral Agent, to Confirmation of the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code (Filed Under Seal) [Docket No. 584] at 41-46; Objection of Key Colony Fund, LP to Joint Plan of Reorganization [Docket No. 574] at 1-10; Objection of the United States Trustee to the Debtors' Joint Plan of Reorganization [Docket No. 475] at 1-15; Objection of the U.S. Securities and Exchange Commission to the Confirmation of the Debtors' Joint Plan of Reorganization [Docket No. 576] at 1-12.

416 F.3d 136, 142-43 (2d Cir. 2005); *SEC v. Drexel Burnham Lambert Group, Inc. (In re Drexel Burnham Lambert Group, Inc.*), 960 F.2d 285, 293 (2d Cir. 1992) ("In bankruptcy cases, a court may enjoin a creditor from suing a third party, provided the injunction plays an important part in the debtor's reorganization plan."). Courts will only tolerate non-debtor releases, however, in "circumstances that may be characterized as unique." *In re Metromedia,* 416 F.3d at 142. Adhering to the Second Circuit's indication that non-debtor releases should be rare, courts have found that "the mere fact of financial contribution by a non-debtor cannot be enough to trigger the right to a *Metromedia/Drexel* release." *Cartalemi v. Karta Corp. (In re Karta Corp.),* 342 B.R. 45, 55 (S.D.N.Y. 2006). The non-debtor contribution must do more.

Given the unusual features of the Plan, the non-debtor contributions extend well beyond the level required for a release. The *Metromedia* Court noted that this determination is "not a matter of factors and prongs," but did provide guidance as to the settings where non-debtor releases may be appropriate. *In re Metromedia*, 416 F.3d at 142.[28] The record establishes that the Third Party Releases are permissible here – the Debtors are to receive substantial financial and non-financial consideration in exchange for the non-

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[28] These include "whether the estate received substantial consideration; the enjoined claims were 'channeled' to a settlement fund rather than extinguished; the enjoined claims would indirectly impact the debtor's reorganization 'by way of indemnity or contribution'; and the plan otherwise provided for the full payment of the enjoined claims. Nondebtor releases may also be tolerated if the affected creditors consent." *In re Metromedia*, 416 F.3d at 142 (citations omitted).

debtor releases, there is an identity of interest between the debtors and the non-debtor releases by indemnification agreements, and this case involves truly unusual circumstances that render the Third Party Releases important to the success of the Plan.

Substantial Consideration

The Debtors' estates will be receiving substantial consideration in exchange for the Third Party Releases. The CII Settlement Claim Parties[29] agreed to undertake actions to permit the reinstatement of senior secured debt at favorable interest rates and refrain from taking action that would degrade the value of the Debtors' potentially valuable NOLs. 8/17/09 Tr. 34:4-24 (Doody). Notably, while the result of the CII Settlement confers billions of dollars in value on the Debtors, these are not mere financial exchanges. *See* 8/17/09 Tr. 238:9-239:8 (Doody); *see also* 7/22/09 Tr. 202:24-203:18 (Merritt). The value of the CII Settlement is driven by the identity of and binding promises by the CII

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[29] A "CII Settlement Claim Party" is defined as "(a) Mr. Allen; (b) his estate, spouse, immediate family members and heirs; (c) any trust in which Mr. Allen is the grantor or which is created as a result of his death; (d) CII; and (e) any other Allen Entity which Mr. Allen or any of the other persons or Entities identified in clauses (a) through (d) of this definition, unilaterally or together with any other Allen Entity (directly or through agents), can legally bind to a settlement, compromise and release of Claims and Interests against the applicable Debtors under the Plan without authorization, consent or approval of any other person or Entity; provided, however, that in no event shall "CII Settlement Claim Party" include any public company, including without limitation, any Entity that has securities listed, quoted or traded on any securities exchange. CX 407, Plan at Article X.E.

Settlement Claim Parties. Due to these uniquely personal structuring benefits, no other party could stand in their shoes and achieve the same result. The Third Party Releases, therefore, are being granted in exchange for very substantial consideration in a rare restructuring context.

Identity of Interest

The indemnification obligations between the Debtors and their directors, officers, agents, and professionals produce an identity of interest between the Debtors and the CII Settlement Claim Parties. *See* 8/17/09 Tr. 62:25-63:9 (Doody); *see also* Doody Decl. ¶ 40. This identity of interest supports approving the Third Party Releases.

Unusual Circumstances

The CII Settlement would be a notable and innovative restructuring at any time, but is especially remarkable having been negotiated at the height of the so-called "Great Recession." It is unusual in a number of important respects. First, Mr. Allen and individuals associated with him, the CII Settlement Claim Parties, were uniquely able to support the structure of the Plan. *See* 9/2/09 Tr. 152:11-153:2 (Conn.). Second, Charter's structure is complex, its debt load is enormous, and its bankruptcy is one of the largest rearranged cases ever filed. *See* 8/17/09 Tr. 63:10-18 (Doody). Third, by means of the rights offering Charter has succeeded in raising substantial capital during an exceptionally difficult and uncertain time in the credit markets. *Id*. Fourth, the Plan is only possible if the senior secured debt is reinstated and the company's NOLs are preserved, and both of these goals require voluntary

participation in the Plan by the CII Settlement Claim Parties. *See* Goldstein Decl. ¶ 28. Fifth, Mr. Allen is an individual well known for his wealth; such a conspicuously public figure may be expected to attract litigation relating to Charter without the protection of releases. Overall, the unique manner in which value is being created, the sheer magnitude of the cases, and the once-in-a-lifetime market conditions in which this creative restructuring took place, in combination, justify approval of the Third Party Releases.

Essential to the Plan Process

The Third Party Releases also are an integral part of the Plan. Third Party Releases were included by the CII Settlement Parties in their first response to the strawman restructuring proposal, remained a part of the transaction, and were never negotiated away. *See* 8/17/09 Tr. 62:18-63:2 (Doody). These Third Party Releases are essential to the CII Settlement. 9/2/09 Tr. 86:10-88:1 (Conn). As a requirement of the CII Settlement, the Third Party Releases are thus an essential component of the Plan that has been accepted by nearly all creditor classes entitled to vote. *See* Doody Decl. ¶ 39. The CII settlement and the Third Party Releases are vital to the Plan and are approved.

Plan Satisfies Confirmation Standards

Bankruptcy Code section 1129(a) delineates the requirements that chapter 11 plans must satisfy to be confirmed by a bankruptcy court. See 11 U.S.C. § 1129(a) ("The court shall confirm a plan only if all of the following requirements are met: (1) … (16)"). It is

undisputed[30] that the Plan satisfies a majority of the applicable[31] confirmation requirements. The Court has determined that the Plan satisfies each of the remaining contested confirmation requirements and overrules the objections of the CCI Noteholders. For administrative ease, the Court addresses these confirmation requirements contested by the CCI Noteholders in sequence below.

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[30] No parties dispute that the Plan satisfies the following applicable confirmation requirements: Bankruptcy Code sections 1129(a)(2), 1129(a)(4)-(5), 1129(a)(8)-(9), 1129(a)(11)-(13). To the extent the Plan's satisfaction of 11 USC § 1129(a)(5) remains at issue, the Court concludes that this confirmation standard is satisfied. It is undisputed that two out of the eleven seats on the Debtors' board of directors remain vacant. See JP Morgan Post-Trial Brief at pp. 57 – 61. Although section 1129(a)(5) requires the plan to identify all directors of the reorganized entity, that provision is satisfied by the Debtors' disclosure at this time of the identities of the known directors. *See In re Am. Solar King. Corp.*, 90 B.R. 808, 815 (Bankr. W.D.Tex. 1988) ("The debtor's inability to specifically identify future board members does not mean that the debtor has fallen short of the requirement imposed by [1129(a)(5)] because the debtor *at this point*" disclosed all known directors). The testimony of Ms. Villaluz of Franklin also explained the ongoing internal process for identifying the director to be selected by Franklin and made clear that this director would be independent and have no connection to Franklin.

[31] The confirmation requirements set forth in subsections (a)(6), (14), (15), and (16) of section 1129 are not applicable to the Plan. 11 U.S.C. § 1129(a)(6) concerns the need for government approval of rate changes subject to government regulatory jurisdiction; § 1129(a)(14) concerns debtors required by order or statute to pay domestic support obligations; § 1129(a)(15) applies to individual debtors; and § 1129(a)(16) is only relevant to the mechanism by which certain property is transferred.

Plan Was Proposed In "Good Faith" In Satisfaction Of 11 U.S.C. §1129(a)(3)

Bankruptcy Code section 1129(a)(3) requires that a chapter 11 plan of reorganization be "proposed in good faith and not by any means forbidden by law." As used in this context, "good faith" requires that a plan be "proposed with 'honesty and good intentions' and with 'a basis for expecting that reorganization can be effected.'" *Kane v. Johns Manville Corp.*, 843 F.2d 636, 649 (2d Cir. 1988) (quoting *Koelbl v. Glessing (In re Koelbl)*, 751 F.2d 137, 139 (2d Cir. 1984)).

The Plan has been proposed in good faith in compliance with section 1129(a)(3). Several of the Debtors' directors testified that they supported the Plan because they believed it maximized value. *See* 7/21/09 Tr. at 46:24-47:4 (Smit) ("maximiz[ing] value to the extent possible so it could provide a greater recovery to the creditors' losses … was … the goal of these exercises, generally"); 7/22/09 Tr. at 243:6-11 (Merritt) ("The objective of the board was to maximize the overall enterprise value").[32] Moreover, the record includes extensive testimony that the Plan resulted from arms-length negotiations, which is indicative of good faith. *In re Enron Corp.*, 2004 Bankr. LEXIS 2549 at *80 (Bankr. S.D.N.Y. July 15, 2004) (confirming plan and finding good faith requirement satisfied in part because plan resulted from "extensive arm's-length discussions"). *See*, *e.g.*, 7/21/09 Tr. at 73:4-9:10 (Millstein) (negotiations were at arms length); 7/21/09 Tr. at 223:10-224:12 (Smit)

[32] Moreover, as discussed herein, the CII Settlement embedded in the Plan was proposed in good faith.

(the settlement parties had separate counsel and advisors and conducted arms length negotiations). The Plan further complies with Bankruptcy Code section 1129(a)(3) because it was not proposed "by any means forbidden by law." 11 U.S.C. § 1129(a)(3). The CCI Noteholders contend that the Plan fails to satisfy section 1129(a)(3) because this provision requires the Plan, and the embedded CII Settlement, to satisfy the "entire fairness" standard under Delaware corporate law. Law Debenture Trust Br. Opp'n at 86-87. ("A central element of the proposed plan is a transaction between the Debtors and Mr. Allen … the Debtors must prove that the Allen Settlement and the Plan are entirely fair" in satisfaction of Delaware fiduciary duty standard).

This argument fails for two reasons. First, the "entire fairness" standard does not apply in light of the record showing that the negotiations that resulted in the settlement were initiated by Lazard for the benefit of the enterprise, not by Mr. Allen for his benefit, and that the settlement was approved by independent members of Charter's board. Second, even if the "entire fairness" standard were applicable, the plain language of section 1129(a)(3) does not require that the Plan's contents comply "in all respects with the provisions of all nonbankruptcy laws and regulations" because it "speaks only to the proposal of a plan ..." *In re Buttonwood Partners, Ltd.*, 111 B.R. 57, 59 (Bankr. S.D.N.Y. 1990), quoting 5 Collier on Bankruptcy, ¶ 1129.02, 129-23 (15th ed.); *In re General Dev. Corp.*, 135 B.R. 1002, 1007 (Bankr. S.D. Fla. 1991) (holding that proposed plan satisfied Bankruptcy Code section 1129(a)(3) even if its distribution of stock to the objecting municipalities

could be construed to violate the Florida Constitution).

CCI Noteholders Will Receive More Under The Plan Than They Would Receive Under Hypothetical Chapter 7 Liquidation

Notwithstanding the CCI Noteholders' objection, the Plan satisfies section 1129(a)(7) because it proposes a recovery that exceeds by a substantial percentage what they would receive under a liquidation in chapter 7. 11 U.S.C. § 1129(a)(7) ("with respect to each impaired class of claims or interests – (A) each holder of a claim or interest of such class … (ii) will receive or retain under the plan on account of such claim or interest property of a value, as of the effective date of the plan, that is not less than the amount that [they] would so receive … if the [Debtors] were liquidated under chapter 7").

In the event of liquidation under chapter 7, the CCI Noteholders' recovery would amount to approximately 18.4% of their claims that are structurally subordinated to the claims of all other creditors of the Debtors, including more than $19 billion in other debt. *See* 8/17/09 Tr. at 55-57 (Doody); Cmte. Br. Supp. at 45. The Plan is demonstrably more favorable and is structured to provide the CCI Noteholders with a recovery well in excess of that amount -- approximately 32.7%. Indeed, despite their subordinated rank in the capital structure, the CCI Noteholders are being offered the highest percentage recovery under the Plan among all of the Debtors' unsecured noteholders.

The CCI Noteholders object to the Debtors' valuation and rely heavily on the testimony of their retained expert, Edward McDonough whose opinions are based on limited independent analysis. The Court did not find Mr. McDonough's testimony to be persuasive or to rebut the reliability of Debtors' liquidation analysis. Perhaps most critically, Mr. McDonough engaged in a largely speculative exercise of listing possible incremental recoveries and offered no reliable opinions as to the likelihood that any of these identified sources of possible extra value would ever materialize. He also did not create his own liquidation analysis. 9/1/09 Tr. at 153:1-2 (McDonough) ("Q: Did you do a ground-up analysis of what the liquidation value of the Debtors would be? A: No. I started with what was Exhibit E and added to that").

Mr. McDonough's analysis does not take into account the sizeable gap between the CCI Noteholders' projected recovery under the Plan (32.7%) and the CCI Noteholders' hypothetical recovery under the Debtors' liquidation analysis (18.4%). McDonough insisted that the existence of only a few flaws in the Debtors' liquidation analysis would suffice to prevent confirmation of the Plan under section 1129(a)(7). *See* 9/1/09 Tr. at 147:5-8 (McDonough) ("my point is, [the] hurdle is fairly low. … you don't have to hit a, you know, grand slam here … it's a bunt single basically"); Law Debenture Trust Br. Opp'n at 72 ("It would only require a very small recovery from the other identified sources to allow the holders of CCI Notes Claims to obtain more in a liquidation than under the Plan").

But given the 14.3% gap in distribution percentages between recoveries under the Plan and those to be realized in a hypothetical liquidation, Mr. McDonough's speculation as to the relative ease of obtaining more value at the CCI level through possible add-ons does nothing to prove that any additional value can ever be realized or to undermine the reliability of the liquidation analysis itself. Because his testimony is based more on conjecture than hard analysis, the Court gives little weight to his opinion regarding the possibility of higher recoveries at CCI in a hypothetical liquidation.

The CCI Noteholders argue that the Debtors overlooked a series of possible incremental recoveries from alleged preference and avoidance actions, programming contracts, stock options and other intercompany receivables. Mr. McDonough identified these "add-ons" as sources from which the Debtors and, thereby, the CCI Noteholders, may receive additional recoveries in a hypothetical chapter 7 liquidation. *See* McDonough Report. The CCI Noteholders failed, however, to present any evidence that there would or could be any actual or significant recoveries on account of the "addons."[33]

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[33] For the sake of brevity, the Court does not delve into the flaws of each of the purported "add-on" recoveries discussed in the McDonough Report. For example, the McDonough Report suggested that the Debtors' liquidation analysis underestimated the value to be recovered from preference actions by $25.8 million. The Debtors' projected recovery of zero is more persuasive, however, given the fact that in a distressed sale scenario a purchaser likely would insist on a waiver of preference actions against trade vendors and employees to protect the ongoing value of the business going forward. The Debtors' expert, Mr. Folse, testified that these assumptions are

Tellingly, Mr. McDonough acknowledged during cross examination that the potential recovery from the additional sources he identified could be lower than as stated in his expert report or even worth nothing at all – he even admitted that the potential recovery from any or all of the additional sources could be zero. *See*, *e.g.*, 9/1/09 Tr. at 186:22-24, 190:9-16 (McDonough) ("Q: You agree that that 22.4 recovery [for insider payments] – potential recovery could be between a range of zero to 22.4 million, correct? A: It could be between zero and 22.4, that's correct").

Mr. McDonough's criticism of the Debtors' valuation of the new preferred stock to be distributed to the CCI Noteholders under the Plan is also questionable. The Debtors value the stock according to its face value in the amount of $138 million. Debtors' Br. Supp. at 42. Mr. McDonough, however, argues that the Debtors overestimate the projected recovery under the Plan by overvaluing these shares by 20% due to the fact that it is a minority interest. 9/1/09 Tr. at 112:6-24 (McDonough). Mr. McDonough's opinion is suspect, however, because his previous reports utilized the same 20% discount based on other justifications. Initially, Mr. McDonough discounted the Debtors' valuation of the new preferred stock by 20% because of the lack of a public market for the shares. At that time, Mr.

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reasonable. 8/18/09 Tr. at 35:7-36:2 (Folse). But even if preference recoveries were to be included, the Debtors' post-trial brief and testimony from Folse shows that the size of preference recoveries from insiders and non-insiders would be *de minimis*. *See* Debtors' Br. Supp. at 50-51; 8/18/09 Tr. at 63:18-20, 65:3-10 (Folse).

McDonough noted the minority nature of the stock but presumably did not deem such minority status by itself as sufficient cause to justify a 20% discount. Then, after the Debtors increased the marketability of the new preferred stock, Mr. McDonough appears to have simply kept the same 20% discount but modified its rationale. Such an ends-oriented analysis is not persuasive.

The Debtors' liquidation analysis, on the other hand, appears to have relied on reasonable assumptions. For example, the liquidation analysis properly assumes that, in a hypothetical chapter 7 liquidation, the Debtors' businesses would likely be sold by means of a distressed going concern sale, as opposed to a piecemeal liquidation of assets. Debtors' Br. Supp. at 42. This assumption, which values the Debtors' businesses at a discount of 10-20% of the midpoint of the Plan value, is a conservative assumption expected to result in a higher liquidation value than a piecemeal liquidation. 8/24/09 Tr. at 18:4-19:13 (Goldstein); 8/24/09 Tr. at 18:4-19:13, 128:11 – 14 (Goldstein) (piecemeal asset sale would have yielded much less value to creditors than distressed sale). Indeed, piecemeal liquidation would likely generate a particularly low recovery for CCI because CCI has no significant assets, aside from some intercompany claims and its equity stake in its subsidiary. *See* 7/31/09 Tr. at 134:11-15 (Schmitz) ("Q: Are there any cable customers or telephone or HSI customers at the CCI level? A: No.").

The Debtors' liquidation analysis also properly reflects the fact that, in a hypothetical chapter 7 liquidation of CCI, the NOLs would have no value and thus not be a source of potential added recovery

for the CCI Noteholders. *See* 8/17/09 Tr. at 37-41 (Doody). This is so because CCI is not an operating company and does not produce any income of its own against which the NOLs could be utilized. *Official Comm. of Unsecured Creditors v. PSS Steamship Co., Inc. (In re Prudential Lines, Inc.)*, 107 B.R. 832, 841 (Bankr. S.D.N.Y. 1989), *aff'd*, 928 F.2d 565 (2d Cir. 1991). *See also Loop Corp. v. U.S. Trustee*, 379 F.3d 511, 518-19 (8th Cir. 2004) (affirming bankruptcy court's conversion of case from chapter 11 to chapter 7 despite the fact that the debtor's NOLs may have value in a chapter 11 but would have no value in a chapter 7 liquidation); *Maytag Corp. v. Navistar Int'l Transp. Corp.*, 219 F.3d 587, 590-91 (7th Cir. 2000) ("Tax attributes cannot be sold or given away; only the company that generated the losses may use them. When the bankruptcy wrapped up, accumulated tax losses were a major asset of the estate. It would have been folly to throw them away, as a liquidation would have done").

Moreover, while the CCI Noteholders focused considerable attention during the trial on the potential value of the NOLs, no tax expert testified for any party, and the record is devoid of any reliable evidence relating to the actual value to CCI of the NOLs even if CCI were considered to be the owner the NOLs. Generally, NOLs are deemed to belong to the operating entity that generated them. Under the circumstances of this case, that would be CCO, not CCI. *See, e.g., Nisselson v. Drew Indus. Inc. (In re White Metal Rolling and Stamping Corp.)*, 222 B.R. 417, 424 (Bankr. SDNY 1998) ("It is beyond peradventure that NOL carrybacks and carryovers are property of the estate of the loss corporation that generated them"). However, regardless of which

Charter entity generated the NOLs, because of the lack of any convincing proof of ownership or the ability to convert the NOLs into measurable proceeds, the Court is unable to find that CCI has been deprived of any value associated with Charter's tax attributes.

Plan Satisfies 11 U.S.C. § 1129(a)(10)

The CCI Noteholders argue that the Plan does not satisfy the requirement of section 1129(a)(10) that at least one impaired class of claims accept the plan. *See* 11 U.S.C. § 1129(a)(10) ("If a class of claims is impaired under the plan, at least one class of claims that is impaired under the plan has accepted the plan…"). Although the Plan has been accepted by ten different impaired classes of claims,[34] including Class A-3 General Unsecured Creditors (CCI General Unsecured Creditors) and Class C-3 General Unsecured Creditors (Holdco General Unsecured Creditors), the CCI Noteholders argue that these classes should not be counted for purposes of Bankruptcy Code section 1129(a)(10) because they were "artificially gerrymandered" solely for purposes of obtaining the approval of an impaired class of creditors. *See* Law Debenture Trust Br. Opp'n at 36-37; *Boston Post Road Ltd. P'ship v. FDIC (In re Boston Post Road Ltd. P'ship)*, 21 F.3d 477, 483 (2d Cir. 1994) ("separate classification of unsecured claims solely to create an impaired assenting class will not be permitted; the debtor must adduce credible proof of a legitimate reason for separate

[34] Excluding insider votes, 9 impaired classes (A-3, B-3, B-4, C-3, F-4, G-4, H-4, J-2, and J-6) voted to accept the Plan. See Schepper Decl. at ¶¶ 15, 16.

classification of similar claims"). Specifically, the CCI Noteholders contend that the Plan should not separately classify CCI and Holdco's noteholders from their other general unsecured creditors.

The Debtors, however, have provided a reasonable explanation for the Plan's classification scheme.[35] The Plan's separate classification appears appropriate given the disparate legal rights and payment expectations of the CCI Noteholders and the CCI General Unsecured Creditors. *See* 8/17/09 Tr. at 53:10-54:16 (Doody) (distinguishing the Class A-3 CCI General Unsecured Claims from the Class A-4 CCI Notes Claims). First, the claims of the CCI General Unsecured Creditors arise from litigation, employment, or operational relationships, while claims of the CCI Noteholders arise from the holding of CCI Notes. *Id.* Significantly, the CCI Notes are convertible into equity and structurally subordinated to the debt at all other Charter subsidiaries. *See* 6.5% Convertible Senior Notes due 2027 Indenture, dated October 2, 2007 between CCI and The Bank of New York Trust Company, N.A., CX 287, Ex. 4.7; 9/1/09 Tr. at 157:23-159:7 (McDonough) (CCI Notes were convertible and subordinated).

CCI and its noteholders also are entitled to an alternate source of recovery against Holdco that is unavailable to the CCI General Unsecured Creditors because the CCI Notes were issued in conjunction

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[35] The Debtors enjoy considerable discretion when classifying similar claims in different classes. *See In re Drexel Burnham Lambert Group, Inc.*, 138 B.R. 714, 715 (Bankr. SDNY 1992) (separate classification of similar classes was rational where members of each class "own[ed] distinct securities and possess[ed] different legal rights").

with that certain 6.50% Mirror Convertible Senior Note of Holdco due October 1, 2027 issued pursuant to the Holdco Mirror Notes Agreement, dated as of October 2, 2007, between CCI and Holdco (the "Mirror Note"). See 6.50% Mirror Convertible Senior Note of Holdco due October 1, 2027 issued pursuant to the Holdco Mirror Notes Agreement, dated as of October 2, 2007, between CCI and Holdco, attached as Ex. 10.3 to the CCI SEC Form 8-K, dated as of October 5, 2007, CX 306. Additionally, unlike claims of the CCI Noteholders, CCI general unsecured claims for expenses associated with CCI's duties as manager to CCO are reimbursable in full under the Management Agreement. *See* CX 305 at §§ 3(a)(i)-(ii) (including for costs to pay employees and third party providers such as vendors, attorneys, consultants, and other advisors, as well as related litigation claims). Thus, multiple material distinctions exist in the relative legal rights of the CCI Noteholders and the rights of holders of CCI general unsecured claims to justify separate classification.

The CCI Noteholders complain about classification but have failed to produce any evidence (or rebut the Debtors' evidence) to support their allegation of gerrymandering. Lacking any evidence of actual intent to gerrymander, the CCI Noteholders instead assert that gerrymandering is the only possible explanation for the separate classification scheme given the fact that the claims of both the noteholders and the general unsecured creditors are of "identical priority and character." *See* Law Debenture Trust Br. Opp'n at 37.

But that assertion by the CCI Noteholders is wrong. As discussed above, the Debtors have offered

several legitimate justifications for the separate classification scheme – most persuasively, that the legal rights of each class are not identical. Nor is the CCI Noteholders' reliance on *Boston Post Road* in its opposition to this issue[36] helpful given the different rights and privileges available to the CCI Noteholders under applicable nonbankruptcy law. For one thing, the opinion's language cited by the CCI Noteholders indicates that the court considered the different legal origins of claims to be a relevant factor in the separate classification, albeit not a dispositive one: "The different origins of the FDIC's unsecured deficiency claim and general unsecured trade claims, claims which enjoy similar rights and privileges within the Bankruptcy Code, do not ***alone*** justify separate segregation". *Id.* (emphasis added).[37] Here, however, the different legal origins of the two classes

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[36] *See* Law Debenture Trust Br. Opp'n at 37 ("The Second Circuit, however, has held that the existence of different origins or different rights outside of bankruptcy is not a legitimate reason to classify non-priority unsecured claims separately. *Boston Post Road*, 21 F.3d at 483 (holding that the different origins of "unsecured deficiency claim[s] and general unsecured trade claims … which enjoy similar rights and privileges within the Bankruptcy Code, do not alone justify separate segregation").

[37] Moreover, although not dispositive to the Court's analysis of this issue, the debtors in *Boston Post Road*, unlike the Debtors in these cases, apparently admitted that the unsecured deficiency claim and the unsecured trade claims were "substantially similar." *Boston Post Road*, 21 F.3d at 481 ("Debtor first cites two recent opinions by bankruptcy judges holding that separate classification of similar claims is in fact mandated … Debtor contends that [the wording of section 1122] reflects Congress' intent to dispense with the requirement that similar claims be classified together").

of claims is one of several reasons for separate classification offered by the Debtors.

Indeed, far from being an anomaly indicative of an intent to gerrymander, bankruptcy courts administering other large chapter 11 cases have accepted separate classification of convertible note claims from general unsecured claims. *See, e.g., In re Calpine*, No.05-60200 (Bankr. SDNY Dec. 19, 2007) (order confirming chapter 11 plan separately classifying convertible unsecured notes claims from general unsecured claims); *In re Coram Healthcare Corp.*, 315 B.R. 321, 350-51 (Bankr. D. Del. 2004) (finding noteholders represented "a voting interest that is sufficiently distinct from the trade creditors to merit a separate voice in this reorganization case").

The Debtors also produced substantial evidence that the separately classified classes of general unsecured claims are legitimately impaired[38] because members of such classes will not receive post-petition interest. *See* 8/17/09 Tr. at 59:20-60:4 (Doody) (noting that Classes A-3 and C-3 are legitimately impaired because they are to be reinstated or paid without post-petition interest). The

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[38] The CCI Noteholders' argument that the classes of general unsecured claims are not legitimately impaired appears to rest in significant part on the Debtors' May 1, 2009 revisions to the Plan four days prior to the Disclosure Statement hearing. *See* Law Debenture Trust Br. Opp'n at 42-43 ("The Debtors' prior filings reflect their understanding that CCI General Unsecured Claims are not truly impaired under the Plan"). Prior to the disclosure statement hearing the Debtors revised the Plan to reflect that these classes were impaired rather than unimpaired. But the Debtors' correction of the legal description of the treatment of these classes is not a basis to infer any intent to artificially impair a class.

fact that the Plan's nonpayment of post-petition interest reflects the terms of the Management Agreement further evidences a justification for classification other than intent to gerrymander.[39] *See* CX 305 ¶ 3.

Notably, given the Plan's structure, the requirement of section 1129(a)(10) would be satisfied even if Classes A-3 and C-3 were not deemed to be legitimately impaired. This is so because it is appropriate to test compliance with section 1129(a)(10) on a perplan basis, not, as the CCI Noteholders argue, on a per-debtor basis. *See In re Enron Corp.*, No. 01-16034 (Bankr. S.D.N.Y. July 15, 2004) (confirming joint chapter 11 plan where each debtor did not have an impaired accepting class); *In re SGPA, Inc.*, No. 01-02609 (Bankr. M.D. Pa. Sept. 28, 2001) (same). Here, the evidence supports a finding that the business of Charter is managed by CCI on an integrated basis making it reasonable and administratively convenient to propose a joint plan. That joint Plan has been accepted by numerous other impaired accepting classes, thereby satisfying the requirement of section 1129(a)(10).

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[39] The CCI Noteholders' interpretation of the Management Agreement to provide for the reimbursement of interest costs is not persuasive in light of the testimony of Mr. Doody to the contrary. *Compare* 8/17/09 Tr. at 194:14-195:17 (Doody) (noting that Management Agreement only provides for payment at cost without interest), *with* Law Debenture Br. Opp'n at 44-45 ("The Management Agreement provides for CCI to be reimbursed for all costs, including interest obligations … CCI is therefore clearly entitled to reimbursement for any liability CCI incurs as Manager ... including any interest…").

Plan Satisfies "Cramdown" Requirements Of 11 U.S.C. 1129(b)

Section 1129(b)(1) of the Bankruptcy Code provides that, in the event an impaired class does not vote in favor of a plan, but all other requirements of 1129(a) are satisfied, then the Court may only confirm the plan if it "does not discriminate unfairly, and is fair and equitable, with respect to each class of claims or interests that is impaired under, and has not accepted, the plan." 11 U.S.C. 1129(b)(1). The Plan satisfies the requirements for "cram down" under Bankruptcy Code section 1129(b) because it (i) does not unfairly discriminate against the CCI Noteholders and (ii) is fair and equitable in that it does not violate the absolute priority rule.

Plan Does Not Unfairly Discriminate Against CCI Noteholders In Violation Of 1129(b)(1)

The CCI Noteholders object on the grounds that the Plan unfairly discriminates against them by awarding their class a 32.7% recovery, while awarding the Class A-3 General Unsecured Creditors a 100% recovery. Noting that discrimination occurs when a plan treats similarly situated creditors differently,[40] the CCI Noteholders insist that they are "similarly situated" to the CCI General Unsecured Creditors. The CCI Noteholders, for reasons noted above in the section dealing with classification, are not similarly situated to CCI's general unsecured

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[40] *See In re Worldcom, Inc.*, 2003 WL 23861928 at *59 (Bankr. SDNY Oct. 31, 2003).

creditors and thus the Plan's divergent treatment of the two classes does not constitute discrimination.[41]

The argument of the CCI Noteholders regarding unfair discrimination is weak to the point of being meritless. The CCI Notes (i) are convertible into equity and structurally subordinated to debt at other Charter subsidiaries, (ii) enjoy an alternate source of recovery against Holdco that is unavailable to its general unsecured creditors because the CCI Notes were issued in conjunction with the Mirror Note, and (iii) are not entitled to reimbursement for expenses associated with CCI's management of CCO. There is no support whatsoever to the strained argument that claims arising under the notes should receive the same treatment as CCI's General Unsecured Creditors.

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[41] Even if the CCI Noteholders and the CCI General Unsecured Creditors are similarly situated, the Debtors have nonetheless proven that any discrimination was justified. The disparate legal rights of each class, including the Management Agreement's provision which requires CCO to reimburse certain CCI general unsecured claims, constitute reasonable bases for awarding the CCI General Unsecured Creditors a higher recovery than the CCI Noteholders. The Debtors also have demonstrated that they cannot confirm and consummate the Plan without the purported discrimination. Debtors' Br. Supp. at 76 n.112 (claiming to be "unable to consummate the plan if it provided for a par recovery to the CCI Noteholders"); *In re Lernout & Hauspie Speech Prods., N.V.*, 301 B.R. 651, 660 (Bankr. D. Del. 2003) ("The hallmarks of the various tests have been whether there is a reasonable basis for the discrimination, and whether the debtor can confirm and consummate a plan without the proposed discrimination"), *order aff'd* 308 B.R. 672 (D. Del. 2004); *Buttonwood Partners,* 111 B.R. at 63 (Bankr. SDNY 1990).

The CCI Noteholders attempt without success to gloss over obvious differences in legal entitlement by noting that "[t]he holders of CCI Notes and the holders of CCI General Unsecured Claims may only recover against CCI's estate and thus are similarly situated." Law Debenture Trust Br. Opp'n at 49. Such an analysis distorts the facts and elevates superficial form over substance. For example, the CCI Noteholders overlook the fact that CCI General Unsecured Claims for reimbursement of certain expenses are passed through CCI to CCO for eventual payment in full. Debtors' Br. Supp. at 78. Thus, although CCI's general unsecured creditors and noteholders both have unsecured claims against CCI, creditors other than the CCI Noteholders have what amounts to recourse against CCO. The Plan respects this legitimate distinction in legal rights by providing the CCI General Unsecured Creditors with a higher recovery than the CCI Noteholders. In light of this very meaningful difference in the right to be paid, the CCI Noteholders' formalistic insistence that the two classes are similarly situated because they are of "the same priority level" is plainly wrong and appears to willfully disregard the rights of other CCI creditors.[42]

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[42] *See* Law Debenture Trust Br. Opp'n at 49 ("[A] debtor must show that its plan does not unfairly discriminate whenever a dissenting class is receiving a materially less favorable recovery than another class of creditors that is entitled to the ***same priority level*** under the Bankruptcy Code") (emphasis added); *In re Dow Corning Corp.*, 244 B.R. 696, 702 (Bankr. E.D. Mich. 1999) (confirming plan because it did not discriminate, but noting that the test for discrimination examines whether the plan "provides for equal treatment for all creditors holding the ***same priority level***") (emphasis added)

Plan Is Fair And Equitable In Satisfaction Of 11 U.S.C. § 1129(b)(2)(B)(ii)

The CCI Noteholders further object on the grounds that the Plan is not "fair and equitable" as required by Bankruptcy Code section 1129(b)(1). Section 1129(b)(2)(B) sets forth the test for whether a plan is "fair and equitable": "the condition that a plan be fair and equitable with respect to a class includes the following requirements: … (B) [w]ith respect to a class of unsecured claims – … (ii) the holder of any claim or interest that is junior to the claims of such class will not receive or retain under the plan on account of such junior claim or interest any property…" Courts commonly refer to this test as the absolute priority rule. Contrary to the arguments of the CCI Noteholders, the Plan does not violate the absolute priority rule. In fact, no holder of a CCI claim or interest junior to the CCI Noteholders is receiving a recovery.

The argument of the CCI Noteholders with respect to the absolute priority rule focuses attention again on Charter's NOLs. They argue that the NOLs generated through losses of the operating companies "belong" to CCI and that the Plan therefore improperly siphons recovery traceable to this value away from CCI for the benefit of creditors of the operating Debtors. This is an argument made in a vacuum.

As discussed above, the CCI Noteholders have argued about the existence and possible value of NOLs without offering any evidence that CCI actually had any rights to separately profit from or harvest the value of these tax attributes that may

actually belong to CCO.[43] *See In re Prudential Lines, Inc.*, 928 F.2d 565, 569-70 (2d Cir. 1991) (affirming order enjoining parent corporation from taking action that would affect debtor subsidiary's use of NOLs generated as a result of subsidiary operations on the basis that the debtor subsidiary owned the NOLs); *Nisselson v. Drew Indus., Inc. (In re White Metal Rolling and Stamping Corp.*), 222 B.R. 417, 424 (Bankr. SDNY 1998) ("It is beyond peradventure that NOL carrybacks and carryovers are property of the estate of the loss corporation that generated them"). Regardless of which legal entity in fact owns the NOLs, the CCI Noteholders have not established that their treatment under the Plan deprives them of anything to which they have any provable entitlement.

Nor does the Plan's CII Settlement violate the absolute priority rule. Case law makes clear that the absolute priority rule is violated when an equity interest holder "leapfrogs" unsecured creditors and receives property on account of a junior interest. *See Bank of America Nat'l Trust & Savings Assoc. v. 203 N. LaSalle St. P'ship*, 526 U.S. 434 (1999) (denying confirmation when proposed plan would have compensated debtor's pre-bankruptcy equity holders without paying its pre-petition lender's unsecured deficiency claim).

Contrary to the CCI Noteholders' repeated insistence and despite the misperceptions of many

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[43] In any event, regardless of which Charter entity "owns" the NOLs, there is no evidence in the record that establishes CCI's right to independently exploit them.

equity holders[44] whose interests are being cancelled under the Plan, Mr. Allen is not obtaining a recovery "on account of" his equity interest in CCI. *See* Law Debenture Trust Br. Opp'n at 80 ("Mr. Allen's wholly owned subsidiary, CII, is retaining a direct equity interest in Holdco (although on a diluted basis) while CCI is receiving a mere 3.9% recovery on its Holdco Note Claims"); at p. 50 ("The CCI settlement compensates Paul Allen for his equity interests and, thus, violates the absolute priority rule").

As discussed earlier in this opinion, the CII Settlement grants consideration to Mr. Allen on account of his cooperation with respect to maintaining requisite voting power within CCI, his transferring of valuable interests in solvent Debtor CC VIII, LLC, and his compromising of certain contract claims. *See also* 7/22/09 Tr. at 2 66:21-267:16 (Merritt); 8/17/09 Tr. at 33:23-34:18, 281:3-17, 283:14-284:2 (Doody); 8/14/09 Tr. at 14:25-16:5 (Goldstein); 9/2/09 Tr. at 78:16-22, 148:21-23 (Conn). Courts have not prohibited parties such as Mr. Allen who happen to hold equity from recovering other consideration. *See In re PWS Holding Corp.*, 228 F.3d 224, 242 (3d Cir. 2000) (equity holder's recovery cannot be deemed to be "on account of" the equity interest "without some evidence of a causal relationship"). Accordingly, the objection of the CCI Noteholders based on the

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[44] A number of individual equity holders, acting *pro se,* improperly communicated with the Court during the trial by e-mail complaining about what appeared to them to be favorable treatment of Mr. Allen at their expense. This e-mail campaign did not influence the Court's deliberations or decision in any respect and appears to have been based on a fundamental misunderstanding of the settlement with Mr. Allen.

absolute priority rule mischaracterizes the settlement with Mr. Allen and is without merit.

Remaining CCI Noteholder Objections

The CCI Noteholders' other objections are equally lacking in substance and are all overruled.[45] First, the CCI Noteholders attempt to undermine the Plan by labeling it as the functional equivalent of substantive consolidation, in that "[although] the Debtors ignored the value of assets held directly by CCI and/or Holdco on a stand-alone basis… the Debtors adhere to corporate separateness when determining how to and in what priority value is to be distributed." Law Debenture Trust Br. Opp'n at 81-2. These chapter 11 cases, however, have not been substantively consolidated[46] and such consolidation may not be inferred. The CCI Noteholders are unable to rely on their expert in light of his refusal to recommend (or otherwise opine on) substantive consolidation of these cases. 9/1/09 Tr. at 178:22-179:7 (McDonough) ("Q: So you do not have an opinion that the Court should actually treat the debt in this consolidated fashion, correct? A: I have no opinion … I've provided no testimony as to substantive consolidation").

Moreover, the votes in favor of the Plan by CCI and Holdco with respect to the Mirror Note and the CCH Notes (i.e., all series of notes issued by CCH and Charter Communications Holdings Capital Corp.), respectively, should not be voided as actions taken

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[45] Similarly, as discussed herein, the releases proposed by the Plan are valid under Second Circuit law.

[46] Indeed, no motion seeking substantive consolidation of these chapter 11 cases was ever presented to this Court.

outside the ordinary course of the Debtors' business without proper court approval. In their objection to confirmation, the CCI Noteholders argue that these votes constituted "compromises of valid intercompany claims" outside the ordinary course of business that should properly have been submitted to the Court for prior approval. *See* Law Debenture Trust Br. Opp'n at 74-75; 11 U.S.C. § 363(b) ("The trustee, after notice and a hearing, may use, sell, or lease, other than in the ordinary course of business, property of the estate ..."). But the cases relied on by the CCI Noteholders are inapposite because they involved post-petition agreements entered into by debtors outside of the context of a reorganization plan. *See In re Remsen Partners, Ltd.*, 294 B.R. 557 (Bankr. SDNY 2003) (denying chapter 7 trustee's motion for approval of settlement of state court litigation when proposed settlement did not serve "the paramount interest of creditors" when settlement proceeds would be paid entirely to chapter 7 professionals); *In re Leslie Fay Cos.*, 168 B.R. 294 (Bankr. SDNY 1994) (granting debtors' motion to vacate arbitration award compelling debtors to comply with post-petition collective bargaining agreement when agreement was "outside the ordinary course" of debtor's business and should have been submitted to notice and a hearing).

The Debtors' votes on the Mirror Note and the Holdco Notes, on the other hand, are essential components of a proposed plan of reorganization and are thus substantially different from private agreements between a debtor and a third-party. This fundamental difference is not altered by the practical result that these votes, when viewed in the context of the entire Plan, will resolve claims belonging to the

Debtors in a way similar to a court-approved private agreement.

Nor are the votes by CCI and Holdco *ultra vires* acts outside "the interests of the corporation." Law Debenture Trust Br. Opp'n at 74 n. 323 ("Void acts include ultra vires acts," including "acts contrary to basic principles of fiduciary duty law"); *Solomon v. Armstrong*, 747 A.2d 1098, 1114 (Del. Ch. 1999). The decision by the Debtors' board of directors to vote in favor of the Plan without considering each Debtor's individual interests does not suffice to establish an *ultra vires* act. Law Debenture Trust Br. Opp'n at 75-77. The Debtors' board of directors appropriately evaluated the Plan on a company-wide basis rather than a debtor by debtor basis. *See In re Enron Corp.*, No. 01-16034 (Bankr. SDNY July 15, 2004) (confirming joint chapter 11 plan where each debtor did not have an impaired accepting class).

The various and sundry objections by the CCI Noteholders reflect a conscientious attempt to extract greater value for these creditors. But these creditors are unable to escape the fact that they are members of a structurally subordinated constituency that is receiving significant consideration under the Plan that is greater than what such creditors would receive if Charter were liquidated. These efforts, while diligent and determined, have failed to persuade the Court that the Plan is anything other than fair as this class. All of their objections are overruled.

Conclusion

This opinion supplements and expands on the Court's bench ruling of October 15, 2009. Charter has

overcome robust, forcefully presented objections and has succeeded in convincing the Court that its Plan satisfies all of the confirmation requirements of section 1129 of the Bankruptcy Code and is confirmable. This represents a major achievement for the Debtors and its stakeholders that should enable a deleveraged Charter to flourish as a restructured and recapitalized enterprise.

In addition to this opinion, the Court promptly will enter a separate confirmation order setting forth in greater detail findings of fact and conclusions of law that are consistent with and should be read in conjunction with this opinion. This opinion and the confirmation order constitute the Court's findings and conclusions with respect to confirmation of Charter's Plan and JPMorgan's adversary proceeding. As stated on the record of the hearing held on October 15, all objections to confirmation are overruled.

SO ORDERED.

Dated: New York, New York
November 17, 2009

s/James M. Peck
Honorable James M. Peck
United States Bankruptcy Judge

APPENDIX D

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:
CHARTER COMMUNICATIONS, INC., et al.,
Debtors.

Chapter 11

Case No. 09-11435 (JMP)

Jointly Administered

FINDINGS OF FACT, CONCLUSIONS OF LAW, AND ORDER CONFIRMING DEBTORS' JOINT PLAN OF REORGANIZATION PURSUANT TO CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE

Charter Communications, Inc., its direct and indirect subsidiaries and debtor affiliate, as debtors and debtors in possession (collectively, the "Debtors"), having:[1]

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[1] Unless otherwise noted, capitalized terms not defined in the Findings of Fact, Conclusions of Law, and Order Confirming Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code (the "Confirmation Order"), shall have the meanings ascribed to them in the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code, dated July 15, 2009 [Docket No. 615] (as the same may have been subsequently modified, supplemented, and amended, the "Plan"). The rules of interpretation set forth in Article I.B of the Plan shall apply to the Confirmation Order.

a. on March 27, 2009 (the "Petition Date"), commenced these chapter 11 cases (collectively, the "Chapter 11 Cases") by filing voluntary petitions for relief under chapter 11 of title 11 of the United States Code, 11 U.S.C. §§ 101-1532 (the "Bankruptcy Code");

b. continued to operate their businesses and manage their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code;

c. filed, on the Petition Date, the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 36] and the Debtors' Disclosure Statement Pursuant to Chapter 11 of the Bankruptcy Code with Respect to the Debtors' Joint Plan of Reorganization [Docket No. 38], which Plan and related documents were subsequently amended;

d. filed, on the Petition Date, the Supplement to Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 37] (as amended, the "Plan Supplement"), and with amendments to exhibits to the Plan Supplement filed thereafter;

e. filed, on the Petition Date, the Debtors' Memorandum on Reinstatement in Support of Approval of Disclosure Statement [Docket No. 3] (the "Reinstatement Brief");

f. filed, on the Petition Date, the Debtors' Motion for an Order (I) Approving the Disclosure Statement, (II) Establishing a Record Date for

Voting on the Plan of Reorganization and the Rights Offering, (III) Approving Solicitation Packages and Procedures for the Distribution Thereof, (IV) Approving the Rights Offering Procedures and Rights Exercise Form, (V) Approving the Forms of Ballots and Manner of Notice, (VI) Approving the Commitment Agreements, (VII) Approving the Commitment Fees, (VIII) Establishing Procedures for Voting on the Plan and (IX) Establishing Notice and Objection Procedures for Confirmation of the Plan [Docket No. 30] (the "Disclosure Statement Motion");

g. filed, on May 4, 2009, the Notice of Amended and Restated Exhibit 19 to the Supplement to Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 298];

h. filed, on May 7, 2009, the amended Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 320] and the amended Debtors' Disclosure Statement Pursuant to Chapter 11 of the Bankruptcy Code with Respect to the Debtors' Joint Plan of Reorganization (the "Disclosure Statement") [Docket No. 319];

i. distributed solicitation materials beginning on or about May 12, 2009 (the "Solicitation Date"), consistent with the Bankruptcy Code, the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules"), and the Order (I) Approving the Disclosure Statement, (II) Establishing a Record Date for Voting on the

Plan of Reorganization and the Rights Offering, (III) Approving Solicitation Packages and Procedures for the Distribution Thereof, (IV) Approving the Rights Offering Procedures and Rights Exercise Form, (V) Approving the Forms of Ballots and Manner of Notice, (VI) Approving the Commitment Agreements, (VII) Approving the Commitment Fees, (VIII) Establishing Procedures for Voting on the Plan and (IX) Establishing Notice and Objection Procedures for Confirmation of the Plan entered on May 7, 2009 [Docket No. 323] (the "Disclosure Statement Order"), which Disclosure Statement Order also approved, among other things, solicitation procedures (the "Solicitation Procedures") and related notices, forms, Ballots, and Master Ballots (collectively, the "Solicitation Packages"), as evidenced by the Affidavit of Service of Leanne V. Rehder Scott re: Solicitation Packages [Docket No. 396] (the "KCC Affidavit") and the Affidavit of Service of Financial Balloting Group LLC of Solicitation Packages and Related Documents on Holders of Publicly Held Notes and Common Stock, and Certain Other Parties [Docket No. 393] (the "FBG Affidavit");

j. filed, on May 19, 2009, the Notice of Amended and Restated Exhibits 1 and 12 to the Supplement to Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 385];

k. published, on or about June 15, 2009, notice of the Confirmation Hearing (the "Confirmation Hearing Notice") in The Wall Street Journal, USA Today, and The St-Louis Post-Dispatch, consistent with the Disclosure Statement Order, as evidenced by the Affidavit of Publication in The Wall Street Journal of Erin Ostenson, the Affidavit of Publication in USA Today National Edition of Antoinette Chase, and the Affidavit of Publication in The St-Louis Post-Dispatch of Tanya L. Lemons [Docket No.626] (collectively, the "Publication Affidavits");

l. filed, on July 15, 2009, Notice of Immaterial Modifications to Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Code [Docket No. 615], to which the most recent version of the Plan, dated July 15, 2009, was attached as Exhibit A thereto;

m. filed, on July 16, 2009, the Certification of Jane Sullivan with respect to the Tabulation of Votes on the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 621], and the Affidavit of Christopher R. Schepper Regarding Votes Accepting or Rejecting the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 622] (collectively, the "Voting Certifications") each detailing the results of the Plan voting process;

n. filed, on July 16, 2009, the Reorganizing Debtors' Memorandum of Law (A) In Support

of Confirmation of the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code and (B) In Response to Objections Thereto [Docket No. 634] (the "Plan Confirmation Brief"), the Affidavit of Gregory L. Doody in Support of Confirmation of the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 636] (the "Doody Affidavit"), the Declaration of Thomas Degnan in Support of Confirmation of the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 635] (the "Degnan Declaration"), and the Declaration of Christopher Temple in Support of the Debtors' Joint Plan of Reorganization [Docket No. 639] (the "Temple Declaration");

o. filed, on July 16, 2009, the Notice of Exhibits 23 and 25 and Amended and Restated Exhibits 3 and 24 to the Supplement to Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 632];

p. filed, on July 18, 2009, the Debtors' Trial Brief on Reinstatement in Support of Plan Confirmation [Docket No. 664] (the "Reinstatement Trial Brief"),

q. filed, on August 18, 2009, the Amended Certificate of Service of James Sean McGuire [Docket No. 756] (the "McGuire Certificate");

r. submitted, on August 18, 2009, the Declaration of Barry Folse (the "Folse Declaration");

s. submitted, on August 22, 2009, the Declaration of Stephen Goldstein (the "Goldstein Declaration"); and

t. filed, on September 18, 2009, Reorganizing Debtors' Post-Trial Brief in Support of Confirmation of the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code [Docket No. 841], and Debtors' Post-Trial Brief on Reinstatement in Support of Plan Confirmation [Docket No. 848] (together, the "Post-Trial Briefs").

This Court having:

u. entered the Disclosure Statement Order on May 7, 2009 [Docket No. 323];

v. set July 20, 2009, at 9:30 a.m., prevailing Eastern Time, as the date and time for the commencement of the Confirmation Hearing pursuant to Bankruptcy Rules 3017 and 3018 and sections 1126, 1128, and 1129 of the Bankruptcy Code;

w. reviewed the Plan, the Disclosure Statement, the Plan Confirmation Brief, the Reinstatement Brief, the Reinstatement Trial Brief, the Doody Affidavit, the Degnan Declaration, the Temple Declaration, the Voting Certifications, the McGuire Certification, the Folse Declaration, the Goldstein Declaration, the Post-Trial Briefs, and all pleadings, exhibits, statements, responses, and comments regarding Confirmation, including all objections, statements, and reservations of rights filed by

parties in interest on the docket of these Chapter 11 Cases and on the docket of the adversary proceeding captioned JPMorgan Chase Bank, N.A. v. Charter Communications Operating, LLC and CCO Holdings, LLC, Adv. Proc. No. 09-01132 (JMP) (the "Adversary Proceeding");

x. heard the statements, arguments, and objections made by counsel in respect of Confirmation;

y. considered all oral representations, testimony, documents, filings, and other evidence regarding Confirmation;

z. overruled any and all objections to the Plan and to Confirmation and all statements and reservations of rights not consensually resolved or withdrawn, unless otherwise indicated; and

aa. taken judicial notice of the papers and pleadings filed in the Chapter 11 Cases and Adversary Proceeding.

NOW, THEREFORE, it appearing to the Court that notice of the Confirmation Hearing and the opportunity for any party in interest to object to Confirmation have been adequate and appropriate as to all parties affected or to be affected by the Plan and the transactions contemplated thereby, and the legal and factual bases set forth in the documents filed in support of Confirmation and presented at the Confirmation Hearing establish just cause for the relief granted herein; and after due deliberation thereon and good cause appearing therefor, the Court

hereby makes and issues the following Findings of Fact, Conclusions of Law, and Order:[2]

I. FINDINGS OF FACT AND CONCLUSIONS OF LAW

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

A. Jurisdiction and Venue.

1. Beginning on the Petition Date, the Debtors commenced the Chapter 11 Cases. Venue in the United States Bankruptcy Court for the Southern District of New York (the "Bankruptcy Court") was proper as of the Petition Date pursuant to 28 U.S.C. §§ 1408 and 1409. Confirmation of the Plan and adjudication of the Adversary Proceeding are core proceedings under 28 U.S.C. § 157(b)(2). The Bankruptcy Court has subject matter jurisdiction over this matter pursuant to 28 U.S.C. § 1334. The Bankruptcy Court has exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed.

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[2] The findings of fact and the conclusions of law set forth herein shall constitute the Court's findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding pursuant to Bankruptcy Rule 9014. All findings of fact and conclusions of law announced by the Court at the Confirmation Hearing in relation to Confirmation and to judgment in the Adversary Proceeding are hereby incorporated herein to the extent not inconsistent herewith. To the extent that any of the following findings of fact constitute conclusions of law, they are adopted as such. To the extent any of the following conclusions of law constitute findings of fact, they are adopted as such.

B. Eligibility for Relief.

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

C. Commencement and Joint Administration of the Chapter 11 Cases.

3. On the Petition Date, the Debtors commenced the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code. By prior order of the Bankruptcy Court, the Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015 [Docket No. 64]. 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 or examiner has been appointed in the Chapter 11 Cases.

D. Plan Supplement.

4. On the Petition Date, the Debtors filed the Plan Supplement. On May 4, 2009, May 19, 2009 and July 16, 2009, the Debtors filed certain amendments to the Plan Supplement. The Plan Supplement complies with the terms of the Plan, and the filing and notice of such documents was good and proper in accordance with the Bankruptcy Code, the Bankruptcy Rules, and the Disclosure Statement Order, and no other or further notice is or shall be required. The Debtors are authorized to modify the Plan Supplement following entry of the Confirmation Order in accordance with the terms of the Plan.

E. Modifications to the Plan.

5. Any modifications to the Plan described or set forth herein constitute technical changes or changes with respect to particular Claims by agreement with Holders of such Claims, and do not materially or adversely affect or change the treatment of any other Claims or Interests. Pursuant to Bankruptcy Rule 3019, these modifications do not require additional disclosure under section 1125 of the Bankruptcy Code or the resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that the Holders of Claims or Interests be afforded an opportunity to change previously cast acceptances or rejections of the Plan.

F. Judicial Notice.

6. The Bankruptcy Court takes judicial notice of (and deems admitted into evidence for Confirmation) the docket of the Chapter 11 Cases and all related adversary proceedings and appeals maintained by the clerk of the applicable 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 applicable court during the pendency of the Chapter 11 Cases. Any resolutions of objections to Confirmation explained on the record at the Confirmation Hearing are hereby incorporated by reference. All unresolved objections, statements, and reservations of rights are hereby overruled on the merits.

G. Disclosure Statement Order.

7. On May 7, 2009, the Bankruptcy Court entered the Disclosure Statement Order, which, among other

things: (a) approved the Disclosure Statement as containing adequate information within the meaning of section 1125 of the Bankruptcy Code and Bankruptcy Rule 3017; (b) fixed April 17, 2009, as the Record Date (as defined in the Disclosure Statement Order); (c) fixed June 15, 2009 at 5:00 p.m. prevailing Eastern Time, as the deadline for voting to accept or reject the Plan (the "Voting Deadline"); (d) fixed July 13, 2009 at 4:00 p.m. prevailing Eastern Time, as the deadline for objecting to the Plan; (e) fixed July 20, 2009, at 10:00 a.m. prevailing Eastern Time, as the date and time for the commencement of the Confirmation Hearing; (e) approved the Solicitation Procedures and the Solicitation Package; (f) approved the form and method of notice of the Confirmation Hearing Notice set forth therein; (g) approved the procedures associated with the Rights Offering, including approval of the Rights Exercise Form (as defined in the Disclosure Statement Order); and (h) approved the Commitment Agreements (as defined in the Disclosure Statement Order) and the Commitment Fees.

H. Transmittal and Mailing of Materials; Notice.

8. As evidenced by the KCC Affidavit, the McGuire Certification, and the FBG Affidavit, due, adequate, and sufficient notice of the Disclosure Statement, Plan, Plan Supplement, and Confirmation Hearing, together with all deadlines for voting on or objecting to the Plan, has been given to: (a) all known Holders of Claims and Interests; (b) parties that requested notice in accordance with Bankruptcy Rule 2002; (c) all counterparties to unexpired leases and executory contracts with the Debtors; and (d) all

taxing authorities listed on the Debtors' Schedules or Claims Register, in substantial compliance with the Disclosure Statement Order and Bankruptcy Rules 2002(b), 3017, and 3020(b), and no other or further notice is or shall be required. Adequate and sufficient notice of the Confirmation Hearing, as may be continued from time to time, and any applicable bar dates and hearings described in the Disclosure Statement Order was given in compliance with the Bankruptcy Rules and Disclosure Statement Order, and no other or further notice is or shall be required.

9. The Debtors published the Confirmation Hearing Notice once each in The Wall Street Journal, USA Today, and The St. Louis Post-Dispatch, in substantial compliance with the Disclosure Statement Order and Bankruptcy Rule 2002(l), as evidenced by the Publication Affidavits.

I. Solicitation.

10. Votes for acceptance and rejection of the Plan were solicited in good faith and in compliance with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018, the Disclosure Statement, the Disclosure Statement Order, all other applicable provisions of the Bankruptcy Code and all other applicable rules, laws, and regulations. Specifically, the Solicitation Packages approved by the Bankruptcy Court in the Disclosure Statement Order (including the Disclosure Statement, the Plan, the Ballots, the Master Ballots, and the related notices) were transmitted to and served on all Holders of Claims or Interests in Classes that were entitled to vote to accept or reject the Plan and relevant portions of the Solicitation Packages were transmitted to and served on other parties in interest

in the Chapter 11 Cases, all in compliance with section 1125 of the Bankruptcy Code, the Disclosure Statement Order, the Solicitation Procedures and the Bankruptcy Rules. The Rights Exercise Form and related notices were transmitted to and served on CCH I Note Holders that certified they were eligible to participate in the Rights Offering. Transmittal and service were adequate and sufficient, and no further notice is or shall be required. In addition, Holders of Claims or Interests in Classes that were not entitled to vote to accept or reject the Plan were provided with certain non-voting materials approved by the Bankruptcy Court in compliance with the Disclosure Statement Order. Pursuant to the Disclosure Statement Order, the Debtors were excused from distributing Solicitation Packages to those entities at addresses from which Disclosure Statement Hearing notices were returned as undeliverable by the United States Postal Service unless the Debtors were able, using reasonable efforts, to obtain an accurate address for such entities before the Solicitation Date, and failure to distribute Solicitation Packages to such entities does not constitute inadequate notice of the Confirmation Hearing, the Voting Deadline, or a violation of Bankruptcy Rule 3017(d). All procedures used to distribute Solicitation Packages to Holders of Claims and Interests were fair, and conducted in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and all other applicable rules, laws, and regulations.

J. Voting Certifications.

11. Prior to the Confirmation Hearing, the Debtors filed the Voting Certifications. On August 18, 2009, the Debtors filed the McGuire Certification. All

procedures used to tabulate the Ballots, the Master Ballots, and the Rights Exercise Form were fair and conducted in accordance with the Disclosure Statement Order, the Bankruptcy Code, the Bankruptcy Rules, the Local Bankruptcy Rules, and all other applicable rules, laws, and regulations.

12. As set forth in the Plan and Disclosure Statement, Holders of Claims in Classes A-3, A-4, B-3, B-4, C-3, C-4, D-3, E-3, E-4, F-3, F-4, G-3, G-4, H-3, H-4, I-5, J-2, and J-6 (collectively, the "Voting Classes") are eligible to vote on the Plan pursuant to the Solicitation Procedures. In addition, Holders of Claims in Classes A-1, A-2, B-1, B-2, C-1, C-2, D-1, D-2, E-1, E-2, F-1, F-2, G-1, G-2, H-1, H-2, I-1, I-2, I-3, I-4, J-1, J-3, J-4, and J-5 and Holders of Equity Interests in Classes I-6 and J-7 are Unimpaired and deemed to accept the Plan and, therefore, are not entitled to vote to accept or reject the Plan. Holders of Claims in Classes A-5, C-5, D-4, E-5, F-5, G-5, and H-5 and Holders of Equity Interests in Classes A-6, C-6, D-5, E-6, F-6, G-6 and H-6 (collectively, the "Deemed Rejecting Classes") are deemed to reject the Plan and, therefore, are not entitled to vote to accept or reject the Plan.

13. As evidenced by the Voting Certifications, the McGuire Certification, or otherwise, Holders of Claims in Class A-4 (together with the Deemed Rejecting Classes, the "Rejecting Classes") voted to reject the Plan. As further evidenced by the Voting Certifications and McGuire Certification, all other Voting Classes, specifically Holders of Claims in Classes A-3, B-3, B-4, C-3, C-4, D-3, E-3, E-4, F-3, F-4, G-3, G-4, H-3, H-4, I-5, J-2, and J-6 voted to accept the Plan (the "Impaired Accepting Classes").

K. Bankruptcy Rule 3016.

14. The Plan is dated and identifies the Entities submitting it, thereby satisfying Bankruptcy Rule 3016(a). The filing of the Disclosure Statement with the clerk of the Bankruptcy Court satisfied Bankruptcy Rule 3016(b).

L. Burden of Proof.

15. The Debtors, as proponents of the Plan, have met their burden of proving the 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. Further, the Debtors have proven the elements of sections 1129(a) and 1129(b) of the Bankruptcy Code. Each of the witnesses who testified on behalf of the Debtors, the Crossover Committee and the CII Settlement Parties was credible, reliable and qualified to testify as to the topics addressed in his or her testimony.

M. Compliance with the Requirements of Section 1129 of the Bankruptcy Code.

16. The Plan complies with all applicable provisions of section 1129 of the Bankruptcy Code as follows:

1. Section 1129(a)(1)—Compliance of the Plan with Applicable Provisions of the Bankruptcy Code.

17. 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.

(i) Sections 1122 and 1123(a)(1)—Proper Classification.

18. 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, Articles III, IV, and V of the Plan provide for the separate classification of Claims and Interests into 58 Classes, based on differences in the legal nature or priority of such Claims and Interests (other than Administrative Expense Claims and Priority Tax Claims, which are addressed in Article II of the Plan, and which are required not 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 done for any improper purpose, and the creation of such Classes does not unfairly discriminate between or among Holders of Claims or Interests.

19. 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. Accordingly, the requirements of sections 1122(a), 1122(b), and 1123(a)(1) of the Bankruptcy Code have been satisfied.

(ii) Section 1123(a)(2)—Specification of Unimpaired Classes.

20. Article IV of the Plan specifies that Claims in Classes A-1, A-2, B-1, B-2, C-1, C-2, D-1, D-2, E-1, E-2, F-1, F-2, G-1, G-2, H-1, H-2, I-1, I-2, I-3, I-4, J-1, J-

3, J-4, and J-5 and Holders of Equity Interests in Classes I-6 and J-7 are Unimpaired under the Plan. Additionally, Article II of the Plan specifies that Administrative Expense Claims and Priority Tax Claims are Unimpaired, although these Claims are not classified under the Plan. Accordingly, the requirements of section 1123(a)(2) of the Bankruptcy Code have been satisfied.

(iii) Section 1123(a)(3)—Specification of Treatment of Impaired Classes.

21. Article IV of the Plan specifies the treatment of each Impaired Class under the Plan, including Classes A-3, A-4, A-5, B-3, B-4, C-3, C-4, C-5, D-3, D-4, E-3, E-4, E-5, F-3, F-4, F-5, G-3, G-4, G-5, H-3, H-4, H-5, I-5, J-2, and J-6 and Holders of Equity Interests in Classes A-6, C-6, D-5, E-6, F-6, G-6 and H-6. Accordingly, the requirements of section 1123(a)(3) of the Bankruptcy Code have been satisfied.

(iv) Section 1123(a)(4)—No Discrimination.

22. Pursuant to section 1123(a)(4) of the Bankruptcy Code, Article IV of the Plan uniformly provides for the same treatment of each Claim or Interest in a particular Class, as the case may be, unless the Holder of a particular Claim or Interest has agreed to a less favorable treatment with respect to such Claim or Interest. Accordingly, the requirements of section 1123(a)(4) of the Bankruptcy Code have been satisfied.

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

23. Pursuant to section 1123(a)(5) of the Bankruptcy Code, Article VI and various other

provisions of the Plan specifically provide in detail adequate and proper means for the Plan's implementation, including but not limited to: (a) the sources of consideration for distributions under the Plan, including the Net Proceeds, and for the payment of Specified Fees and Expenses; (b) the authorization and issuance of new equity in the Reorganized Company consisting of New Class A Stock, New Class B Stock, New Preferred Stock, and Warrants, and the execution of related documents; (c) the satisfaction of the CII Settlement Claim; (d) the issuance of new debt; (e) the issuance of 100,000 shares of Class A Voting Stock in CII; (f) the reinstatement of certain prepetition debt; (g) the continuation of the corporate existence of the Debtors and the vesting of assets in the each of the Reorganized Debtors; (h) the discharge of the Debtors; (i) the consummation of certain restructuring transactions; (j) the authority of the Reorganized Debtors to enter into such agreements and amend their corporate governance documents to the extent necessary to implement the terms and conditions of the Plan; (k) the adoption and filing of the Amended and Restated Certificate of Incorporation of the Reorganized Company, the adoption of the Amended and Restated Bylaws of the Reorganized Company, and the entry into the Reorganized Holdco LLC Agreement and the Reorganized Holdco Exchange Agreement; (l) the appointment of officers and directors of the Reorganized Company; (m) the adoption, implementation, and amendment of the Management Incentive Plan and the granting of awards thereunder; (n) the creation of the Professional Fee Escrow Account to reserve an amount necessary to

pay all of the Accrued Professional Compensation; (o) the maintenance of Causes of Action and the preservation of all Causes of Action not expressly settled or released; (p) the grant of the Third Party Releases; and (q) the general authority for all corporate action necessary to effectuate the Plan. Moreover, the Reorganized Debtors will have, immediately upon the Effective Date, sufficient Cash to make all payments required to be made on the Effective Date pursuant to the terms of the Plan. Accordingly, the requirements of section 1123(a)(5) of the Bankruptcy Code have been satisfied.

(vi) Section 1123(a)(6)—Voting Power of Equity Securities.

24. Article IV(a)(iv) of the Amended and Restated Certificate of Incorporation of the Reorganized Company, attached as Exhibit 3 to the Plan Supplement, prohibits the issuance of non-voting equity securities to the extent prohibited by section 1123(a)(6) of the Bankruptcy Code, thereby satisfying section 1123(a)(6) of the Bankruptcy Code.

(vii) Section 1123(a)(7)—Selection of Officers and Directors.

25. The identity and affiliations of the members of the initial Board of Directors of the Reorganized Company, to the extent known, are listed in Exhibit 23 to the Plan Supplement. The Amended and Restated Certificate of Incorporation of the Reorganized Company describes the manner of the selection of the remaining members of the initial Board of Directors of the Reorganized Company. Pursuant to Article VI.O of the Plan, the CEO and the COO of the Reorganized Company shall be the

same as the CEO and COO of CCI on the Petition Date. Article VI.O of the Plan further describes the manner of selection of additional officers of the Reorganized Company. The selection of the initial directors and officers of the Reorganized Company was, is, and will be consistent with the interests of Holders of Claims and Interests and public policy. Accordingly, the requirements of section 1123(a)(7) of the Bankruptcy Code have been satisfied.

(viii) Section 1123(b)—Discretionary Contents of the Plan.

26. The Plan contains various provisions that may be construed as discretionary, but are not required for Confirmation under the Bankruptcy Code. As set forth below, such discretionary provisions comply with section 1123(b) of the Bankruptcy Code and are not inconsistent with the applicable provisions of the Bankruptcy Code. Thus, section 1123(b) of the Bankruptcy Code is satisfied.

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

27. Pursuant to sections 1123(b)(1) and 1123(b)(2) of the Bankruptcy Code, Article IV of the Plan impairs or leaves unimpaired, as the case may be, each Class of Claims and Interests, and Article VII of the Plan provides for the assumption, assumption and assignment, or rejection of the Executory Contracts of the Debtors not previously assumed, assumed and assigned, or rejected pursuant to section 365 of the Bankruptcy Code and appropriate authorizing orders of the Bankruptcy Court.

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

28. **Compromise and Settlement.** Pursuant to Bankruptcy Rule 9019 and section 363 of the Bankruptcy Code and in consideration for the distributions and other benefits provided under the Plan, the payment and provision of other consideration in satisfaction of the CII Settlement Claim, and any other compromise and settlement provisions of the Plan constitute a good faith compromise of all Claims, Interests, or Causes of Action relating to the contractual, legal, and subordination rights that a Holder of a Claim or Interest may have with respect to any Allowed Claim or Interest or any distribution to be made on account of such an Allowed Claim or Interest. The compromise and settlement of such Claims, Interests, or Causes of Action embodied in the Plan is in the best interests of the Debtors, the Estates, and all Holders of Claims and Interests, and is fair, equitable, and reasonable.

29. In reaching an ultimate decision on substantive fairness, the Court considered the following factors: (a) the balance between the litigation's possibility of success and the settlement's future benefits; (b) the likelihood of complex and protracted litigation and risk and difficulty of collecting on the judgment; (c) the proportion of creditors and parties in interest that support the settlement; (d) the competency of counsel reviewing the settlement; (e) the nature and breadth of releases to be obtained by officers and directors; and (f) the

extent to which the settlement is the product of arm's-length bargaining.

30. **CII Settlement**. The Plan is premised upon the CII Settlement, which has facilitated the implementation of the Debtors' primary restructuring goals including: (a) reinstatement of the Debtors' Senior Debt (as defined below); (b) preservation and enhanced utilization of the Debtors' net operating losses ("NOLs") and other tax attributes; (c) discharge of roughly $8 billion of holding company debt; (d) reduction of more than $800 million in annual interest expense; (e) raising of approximately $1.6 billion in equity investments through a rights offering and up to $267 million in new notes; and (f) exchange of approximately $1.5 billion of CCH II Notes for New CCH II Notes, with extended maturities.

31. The CII Settlement is a cornerstone of the Debtors' Plan, as it directly accomplishes three of the key goals briefly described above. First, under the CII Settlement, Paul G. Allen ("Mr. Allen") makes possible—by remaining a CCI stockholder with the requisite voting power specified in the Senior Debt and agreeing to appoint 4 of 11 board members—the Debtors' reinstatement of nearly $12 billion of Senior Debt, saving the Debtors substantial annual interest expense. Second, the CII Settlement—through forbearance of prepetition exchange rights and maintenance of a 1% interest in Holdco—allows the Debtors to preserve approximately $2.85 billion of NOLs that will qualify for substantially enhanced utilization (with resulting benefits expected by the Debtors of approximately $1.14 billion in future cash savings). Third, the Debtors will enjoy a stepped-up

basis in a significant portion of their assets when CII's interest in Holdco is diluted and if and to the extent of any taxable exchange of CII's Holdco interest for CCI common stock after the Debtors emerge from bankruptcy. That stepped-up basis will provide tax benefits over the life of the Holdco assets equal to approximately 35% of the amount of the step up.

32. Nothing explicitly requires Mr. Allen to remain a stockholder with 35% voting power in CCI to preserve the Debtors' reinstatement rights or to cause CII to remain a member of Holdco to preserve the Debtors' tax benefits. Any endeavors by the Debtors to compel Mr. Allen to do so have limited chances of success. Given that the consideration for the CII Settlement includes the CII Settlement Parties' voluntary assumption of duties they are not required to assume and the forbearance from actions they are legally entitled to take, there is little chance of success in litigation. Accordingly, even if there is a low likelihood of protracted litigation, there is little chance of success in litigation. Thus, absent the CII Settlement, the Debtors would be unable to reinstate the Senior Debt, preserve the NOLs and other tax attributes to the extent permitted by the CII Settlement, or benefit from the stepped-up basis to the extent CII exercises its exchange rights after the Effective Date.

33. The consideration received by the CII Settlement Parties under the CII Settlement is in exchange for, among other things, Mr. Allen's cooperation and participation to facilitate the reinstatement of the Senior Debt and the preservation and enhancement of the Debtors' tax

attributes. The CII Settlement does not provide any CII Settlement Party with any consideration or distribution on account of its existing equity interests in CCI or Holdco.

34. The releases required by the CII Settlement are appropriate and justified because, among other reasons set forth below, they were essential to the formulation of the Plan and supported by substantial consideration.

35. In the fall of 2008, the Debtors engaged financial and legal advisors with respect to a potential restructuring. After internal analysis and discussions with their advisors, the independent directors of the Debtors together with the management of the Debtors formulated and proposed a restructuring transaction that ultimately became the basis of the Plan and the CII Settlement.

36. During the negotiations of the Plan and CII Settlement, the Debtors' legal and financial advisors reported to the independent directors of CCI and its management—and not to Mr. Allen or his affiliated directors. CCI's independent directors, who constitute a majority of the Board of Directors, met at least nine times with respect to the Debtors' restructuring, and at least four times with respect to the CII Settlement. The independent directors regularly met with the legal and financial advisors. Mr. Allen and his affiliated directors did not exert any undue influence over or hinder any efforts by CCI's Board of Directors or management to independently review the Plan and CII Settlement or to pursue alternative restructuring transactions, and Mr. Allen and his affiliated directors regularly recused themselves from key decisions during the restructuring process and later

with respect to the CII Settlement negotiations. Accordingly, CCI's Board of Directors was not required to form a special committee with respect to the CII Settlement. Although CCI's Board of Directors and management considered alternative transactions, none were viable.

37. The CII Settlement Parties and the Debtors arrived at the CII Settlement after weeks of intensive arm's-length and good-faith negotiations during which the parties were separately represented by sophisticated legal and financial advisors. The Crossover Committee, which also retained its own financial and legal advisors, consented to the terms of the CII Settlement only after intensive arm's-length and good-faith negotiations with the Debtors and advisors to Mr. Allen. The final decision of CCI's Board of Directors on the Plan and on the CII Settlement was a unanimous decision.

38. The CII Settlement is supported by other parties in interest. Specifically, the Creditors' Committee independently reviewed the Plan, including the CII Settlement, and has pledged its support thereof. Moreover, the CII Settlement was negotiated between the Debtors, CII, Mr. Allen and certain of his affiliates, and the Crossover Committee.

39. Law Debenture Trust Company of New York, as Indenture Trustee (the "CCI Indenture Trustee") for the 6.50% Convertible Senior Notes due 2027 (the "CCI Notes") issued by CCI, has alleged that CCI's Board of Directors has breached its fiduciary duties in proposing, negotiating, and seeking to confirm the Plan with respect to the CII Settlement. The CII Settlement, however, is fair and equitable, a

necessary component to the feasibility of the Plan, falls well above the lowest point in the range of reasonableness, is in the best interests of the Debtors, their Estates, and their Creditors, does not violate the absolute priority rule, and is an essential element of the Plan. Neither the Board of Directors of CCI nor Mr. Allen has breached any duty to the Debtors or their stakeholders. The CII Settlement is not subject to an "entire fairness" standard.

40. Pursuant to Bankruptcy Rule 9019, the Debtors are authorized, without further approval of this Court or any other party, to execute and deliver all agreements, documents, instruments, and certificates relating to the CII Settlement and to perform their obligations thereunder.

41. **Releases by the Debtors**. The releases and discharges of Claims and Causes of Action by the Debtors described in Article X.D of the Plan (the "Debtor Releases") pursuant to section 1123(b)(3)(A) of the Bankruptcy Code represent a valid exercise of the Debtors' business judgment. Pursuing any such claims against the Debtor Releasees (as defined herein) is not in the best interest of the Debtors' estates' various constituencies as the costs involved likely would outweigh any potential benefit from pursuing such claims.

42. **Third Party Releases**. The circumstances of these Chapter 11 Cases are unique and truly unusual and they render the releases of Claims and Causes of Action by Holders of Claims and Interests described in Article X.E of the Plan (the "Third Party Release") important to the success of the Plan.

43. As part of the Plan and CII Settlement, the CII Settlement Claim Parties have agreed to forbear with respect to certain exchange rights agreed to by the Debtors 10 years ago, the exercise of which would have resulted in the CII Settlement Claim Parties bearing no tax liability for any proposed restructuring. Nevertheless, the CII Settlement Claims Parties agreed to forbear from exercising their historic right and agreed to maintain the existing Holdco structure to facilitate the Debtors' preservation of approximately $2.85 billion of tax attributes with enhanced utilization (with resulting benefits expected by the Debtors of approximately $1.14 billion in future cash savings). In addition, the CII Settlement Claim Parties agreed to retain 35% voting power of CCI and appoint 4 of 11 board members to facilitate savings of several hundred million dollars annually in interest expense through reinstatement of the CCO Credit Facility Claims and other Senior Debt. As described above, the CII Settlement will also provide the Debtors with the ability to achieve a step up in the tax basis on a significant portion of their assets when CII's interest in Holdco is diluted and to the extent CII exercises its exchange rights after the Effective Date, thus providing greater flexibility for any future asset sales. Significantly, Mr. Allen is the only individual in existence whose continued participation as a CCI stockholder enables the Debtors to reinstate the Senior Debt.

44. In consideration for entry into the CII Settlement, the CII Settlement Claim Parties required that the Third Party Releases be included in the Plan.

45. The CII Settlement is a linchpin of the Debtors' Plan, without which the Debtors' restructuring goals would have been unobtainable, the Plan would not be confirmable or feasible, and the substantial recoveries by the many parties in interest in these cases, including the fulcrum creditors and trade creditors, would fail to exist. These facts are unprecedented and justify the approval of the Third Party Releases.

46. There is an identity of interest between the Debtors and the beneficiaries of the Third Party Releases (other than the Crossover Committee members). These beneficiaries have the right to seek indemnity, contribution or other reimbursement from the Debtors with respect to certain activities relating to the negotiation and consummation of the Plan. The Third Party Releases appropriately relieve the Debtors from these potential expenses. They also preserve the priority scheme of the Bankruptcy Code by preventing the assertion of general unsecured claims by the Debtors' officers and directors, which claims would be the direct result of claims by parties in interest whose direct claims against the Debtors based on the same facts and circumstances would be subject to subordination under section 510(b) of the Bankruptcy Code.

47. In summary, the Third Party Releases are: (a) in exchange for the good and valuable consideration provided by the Debtor Releasees, a good faith settlement and compromise of the claims released by the Third Party Release; (b) in the best interests of the Debtors and all Holders of Claims; (c) fair, equitable and reasonable; (d) given and made after due notice and opportunity for hearing; (e) being

exchanged for substantial consideration by the CII Settlement Claim Parties in the form of preservation of valuable tax attributes and the ability to reinstate indebtedness at markedly favorable interest rates, with such consideration conferring well in excess of $1 billion in value on the Debtors and their estates; (f) being exchanged for substantial consideration by the Crossover Committee in the form of significant financing commitments to the Debtors, including through the Exchange and the Rights Offering; (g) necessary to the Plan because the enjoined claims would indirectly impact the Debtors' reorganization as many of the Debtor Releasees are beneficiaries of indemnity obligations (including, significantly Mr. Allen, in his capacity as a director of Debtor CCI) such that there is an identity of interest between the Debtors and other Debtor Releasees; (h) is required under the CII Settlement, an essential component of the Plan, which was negotiated at arm's-length and in good faith with multiple creditor constituencies and which has been accepted by nearly all Classes of Claims entitled to vote; and (i) a bar to any of the Holders of Claims and Interests asserting any claim released by the Third Party Releases against any of the Debtor Releasees.

48. **Injunction**. The injunction provisions set forth in Article X.F of the Plan are essential to the Plan and are necessary to preserve and enforce the Debtor Releases, the Third Party Releases, and the exculpation provisions in Article X of the Plan, and are narrowly tailored to achieve that purpose.

49. **Exculpation**. The exculpation provisions set forth in Article X.G of the Plan are essential to the Plan. The record in the Chapter 11 Cases fully

supports the Exculpation and the Exculpation provisions set forth in Article X.G of the Plan are appropriately tailored to protect the Exculpated Parties from inappropriate litigation. The Exculpation shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a final order to have constituted gross negligence or willful misconduct; provided, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan; provided further, that the Exculpation shall not apply to any acts or omissions expressly set forth in and preserved by the Plan, the Plan Supplement or related documents, except for acts or omissions of Releasing Parties.

50. Each of the Debtor Releases, the Third Party Releases, and the injunction and exculpation provisions set forth in the Plan: (a) is within the jurisdiction of the Bankruptcy Court under 28 U.S.C. §§ 1334(a), 1334(b), and 1334(d); (b) is an essential means of implementing the Plan pursuant to section 1123(a)(6) of the Bankruptcy Code; (c) is an integral element of the transactions incorporated into the Plan; (d) confers material benefits on, and is in the best interests of, the Debtors, the Estates, and their Creditors; (e) is important to the overall objectives of the Plan to finally resolve all Claims among or against the parties-in-interest in the Chapter 11 Cases with respect to the Debtors; and (f) is consistent with sections 105, 1123, 1129 of the Bankruptcy Code, other provisions of the Bankruptcy Code, and other applicable law. The record of the Confirmation Hearing and the Chapter 11 Cases is sufficient to support the Debtor Releases, the Third

Party Releases, and the injunction and exculpation provisions contained in Article X of the Plan.

51. **Preservation of Claims and Causes of Action**. Article VI.S of the Plan appropriately provides for the preservation by the Debtors of the Causes of Action in accordance with section 1123(b)(3)(B) of the Bankruptcy Code. The provisions regarding Causes of Action in the Plan are appropriate and are in the best interests of the Debtors, the Estates, and Holders of Claims and Interests.

2. Section 1129(a)(2)—Compliance of the Debtors and Others With the Applicable Provisions of the Bankruptcy Code.

52. The Debtors, as proponents of the Plan, have complied with all applicable provisions of the Bankruptcy Code as required by section 1129(a)(2) of the Bankruptcy Code, including sections 1122, 1123, 1124, 1125, 1126, and 1128 of the Bankruptcy Code and Bankruptcy Rules 3017, 3018, and 3019.

53. Votes to accept or reject the Plan were solicited by the Debtors and their respective present and former members, partners, representatives, officers, directors, employees, advisors, attorneys, and agents after the Court approved the adequacy of the Disclosure Statement pursuant to section 1125(a) of the Bankruptcy Code.

54. The Debtors and their respective present and former members, partners, representatives, officers, directors, employees, advisors, attorneys, and agents have solicited and tabulated votes on the Plan and have participated in the activities described in section 1125 of the Bankruptcy Code fairly, in good faith

within the meaning of section 1125(e) of the Bankruptcy Code, and in a manner consistent with the applicable provisions of the Disclosure Statement Order, the Disclosure Statement, the Bankruptcy Code, the Bankruptcy Rules, and all other applicable rules, laws, and regulations, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and the exculpation provisions set forth in Article X.G of the Plan.

55. The Debtors and their respective present and former members, officers, directors, employees, advisors, attorneys, and agents have participated in good faith and in compliance with the applicable provisions of the Bankruptcy Code with regard to the offering, issuance, and distribution of recoveries under the Plan and, therefore, are not, and on account of such distributions will not be, liable at any time for the violation of any applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan or distributions made pursuant to the Plan, so long as such distributions are made consistent with and pursuant to the Plan.

3. Section 1129(a)(3)—Proposal of Plan in Good Faith.

56. The Debtors have proposed the Plan in good faith and not by any means forbidden by law. This is demonstrated by the reasons set forth above under the heading "CII Settlement," in addition to the following. In determining that the Plan has been proposed in good faith, the Bankruptcy Court has examined the totality of the circumstances surrounding the filing of the Chapter 11 Cases, the Plan itself, and the process leading to its formulation. The Debtors' good faith is evident from the facts and

records of the Chapter 11 Cases, the Disclosure Statement and the hearing thereon, and the record of the Confirmation Hearing and other proceedings held in the Chapter 11 Cases.

57. The Plan is the product of arm's-length negotiations between, among other Entities, the Debtors, and each party who signed a Plan Support Agreement. The Plan itself and the process leading to its formulation provide independent evidence of the Debtors' good faith, serve the public interest, and assure fair treatment of Holders of Claims and Interests. Consistent with the overriding purpose of chapter 11, the Chapter 11 Cases were filed, and the Plan was proposed, with the legitimate purpose of allowing the Debtors to reorganize and emerge from bankruptcy with a capital structure that will allow them to satisfy their obligations with sufficient liquidity and capital resources. Accordingly, the requirements of section 1129(a)(3) of the Bankruptcy Code are satisfied.

4. Section 1129(a)(4)—Bankruptcy Court Approval of Certain Payments as Reasonable.

58. The procedures set forth in the Plan for the Bankruptcy 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. Accordingly, the requirements of section 1129(a)(4) of the Bankruptcy Code are satisfied.

5. Section 1129(a)(5)—Disclosure of Identity of Proposed Management, Compensation of Insiders and Consistency of Management Proposals with the Interests of Creditors and Public Policy.

59. The Plan complies with the requirements of section 1129(a)(5) of the Bankruptcy Code because, in the Disclosure Statement, the Plan, and the Plan Supplement, the Debtors have disclosed (a) the identity and affiliations of each proposed director, the CEO, the COO, and the CFO and the manner in which additional officers and directors of the Reorganized Company will be chosen following Confirmation and (b) the identity of and nature of any compensation for any insider who will be employed or retained by the Reorganized Company. The method of appointment of directors and officers of the Debtors was, is, and will be consistent with the interests of Holders of Claims and Interests and public policy. Accordingly, the requirements of section 1129(a)(5) of the Bankruptcy Code are satisfied.

6. Section 1129(a)(6)—Approval of Rate Changes.

60. The Plan does not contain any rate changes subject to the jurisdiction of any governmental regulatory commission and therefore will not require governmental regulatory approval. Therefore, section 1129(a)(6) of the Bankruptcy Code is inapplicable to the Chapter 11 Cases.

7. Section 1129(a)(7)—Best Interests of Holders of Claims and Interests.

61. The liquidation analysis attached as Exhibit E to the Disclosure Statement (as amended and restated, the "Liquidation Analysis") and the other evidence related thereto in support of the Plan that was proffered or adduced at or prior to, or in affidavits in connection with, the Confirmation Hearing: (a) are reasonable, persuasive, credible, and accurate 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, Holders of Allowed Claims in every Class will recover as much or more under the Plan on account of such Claim or Interest property of a value, as of the Effective Date, than the amount such Holder would receive if the Debtors were liquidated on the Effective Date under chapter 7 of the Bankruptcy Code.

62. Specifically, the Liquidation Analysis properly: (a) utilized a distressed sale ("Distressed Sale") assumption; (b) excluded preference recoveries against trade vendors under the foregoing assumption; (c) concluded that executory contracts would likely be assumed in a Distressed Sale; (d) accounted for CCI's and Holdco's entitlement to a portion of the Litigation Settlement Fund Proceeds; (e) ascribed no value to CCI or Holdco for contracts held at CCI and Holdco, including programming, media and sales contracts; (f) excluded value for worthless stock options issued by CCI for CCO's benefit; (g) excluded the (i) $74 million interest payment made by Holdco, (ii) $8.4 million capital

contribution by Holdco to CCH, (iii) $9 million of assets listed on Holdco's schedules in the form of cash, security deposits and accounts receivable, and (iv) $176 million of Holdco's repurchase of affiliates' notes; and (h) accounted for the Debtors' intercompany payables and receivables at all times. Accordingly, the requirements of section 1129(a)(7) of the Bankruptcy Code are satisfied.

8. Section 1129(a)(8)—Conclusive Presumption of Acceptance by Unimpaired Classes; Acceptance of the Plan by Each Impaired Class.

63. Classes A-1, A-2, B-1, B-2, C-1, C-2, D-1, D-2, E-1, E-2, F-1, F-2, G-1, G-2, H-1, H-2, I-1, I-2, I-3, I-4, J-1, J-3, J-4, and J-5 (Classes of Claims) and Classes I-6 and J-7 (Classes of Interests) are each Classes of Unimpaired Claims or Interests that are conclusively presumed to have accepted the Plan under section 1126(f) of the Bankruptcy Code.

64. Because the Plan has not been accepted by the Rejecting Classes, the Debtors seek Confirmation under section 1129(b), rather than section 1129(a)(8), of the Bankruptcy Code. Thus, although section 1129(a)(8) of the Bankruptcy Code has not been satisfied with respect to the Rejecting Classes, the Plan is confirmable because the Plan does not discriminate unfairly and is fair and equitable with respect to the Rejecting Classes and thus satisfies section 1129(b) of the Bankruptcy Code with respect to such Classes as described further below. As a result, the requirements of section 1129(b) of the Bankruptcy Code are satisfied.

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

65. The treatment of Allowed Administrative Expense Claims, Allowed Priority Tax Claims, and Allowed Priority Non-Tax Claims under Articles II and IV of the Plan satisfies the requirements of, and complies in all respects with, section 1129(a)(9) of the Bankruptcy Code. Accordingly, the requirements of section 1129(a)(9) of the Bankruptcy Code are satisfied.

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

66. As set forth in the Voting Certifications, the Impaired Accepting Classes have voted to accept the Plan. Specifically, Holders of Claims in Classes A-3, B-3, B-4, C-3, C-4, D-3, E-3, E-4, F-3, F-4, G-3, G-4, H-3, H-4, I-5, J-2, and J-6 voted to accept the Plan. (Schepper Decl.¶¶ 15, 16; Sullivan Decl., Ex. A). Excluding Insider votes, 9 Impaired Classes (A-3, B-3, B-4, C-3, F-4, G-4, H-4, J-2, and J-6) voted to accept the Plan. See id. Pursuant to the Disclosure Statement Order, Classes for which no votes were cast were deemed to accept the Plan. See Disclosure Statement, Ex. E 7(h). As such, there is at least one Class of Claims that is Impaired under the Plan and has accepted the Plan, determined without including any acceptance of the Plan by any insider (as defined by the Bankruptcy Code). Accordingly, the requirements of section 1129(a)(10) of the Bankruptcy Code have been satisfied.

11. Section 1129(a)(11)—Feasibility of the Plan.

67. The Plan satisfies section 1129(a)(11) of the Bankruptcy Code. The evidence supporting the Plan proffered or adduced by the Debtors at, or prior to, or in affidavits filed in connection with, the Confirmation Hearing: (a) is reasonable, persuasive, credible, and accurate as of the dates such analysis or evidence was prepared, presented, or proffered; (b) utilizes reasonable and appropriate methodologies and assumptions; (c) has not been controverted by other evidence; (d) establishes 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) establishes that the Reorganized Debtors will have sufficient funds available to meet their obligations under the Plan. Accordingly, the requirements of section 1129(a)(11) of the Bankruptcy Code have been satisfied.

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

68. Article XV.C of the Plan provides that all fees payable pursuant to section 1930 of the United States Judicial Code, as determined by the Bankruptcy Court at a hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or closed, whichever occurs first. Accordingly, the requirements of section 1129(a)(12) of the Bankruptcy Code have been satisfied.

13. Section 1129(a)(13)—Retiree Benefits.

69. Section 1129(a)(13) of the Bankruptcy Code requires a plan to provide for "retiree benefits" (as defined in section 1114 of the Bankruptcy Code) at levels established pursuant to section 1114 of the Bankruptcy Code. Article VI.Q of the Plan provides that, on and after the Effective Date, all retiree benefits, if any, shall continue to be paid in accordance with applicable law. Accordingly, the requirements of section 1129(a)(13) of the Bankruptcy Code have been satisfied.

14. Section 1129(b)—Confirmation of Plan Over Nonacceptance of Impaired Class.

70. Notwithstanding the fact that the Rejecting Classes have voted not to accept the Plan, the Plan may be confirmed pursuant to section 1129(b)(1) of the Bankruptcy Code because: (a) the Impaired Accepting Classes have voted to accept the Plan; and (b) the Plan does not discriminate unfairly and is fair and equitable with respect to the Rejecting Classes. Accordingly, the Plan is fair and equitable towards all Holders of Claims in the Rejecting Classes. As a result, the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code. Thus, the Plan may be confirmed even though section 1129(a)(8) of the Bankruptcy Code is not satisfied. After entry of the Confirmation Order and upon the occurrence of the Effective Date, the Plan shall be binding upon the members of the Rejecting Classes.

15. Section 1129(c)—Only One Plan.

71. Other than the Plan (including previous versions thereof), no other plan has been filed in the

Chapter 11 Cases. Accordingly, the requirements of section 1129(c) of the Bankruptcy Code have been satisfied.

16. Section 1129(d)—Principal Purpose of the Plan Is Not Avoidance of Taxes.

72. No governmental unit has requested that the Bankruptcy Court refuse to confirm the Plan on the grounds that the principal purpose of the Plan is the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act. As evidenced by its terms, the principal purpose of the Plan is not such avoidance. Accordingly, the requirements of section 1129(d) of the Bankruptcy Code have been satisfied.

N. Satisfaction of Confirmation Requirements.

73. Based upon the foregoing, the Plan satisfies the requirements for confirmation set forth in section 1129 of the Bankruptcy Code.

O. Good Faith.

74. The Debtors have proposed the Plan in good faith, with the legitimate and honest purposes of reorganizing the Debtors' ongoing business and maximizing the value of each of the Debtors and the recovery to stakeholders. The Plan gives effect to many of the Debtors' restructuring initiatives, including debt reinstatement, debt reduction, and the CII Settlement. Accordingly, the Debtors, the Creditors' Committee, and each party who signed a Plan Support Agreement (and all of their respective members, officers, directors, agents, financial advisers, attorneys, employees, partners, Affiliates, and representatives) have been, are, and will continue to act in good faith if they proceed to: (a)

consummate the Plan and the agreements, settlements, transactions, and transfers contemplated thereby (including, without limitation, the entry into and performance under the Equity Registration Rights Agreement, the Commitment Letters, the Debt Registration Rights Agreement, the Lock-Up Agreement, the Excess Backstop Agreement, the Reorganized Holdco Exchange Agreement, the Reorganized Holdco LLC Agreement, the Rights Offering Documents, and the Warrants); and (b) take the actions authorized and directed or contemplated by the Confirmation Order. Therefore, the Plan has been proposed in good faith to achieve a result consistent with the objectives and purposes of the Bankruptcy Code.

P. Disclosure: Agreements and Other Documents.

75. The Debtors have disclosed all material facts regarding: (a) the adoption of the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws of Reorganized CCI or similar constituent documents; (b) the selection of directors and officers for the Reorganized Debtors; (c) the distribution of Cash; (d) the issuance of new equity in the Reorganized Company consisting of New Class A Stock, New Class B Stock, New Preferred Stock, and Warrants; (e) the issuance of the New CCH II Notes; (f) 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 Reorganized Debtors; (g) the Management Incentive Plan; (h) the Rights Offering; (i) securities registration exemptions; (j) the exemption under section 1146(a) of the Bankruptcy

Code; (k) the adoption of the Reorganized Holdco LLC Agreement and the entry into the Reorganized Holdco Exchange Agreement; and (l) the adoption, execution, and delivery of all contracts, leases, instruments, securities, releases, indentures, and other agreements related to any of the foregoing.

Q. Transfers by Debtors; Vesting of Assets.

76. Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated therein, on the Effective Date, all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall vest in each respective Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances (except for Liens, if any, granted to secure any indebtedness that is Unimpaired by the Plan). 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.

R. Conditions to Effective Date.

77. Entry of the Confirmation Order, in form and substance reasonably acceptable to the Debtors, the Requisite Holders and Mr. Allen, shall satisfy the conditions to the Effective Date as set forth in Article XII.A.1-3 of the Plan, subject to the condition in Article XII.A.1-3 of the Plan that the Confirmation Order shall not have been stayed or modified or vacated on appeal.

S. Likelihood of Satisfaction of Conditions Precedent to Consummation.

78. Each of the conditions precedent to the Effective Date, as set forth in Article XII.A of the Plan, has been satisfied or waived in accordance with the provisions of the Plan, or is reasonably likely to be satisfied, provided, however, that no waiver of the conditions precedent to the Effective Date shall have occurred without the consent of the Requisite Holders and Mr. Allen.

T. Implementation.

79. All documents and agreements necessary to implement the Plan, including those contained in the Plan Supplement, and all other relevant and necessary documents (including, without limitation, the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws of Reorganized CCI, the entry into and performance under the Equity Registration Rights Agreement, the New CCH II Notes, the Commitment Letters, the Debt Registration Rights Agreement, the Lock-Up Agreement, the Excess Backstop Agreement, the Reorganized Holdco LLC Agreement, the Reorganized Holdco Exchange Agreement, the Rights Offering Documents, and the Warrants), have been negotiated in good faith, at arm's length, and are in the best interests of the Debtors and the Reorganized Debtors and shall, upon completion of documentation and execution be valid, binding, and enforceable documents and agreements not in conflict with any federal or state law.

U. Issuance of New Common Stock, Preferred Stock, and Warrants.

80. The issuance of New Common Stock, Preferred Stock, and Warrants is an essential element of the Plan, and is in the best interests of the Debtors, their Estates, and their Creditors. The Reorganized Company's equity interests shall consist of New Class A Stock, New Class B Stock, New Preferred Stock, and Warrants.

V. The CCI Notes Claim.

81. Notwithstanding any other provision to the contrary, the distributions provided in Article IV.A.4 of the Plan to the Holders of CCI Notes Claim shall constitute the sole recovery that such Holders shall receive under the Plan on account of their Claims.

W. Reorganized Holdco.

82. The retention of the current partnership structure in the form of Reorganized Holdco is an essential element of the Plan, and is in the best interests of the Debtors, their Estates, and their Creditors. The Debtors are authorized, without further approval of this Court or any other party, to execute and deliver all agreements, documents, instruments, and certificates relating thereto and perform their obligations thereunder.

X. Reinstatement.

83. The CCO Credit Facility Claims, the CCO Notes Claims, the CCOH Credit Facility Claims, and the CCOH Notes Claims are Unimpaired in accordance with section 1124 of the Bankruptcy Code.

1. No Event of Default Under the CCO Credit Facility.

84. Section 8(k)(i) of the CCO Credit Facility provides that it shall be an Event of Default if "the Paul Allen Group[3] shall cease to have the power, directly or indirectly, to vote or direct the voting of Equity Interests having at least 35% (determined on a fully diluted basis) of the ordinary voting power for the management of [CCO] . . . ."

85. The Paul Allen Group will not, at any time before, or upon consummation of, the Plan, cease to have the requisite voting power required by section 8(k)(i) of the CCO Credit Facility. Accordingly, there is no Event of Default under section 8(k)(i) of the CCO Credit Facility, and if the Debtors perform in accordance with the terms of the Plan and this Order, upon consummation of the Plan there will be no Event of Default under section 8(k)(i) of the CCO Credit Facility.

86. Section 8(k)(ii) of the CCO Credit Facility provides that it shall be an Event of Default under the following additional circumstances: "the consummation of any transaction (including, without limitation, any merger or consolidation) the result of which is that any 'person' or 'group' (as such terms are used in Section 13(d) and 14(d) of the Exchange Act), other than the Paul Allen Group has the power,

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[3] Under the CCO Credit Facility, the "Paul Allen Group" includes (a) Mr. Allen, (b) his estate, spouse, immediate family members and heirs and (c) any trust, corporation, partnership or other entity, the beneficiaries, stockholders, partners or other owners of which consist entirely of Mr. Allen or such other persons referred to in clause (b) above or a combination thereof.

directly or indirectly, to vote or direct the voting of Equity Interests having more than 35% (determined on a fully diluted basis) of the ordinary voting power for the management of [CCO], unless the Paul Allen Group has the power, directly or indirectly, to vote or direct the voting of Equity Interests having a greater percentage (determined on a fully diluted basis) of the ordinary voting power for the management of [CCO] than such 'person' or 'group.'"

87. The consummation of the Plan constitutes a "consummation of a transaction" for purposes of section 8(k)(ii) of the CCO Credit Facility.

88. Upon consummation of the Plan, no member of the Crossover Committee will have the power, directly or indirectly, to vote or direct the voting of Equity Interests having more than 35% (determined on a fully diluted basis) of the ordinary voting power for the management of CCO.

89. Upon consummation of the Plan, no member of the Crossover Committee will have an agreement with any other member of the Crossover Committee or any other party to a Plan Support Agreement to act together for the purpose of acquiring, holding, voting or disposing of equity securities of the Debtors or the Reorganized Debtors, and no such persons, or any combination thereof, will constitute a partnership, limited partnership, syndicate, or other group for the purpose of acquiring, holding, or disposing of such equity securities, or otherwise constitute a "group" as such term is used in Section 13(d) or 14(d) of the Exchange Act, as provided in the CCO Credit Facility. No such agreement, partnership, limited partnership, syndicate, other

group, or "group" exists or will exist upon consummation of the Plan.

90. Accordingly, there is no Event of Default under section 8(k)(ii) of the CCO Credit Facility, and if the Debtors perform in accordance with terms of the Plan and this Order, upon consummation of the Plan there will be no Event of Default under section 8(k)(ii) of the CCO Credit Facility.

2. No Change of Control Under the Other Senior Debt Instruments.

91. The indentures for the CCO and CCOH Notes and the CCOH Credit Facility define a "Change of Control" in relevant part as:

> "* * *
>
> (3) the consummation of any transaction . . . the result of which is that any "person" [(as such term is used in Section 13(d)(3) of the Exchange Act)] other than Paul G. Allen or any of the Related Parties[4] becomes the Beneficial Owner[5], directly or indirectly, of more than

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[4] A "Related Party" of Mr. Allen includes (i) the spouse or an immediate family member, estate or heir of Mr. Allen, or (ii) any trust, corporation, partnership or other entity, the beneficiaries, stockholders, partners, owners or Persons beneficially holding an 80% or more controlling interest of which consist of Mr. Allen and/or such other Persons referred to in the immediately preceding clause (i).

[5] "Beneficial Owner" has the meaning assigned to such term in Rule 13d-3 and Rule 13d-5 under the Exchange Act, except that in calculating the beneficial ownership of any particular "person" (as such term is used in Section 13d(3) of the Exchange Act) such "person" shall be deemed to have beneficial ownership of all securities that such "person" has the right to acquire,

> 35% of the Voting Stock of the Company or a Parent, measured by voting power rather than number of shares, unless Paul G. Allen or a Related Party Beneficially Owns, directly or indirectly, a greater percentage of Voting Stock of the Company or such Parent, as the case may be, measured by voting power rather than number of shares, than such person;[6]
>
> (4) after the Issue Date, the first day on which a majority of the members of the Board of Directors of CCI are not Continuing Directors[7] . . . ."

92. The consummation of the Plan constitutes a "consummation of a transaction" for purposes of the indentures' Change of Control provisions quoted above.

93. Upon consummation of the Plan, no member of the Crossover Committee will be the Beneficial Owner, directly or indirectly, of more than 35% of the

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whether such right is currently exercisable or is exercisable only upon the occurrence of a subsequent condition.

[6] "Voting Stock" of any Person as of any date means the Capital Stock of such Person that is at the time entitled to vote in the election of the board of directors or comparable governing body of such Person.

[7] A "Continuing Director" is any member of the Board of Directors of CCI who: (1) was a member of such Board of Directors on the [applicable] Issue Date; or (2) was nominated for election or elected to such Board of Directors with the approval of a majority of the Continuing Directors who were members of such Board of Directors at the time of such nomination or election or whose election or appointment was previously so approved.

Voting Stock of the Company or a Parent, measured by voting power rather than number of shares.

94. Paragraph 90 above is hereby incorporated by reference.

95. Thus, the occurrence of any or all of the following: (a) the commencement of the Chapter 11 Cases; (b) the filing, prosecution and confirmation of the Plan; (c) the consummation of the Plan; (d) the transactions contemplated by or resulting from the Plan, including, without limitation, the issuance of the New Common Stock and the appointment of the initial Board of Directors of Reorganized CCI; (e) any other effect of the Chapter 11 Cases; and (f) the emergence of the Debtors from the Chapter 11 Cases, will not constitute a "change of control" under, and within the meaning of, the indenture for the CCO Notes or the CCOH Notes or the CCOH Credit Facility.

96. Accordingly, there is no Change of Control under the indentures for the CCO and CCOH Notes and the CCOH Credit Facility, and if the Debtors perform in accordance with terms of the Plan and this Order, upon consummation of the Plan there will be no Change of Control under the CCO and CCOH Notes and the CCOH Credit Facility.

3. No Misrepresentation Regarding Ability to Pay Debts As They Become Due.

97. None of the Debtors' "Designated Holding Companies" (as defined in the CCO Credit Facility) were unable to pay their debts as they become due at any time before the Petition Date. Accordingly, there was no Event of Default under section 8(g)(v) of the CCO Credit Facility. In any event, any default

arising from a breach of section 8(g)(v) of the CCO Credit Facility would relate to the financial condition of CCO or of a Debtor and thus would constitute an ipso facto default that need not be cured under section 1124 of the Bankruptcy Code.

98. Because no Event of Default had occurred under section 8(g)(v) of the CCO Credit Facility, there was no Event of Default under section 8(b) of the CCO Credit Facility in connection with the borrowing requests made by the Debtors in October and November of 2008 and in February 2009. In any event, any default arising from a breach of section 8(b) with respect to section 8(g)(v) of the CCO Credit Facility would relate to the financial condition of CCO or of a Debtor and thus would constitute an ipso facto default that need not be cured under section 1124 of the Bankruptcy Code.

4. No Cross-Acceleration.

99. The alleged default caused by the commencement of these Chapter 11 Cases by the Debtors that constitute Designated Holding Companies relates to the commencement of a case under the Bankruptcy Code or relates to the financial condition of CCO and therefore constitutes an ipso facto default of CCO that need not be cured under section 1124 of the Bankruptcy Code. Accordingly, there is no Event of Default under section 8 of the CCO Credit Facility, including (but not limited to) section 8(f) or 8(g) of the CCO Credit Facility, and if the Debtors perform in accordance with terms of the Plan and this Order, upon consummation of the Plan there will be no Event of Default under section 8 of the CCO Credit Facility.

5. No Other Event of Default.

100. Upon emergence, no Event of Default shall have occurred and be continuing under any of the debt instruments being reinstated by the Debtors.

Y. Retention of Jurisdiction.

101. The Bankruptcy Court properly may retain jurisdiction over the matters set forth in Article XIV and other applicable provisions of the Plan.

102. The Plan shall neither confer nor deny jurisdiction for determining any disputes relating to or arising from Class J-2: CCO Swap Agreements Claims.

* * * * *

II. ORDER

BASED ON THE FOREGOING FINDINGS OF FACT AND CONCLUSIONS OF LAW, IT IS THEREFORE ORDERED, ADJUDGED, AND DECREED THAT:

A. Order.

103. This Confirmation Order shall confirm the Plan. A copy of the Plan is attached hereto as **Exhibit A**.

B. Objections.

104. To the extent that any objections, reservations of rights, statements, or joinders to Confirmation have not been withdrawn, waived, or settled prior to entry of the Confirmation Order or otherwise resolved as stated on the record of the Confirmation Hearing, they are hereby overruled on the merits.

C. Findings of Fact and Conclusions of Law.

105. The findings of fact and the conclusions of law set forth herein shall constitute findings of fact and conclusions of law pursuant to Bankruptcy Rule 7052, made applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusions of law announced by the Court at the Confirmation Hearing in relation to Confirmation and to judgment in the Adversary Proceeding are hereby incorporated herein to the extent not inconsistent herewith. To the extent that any of the following constitute findings of fact or conclusions of law, they are adopted as such. To the extent any of the prior findings of fact or conclusions of law constitutes an order of this Court, they are adopted as such.

D. Confirmation of the Plan.

106. The Plan and Plan Supplement (as such may be amended by the Confirmation Order or in accordance with the Plan) and each of their provisions are confirmed in each and every respect pursuant to section 1129 of the Bankruptcy Code. The documents contained in the Plan Supplement, and any amendments, modifications, and supplements thereto, and all documents and agreements related thereto (including all exhibits and attachments thereto and documents referred to in such papers), and the execution, delivery, and performance thereof by the Reorganized Debtors, are authorized and approved as finalized, executed, and delivered. Without further order or authorization of the Bankruptcy Court, the Debtors, Reorganized Debtors, and their successors are authorized and empowered to make all modifications to all

documents included as part of the Plan Supplement that are consistent with the Plan (including increasing the number of shares of New Preferred Stock and lowering the liquidation preference for each share of New Preferred Stock, provided that the liquidation preference per share of New Preferred Stock shall not be lower than $5.00 per share and (i) the aggregate initial liquidation preference shall remain at $72,000,000 and (ii) the aggregate voting rights for all preferred taken together shall remain unchanged). As set forth in the Plan, once finalized and executed, the documents comprising the Plan Supplement and all other documents contemplated by the Plan shall constitute legal, valid, binding, and authorized obligations of the respective parties thereto, enforceable in accordance with their terms and, to the extent applicable, shall create, as of the Effective Date, all Liens and other security interests purported to be created thereby.

107. The terms of the Plan, the Plan Supplement, and exhibits thereto are incorporated by reference into, and are an integral part of, the Confirmation Order. The terms of the Plan, the Plan Supplement, all exhibits thereto, and all other relevant and necessary documents, shall be effective and binding as of the Effective Date of the Plan.

E. Plan Classification Controlling.

108. 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 or Interests in connection with voting on the Plan: (a) were set forth on the Ballots 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 such Claims and Interests under the Plan for distribution purposes; (c) may not be relied upon by any Holder of a Claim or Interest as representing the actual classification of such Claim or Interest under the Plan for distribution purposes; and (d) shall not be binding on the Debtors and Reorganized Debtors except for voting purposes.

F. Compromise and Settlement.

109. On or after the Effective Date, the Reorganized Debtors are authorized and directed to make all distributions on account of the CII Settlement Claim. The Debtors may compromise and settle Claims against them and Causes of Action against other Entities 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.

G. The Releases, Injunction, Exculpation, and Related Provisions Under the Plan.

110. The following releases, injunctions, exculpations, and related provisions set forth in Article X of the Plan are hereby approved and authorized in their entirety:

1. Releases by the Debtors.

On the Effective Date and effective as of the Effective Date, for the good and valuable consideration provided by each of the Debtor Releasees (as defined below), including: (1) the discharge of debt and all other good and

valuable consideration paid pursuant to the Plan; (2) the obligations of the Holders of Claims party to Plan Support Agreements to provide the support necessary for the Effective Date of the Plan; and (3) the services of the Debtors' present and former officers and directors in facilitating the expeditious implementation of the restructuring contemplated by the Plan, each of the Debtors shall provide a full discharge and release to each Releasing Party, including each other Debtor, and each of their respective members, officers, directors, agents, financial advisors, attorneys, employees, partners, affiliates and representatives (collectively, the "Debtor Releasees" (and each such Debtor Releasee so released shall be deemed released and discharged by the Debtors)) and their respective properties from any and all Causes of Action, whether known or unknown, whether for tort, fraud, contract, violations of federal or state securities laws or otherwise, arising from or related in any way to the Debtors, including those that any of the Debtors or Reorganized Debtors would have been legally entitled to assert against a Debtor Releasee in their own right (whether individually or collectively) or that any Holder of a Claim or Interest or other Entity, would have been legally entitled to assert on behalf of any of the Debtors or any of their Estates, including those in any way related to the Chapter 11 Cases or the Plan to the fullest extent of the law; provided, however, that the foregoing "Debtor Release" shall not operate to

waive or release any person or Entity other than a Releasing Party from any causes of action expressly set forth in and preserved by the Plan. Notwithstanding anything in the Plan to the contrary, the Debtors or the Reorganized Debtors will not release any Causes of Action that they may have now or in the future against the Non-Released Parties.

2. Third Party Releases.

On the Effective Date and effective as of the Effective Date, the Holders of Claims and Interests shall be deemed to provide a full discharge and release to the Debtor Releasees and their respective property from any and all Causes of Action, whether known or unknown, whether for tort, contract, violations of federal or state securities laws or otherwise, arising from or related in any way to the Debtors, including those in any way related to the Chapter 11 Cases or the Plan; provided, that the foregoing "Third Party Release" shall not operate to waive or release any person or Entity (other than a Debtor Releasee) from any Causes of Action expressly set forth in and preserved by the Plan, the Plan Supplement or related documents, and provided further that the foregoing "Third Party Release" shall not impair the rights (a) to which an Allowed Unimpaired Claim entitles the Holder of such Allowed Unimpaired Claim or (b) of a Holder of a General Unsecured Claim as to any General Unsecured Claim. Notwithstanding anything in the Plan to the contrary, the Releasing Parties will not release any Causes of Action that they,

the Debtors or the Reorganized Debtors may have now or in the future against the Non-Released Parties. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third Party Release, and further, shall constitute its finding that the Third Party Release is: (1) in exchange for the good and valuable consideration provided by the Debtor Releasees, a good faith settlement and compromise of the claims released by the Third Party Release; (2) in the best interests of the Debtors and all Holders of Claims; (3) fair, equitable and reasonable; (4) given and made after due notice and opportunity for hearing; and (5) a bar to any of the Holders of Claims and Interests asserting any claim released by the Third Party Release against any of the Debtor Releasees.

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

arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States Government or any of its agencies or any state or local authority, nor shall anything in the Confirmation Order or the Plan exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States Government or any of its agencies or any state and local authority against the Released Parties. This paragraph, however, shall in no way affect or limit the discharge granted to the Debtors under sections 524 and 1141 of the Bankruptcy Code.

3. 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.

4. Exculpation.

The Exculpated Parties shall neither have, nor incur any liability to any Entity for any pre-petition or post-petition act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing, administering, confirming or effecting the Effective Date of the

Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other pre-petition or post-petition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Company; provided, that the foregoing provisions of this exculpation shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a final order to have constituted gross negligence or willful misconduct; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan; provided further, that the foregoing "Exculpation" shall not apply to any acts or omissions expressly set forth in and preserved by the Plan, the Plan Supplement or related documents, except for acts or omissions of Releasing Parties.

H. Release of Liens.

111. Except as otherwise provided in the Plan (including as to reinstated debt) 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 Debtor and its successors and assigns.

I. Maintenance of Causes of Action.

112. The provisions of Article VI.S of the Plan are hereby approved in their entirety. Subject to the releases set forth in Article X.D and Article X.E of the Plan, and 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. The Reorganized Debtors may pursue such Causes of Action, as appropriate, in accordance with the best interests of the Reorganized Debtors.

113. 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 Reorganized Debtors, as applicable, will not pursue any and all available Causes of Action against them. The Debtors or Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan.

J. Post-Confirmation Notices, Professional Compensation, and Bar Dates.

1. Notice of Entry of the Confirmation Order.

114. In accordance with Bankruptcy Rules 2002 and 3020(c), within ten (10) Business Days of the date of entry of the Confirmation Order, the Debtors shall serve the Notice of Confirmation by United States mail, first class postage prepaid, by hand, or by overnight courier service to all parties served with the Confirmation Hearing Notice; provided, however, 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 have been informed in writing by such Entity, or are otherwise aware, of that Entity's new address. To supplement the notice described in the preceding sentence, within twenty (20) days of the date of the Confirmation Order the Debtors shall publish the Notice of Confirmation once in The Wall Street Journal (National Edition). Mailing and publication of the Notice of Confirmation in the time and manner set forth in the this paragraph shall be good 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.

115. The Notice of Confirmation shall have the effect of an order of the Bankruptcy Court, shall constitute sufficient notice of the entry of the Confirmation Order to such filing and recording

officers, and shall be a recordable instrument notwithstanding any contrary provision of applicable non-bankruptcy law.

2. Professional Compensation.

116. All final requests for Professional Compensation and Reimbursement Claims shall be Filed no later than 45 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Professional Compensation and Reimbursement Claims shall be determined by the Bankruptcy Court.

117. On the Effective Date, the Reorganized Debtors (other than Reorganized CII) shall 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 respect to whom fees or expenses have been held back pursuant to the Interim Compensation Order. Such funds shall not be considered property of the Reorganized Debtors. The remaining amount of Professional Compensation and Reimbursement Claims owing to the Professionals shall be paid in Cash to such Professionals by the Reorganized Debtors (other than Reorganized CII) from the Professional Fee Escrow Account, without interest or other earnings therefrom, when such Claims are Allowed by a Bankruptcy Court order. When all Claims by Professional have been paid in full, amounts remaining in the Professional Fee Escrow Account, if any, shall be paid to the Reorganized Debtors (other than Reorganized CII).

118. To receive payment for unbilled fees and expenses incurred through the Effective Date, on or before the Effective Date, the Professionals shall estimate their Accrued Professional Compensation prior to and as of the Effective Date and shall deliver such estimate to the Debtors (other than CII). If a Professional does not provide an estimate, the Reorganized Debtors (other than Reorganized CII) may estimate the unbilled fees and expenses of such Professional; provided, however, that such estimate shall not be considered an admission with respect to the fees and expenses of such Professional. The total amount so estimated as of the Effective Date shall comprise the Professional Fee Reserve Amount.

119. Except as otherwise specifically provided in the Plan, from and after the Effective Date, each Reorganized Debtor 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 incurred by that Reorganized Debtor after the Effective Date pursuant to the Plan. Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and each Reorganized Debtor may employ and pay any Professional in the ordinary course of business without any further notice to or action, order or approval of the Bankruptcy Court.

120. Except as otherwise specifically provided in the Plan, any Entity that requests compensation or expense reimbursement for making a substantial

contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code must File an application and serve such application on counsel for the Debtors or Reorganized Debtors, as applicable, and as otherwise required by the Bankruptcy Court, the Bankruptcy Code, and the Bankruptcy Rules.

121. The Debtors (other than CII) shall promptly pay the unpaid, reasonable, documented out-of-pocket fees and expenses of Paul, Weiss, Rifkind, Wharton & Garrison LLP, Houlihan Lokey Howard & Zukin Capital, Inc., and UBS Securities LLC, the legal and financial advisors engaged by the Crossover Committee, without Paul, Weiss, Rifkind, Wharton & Garrison LLP, Houlihan Lokey Howard & Zukin Capital, Inc., or UBS Securities LLC having to file fee applications to receive payment for such fees and expenses.

122. The Debtors (other than CII) shall pay the unpaid, reasonable, documented out-of-pocket fees and expenses incurred by the members of the Crossover Committee in connection with the negotiation of the Plan, as well as their due diligence review and the approval and consummation of the transactions contemplated by the Plan, without such members of the Crossover Committee having to file fee applications to receive payment for such fees and expenses.

123. The Debtors (other than CII) shall pay the unpaid reasonable, documented out-of-pocket fees incurred by the members of the Creditors' Committee.

3. Other Administrative Expense Claims.

124. All requests for payment of an Administrative Expense Claim must be Filed with the Notice, Claims and Solicitation Agent and served upon counsel to the Debtors or Reorganized Debtors, as applicable. The Reorganized Debtors may settle and pay any Administrative Expense Claim in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court. In the event that any party with standing objects to an Administrative Expense Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Expense Claim. Notwithstanding the foregoing, no request for payment of an Administrative Expense Claim need be Filed with respect to an Administrative Expense Claim previously Allowed by Final Order.

K. Exemption from Securities Laws.

125. The solicitation of acceptances and rejections of the Plan was exempt from the registration requirements of the Securities Act of 1933 (as amended, and including the rules and regulations promulgated thereunder) and applicable state securities laws, and no other non-bankruptcy law applies to the solicitation.

126. Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance, and distribution of any Securities pursuant to the Plan (including any Securities issued or issuable pursuant to the terms of the Warrants or any other Securities distributed pursuant to the Plan) and any and all settlement agreements incorporated herein 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, any Securities contemplated by the Plan (including any Securities issued or issuable pursuant to the terms of the Warrants or any other Securities contemplated by the Plan) and any and all settlement agreements incorporated therein will be freely tradable by the recipients thereof, subject to (a) 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 (b) applicable regulatory approval.

127. Notwithstanding the foregoing, (a) shares of New Class A Stock issued to Eligible CCH I Notes Claim Holders pursuant to the Rights Offering, (b) New CCH II Notes issued to Rollover Commitment Parties, and (c) Securities issued to CII Settlement Claim Parties in connection with the CII Settlement shall be issued pursuant to the exemption provided under section 4(2) of the Securities Act. The holders of such equity and debt securities and certain other affiliates of the Reorganized Company shall receive registration rights as set forth in the Equity Registration Rights Agreement and the Debt Registration Rights Agreement, respectively.

L. Exemptions from Taxation.

128. Pursuant to section 1146(a) of the Bankruptcy Code, any transfer from a Debtor to a Reorganized Debtor or to any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity Security, or other

interest in the Debtors or the Reorganized Debtors; (b) the creation, modification, consolidation, or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means; (c) the making, assignment, or recording of any lease or sublease; or (d) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and the appropriate federal, state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

M. Retention of Jurisdiction.

129. Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, 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:

aa. 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 Expense Claim and the resolution of any and all objections to the Secured or unsecured status, priority, amount, or allowance of Claims or Interests;

bb. 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 authorized pursuant to the Bankruptcy Code or the Plan;

cc. Resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract 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 Cure or Claims arising therefrom, including Cure or Claims pursuant to section 365 of the Bankruptcy Code; (b) any potential contractual obligation under any Executory Contract that is assumed; and (c) any dispute regarding whether a contract or lease is or was executory or expired;

dd. Ensure that distributions to Holders of Allowed Claims and Interests are

accomplished pursuant to the provisions of the Plan;

ee. 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 that may be pending on the Effective Date;

ff. Adjudicate, decide or resolve any and all matters related to Causes of Action;

gg. Adjudicate, decide or resolve any and all matters related to section 1141 of the Bankruptcy Code;

hh. 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 or the Disclosure Statement;

ii. Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

jj. Resolve any cases, controversies, suits, disputes or Causes of Action that may arise in connection with the interpretation or enforcement of the Plan or any Entity's obligations incurred in connection with the Plan;

kk. 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 enforcement of the Plan;

ll. Resolve any cases, controversies, suits, disputes or Causes of Action with respect to the releases, injunctions, and other provisions contained in the Plan and enter such orders as may be necessary or appropriate to implement such releases, injunctions, and other provisions;

mm. 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 or Interest for amounts not timely repaid;

nn. Enter and implement such orders as are necessary or appropriate if the Confirmation Order is for any reason modified, stayed, reversed, revoked or vacated;

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

pp. Enter an order or Final Decree concluding or closing the Chapter 11 Cases;

qq. Adjudicate any and all disputes arising from or relating to distributions under the Plan;

rr. 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;

ss. Determine requests for the payment of Claims and Interests entitled to priority pursuant to section 507 of the Bankruptcy Code;

tt. Hear and determine disputes arising in connection with the interpretation, implementation, or enforcement of the Plan, or the Confirmation Order, including disputes arising under agreements, documents or instruments executed in connection with the Plan;

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

vv. Hear and determine all disputes involving the existence, nature, or scope of the Debtors' discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

ww. Hear and determine all disputes arising from or relating to the causes of action raised in, could have been raised in, or derived from the Adversary Proceeding;

xx. Enforce all orders previously entered by the Bankruptcy Court; and

yy. Hear any other matter not inconsistent with the Bankruptcy Code.

N. References to Plan Provisions.

130. 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 the Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Bankruptcy Court that the Plan and any related documents be confirmed in their entirety.

O. Treatment of Executory Contracts.

131. The Executory Contract provisions of Article VIII of the Plan shall be, and hereby are, approved in their entirety.

P. Procedures for Resolving Claims and Disputes.

132. The Claims resolution procedures contained in Article VIII of the Plan shall be, and hereby are, approved in their entirety.

Q. Provisions Governing Distributions.

133. The distribution provisions of Article IX of the Plan shall be, and hereby are, approved in their entirety. Except as otherwise set forth in the Plan, the Reorganized Debtors shall make all distributions required under the Plan.

R. Reinstatement of Certain Credit Facilities and Indentures.

134. Except to the extent that a Holder of an Allowed Claim against the applicable Debtors and the applicable Debtors agree to less favorable treatment to such Holder, each Allowed Claim against the Debtors for each of the credit facilities and indentures listed below (the "Senior Debt") shall be reinstated in accordance with section 1124 of the Bankruptcy Code and is therefore Unimpaired:

Senior Debt	**Principal Amount Outstanding**
First Lien Credit Facility	
Term Loan Facility maturing 2014	$6.9 billion
Revolving Credit Facility maturing 2013[8]	$1.3 billion
8.00% senior second lien notes due 2012	$1.1 billion
8⅜% senior second lien notes due 2014	$770 million
10.875% senior second lien notes due 2014	$546 million
Junior Credit Facility maturing 2014	$350 million
8¾% senior notes due 2013	$800 million
Total	**$11.8 billion**

[8] Excluding letter of credit obligations, which do not need to be collateralized with cash.

S. New Common Stock, Preferred Stock, and Warrants and New CCH II Notes.

135. In accordance with the terms of Article VI.B of the Plan, the Reorganized Debtors shall issue, deliver or execute, as the case may be, all securities, notes, instruments, certificates, and other documents required to be issued pursuant to the Plan, including, without limitation, the New Class A Stock, New Class B Stock, New Preferred Stock, and Warrants, and New CCH II Notes each of which shall be distributed as provided in the Plan. Upon issuance, (a) all shares of New Class A Stock, New Class B Stock, New Preferred Stock and any such securities delivered upon the exercise of the Warrants and upon the exchange of equity interests in Reorganized Holdco under the Reorganized Holdco Exchange Agreement are deemed validly issued, fully paid, and non-assessable, and (b) all of the New CCH II Notes shall be deemed duly authorized and validly issued in exchange for CCH I Notes and CCH II Notes.

T. CII Settlement Claim.

136. Notwithstanding anything to the contrary in the Plan or this Confirmation Order, on the Effective Date, the following consideration shall be transferred by the Debtors (other than CII) to Mr. Allen (or his designees which, in the case of New Class B Stock, shall be limited to Authorized Class B Holders) on account of the CII Settlement Claim: (a) shares of New Class B Stock representing, as of the Effective Date, (i) 2% of the equity value of the Reorganized Company, after giving effect to the Rights Offering and one half of the overallotment option, but prior to the issuance of the other half of the overallotment option, the Warrants and equity-based awards under

the Management Incentive Plan, and (ii) 35% (determined on a fully diluted basis) of the combined voting power of the capital stock of Reorganized CCI; (b) the CII Settlement Claim Warrants; (c) $85 million principal amount of New CCH II Notes, which shall be refinancing indebtedness of the CCH I Notes and deemed transferred from Holders of CCH I Notes Claims automatically and without further action by any party; (d) Cash in the amount of $25 million on account of the Allen Management Receivable; (e) $150 million in Cash; and (f) Cash of up to $20 million on account of the Allen Fee Reimbursement under the terms set forth in the Plan. In addition, on the Effective Date, CII shall retain a 1% direct equity interest in Reorganized Holdco, including the right to exchange such interest into New Class A Stock representing 1% of the equity value of the Reorganized Company, after giving effect to the Rights Offering and one half of the overallotment option, but prior to the issuance of the other half of the overallotment option, the Warrants and equity-based awards under the Management Incentive Plan, pursuant to the Reorganized Holdco Exchange Agreement, and Mr. Allen shall retain all of the Interests in Reorganized CII. Furthermore, on the Effective Date, the 7,282,183 CC VIII Preferred Units held by the CII shall be deemed transferred, automatically and without further action by any party, to Reorganized CCI. CCH I Claims and CIH Claims held by CII shall be treated identically to similar Claims held by Persons other than CII.

U. Retention of Partnership Structure in Form of Reorganized Holdco.

137. The Holdco LLC Agreement shall be in effect and govern Holdco for the period up to and including the Effective Date. At the Effective Date, the Holdco LLC Agreement shall be amended and restated and the Reorganized Holdco LLC Agreement shall be in effect as of the day immediately following the Effective Date for federal, state, local and foreign income tax purposes. Reorganized Holdco shall effect a "closing of the books" as of the Effective Date, and the provisions of the Holdco LLC Agreement, taking into account each member's Percentage Interest (as defined in the Holdco LLC Agreement) immediately before the transactions contemplated by this Plan, shall govern with respect to allocations of items of income, gain, loss, credit and deduction for the period up to and including the Effective Date, including any items of income, gain, loss, credit and deduction arising on the Effective Date and/or arising as a result of the transactions effective as of the Effective Date as contemplated by this Plan. Reorganized Holdco shall not make the election under section 108(i) of the U.S. Internal Revenue Code of 1986, as amended (or any similar election under state or local law), with respect to any cancellation of indebtedness income relating to the consummation of the Plan. Notwithstanding anything to the contrary in the Reorganized Holdco LLC Agreement, in the event of any dispute, challenge, audit or examination of Holdco's tax affairs for any period prior to or including the Effective Date, the consent of Mr. Allen shall be required to settle any such dispute and Mr. Allen and CII shall be entitled to participate alongside Reorganized CCI in any such examinations,

judicial determinations, and administrative proceedings, with respect to any portion of the dispute relating to the period prior to and including the Effective Date.

V. Management Incentive Plan and VCP.

138. The Reorganized Company shall be deemed to have adopted the Management Incentive Plan and VCP on the Effective Date.

W. Other Essential Documents and Agreements.

139. The Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of the Reorganized Company, the Reorganized Holdco LLC Agreement, the Equity Registration Rights Agreement, the Commitment Letters, the Debt Registration Rights Agreement, the Lock-Up Agreement, the Excess Backstop Agreement, the Reorganized Holdco Exchange Agreement, the Rights Offering Documents, and the Warrants and the transactions contemplated by each of the foregoing are approved in their entirety and, upon execution and delivery of the agreements and documents relating thereto by the applicable parties, the Amended and Restated Certificate of Incorporation and Amended and Restated Bylaws of the Reorganized Company, the Reorganized Holdco LLC Agreement, the Equity Registration Rights Agreement, the Commitment Letters, the Debt Registration Rights Agreement, the Lock-Up Agreement, the Excess Backstop Agreement, the Reorganized Holdco Exchange Agreement, the Rights Offering Documents, and the Warrants shall be in full force and effect and valid, binding and

enforceable in accordance with their terms without the need for any further notice to or action, order or approval of the Bankruptcy Court, or other act or action under applicable law, regulation, order or rule. The Debtors, and after the Effective Date, the Reorganized Debtors, are authorized, without further approval of the Bankruptcy Court or any other party, to execute and deliver all agreements, documents, instruments, securities and certificates relating to such agreements and perform their obligations thereunder, including, without limitation, pay all fees due thereunder or in connection therewith.

140. 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 of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, 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.

X. Return of Deposits.

141. All utilities, including any Person who received a deposit or other form of adequate assurance of performance pursuant to section 366 of the Bankruptcy Code during these Chapter 11 Cases (collectively, the "Deposits"), including, without limitation, gas, electric, telephone, trash and sewer services, shall return such Deposits to the Debtors and/or the Reorganized Debtors, as applicable, either

by setoff against postpetition indebtedness or by cash refund, within 45 days following the Effective Date and as of the Effective Date, such utilities are not entitled to make requests for or receive Deposits.

Y. Governing Law.

142. 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 New York, 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), and corporate governance matters; provided, however, that corporate governance matters relating to Debtors or Reorganized Debtors, as applicable, not incorporated in New York shall be governed by the laws of the state of incorporation of the applicable Debtor or Reorganized Debtor, as applicable.

Z. Effectiveness of All Actions.

143. Except as set forth in the Plan, all actions authorized to be taken pursuant to the Plan shall be effective on, prior to, or after the Effective Date pursuant to the Confirmation Order, without further application to, or order of the Bankruptcy Court, or further action by the respective officers, directors, members, or stockholders of Reorganized Debtors or the other Reorganized Debtors and with the effect that such actions had been taken by unanimous

action of such officers, directors, members, or stockholders.

AA. Approval of Consents and Authorization to Take Acts Necessary to Implement Plan.

144. Pursuant to section 1142(b) of the Bankruptcy Code, section 303 of the Delaware General Corporation Law and any comparable provision of the business corporation laws of any other state, each of the Debtors and the Reorganized Debtors hereby is authorized and empowered to take such actions and to perform such acts as may be necessary, desirable or appropriate to comply with or implement the Plan, the Plan Supplement, the Equity Registration Rights Agreement, the Commitment Letters, the Debt Registration Rights Agreement, the Lock-Up Agreement, the Excess Backstop Agreement, the Reorganized Holdco Exchange Agreement, the Holdco LLC Agreement, the Reorganized Holdco LLC Agreement, the Rights Offering Documents, and the Warrants, any other Plan documents, including the election or appointment, as the case may be, of directors and officers of the Reorganized Company as contemplated in the Plan, and all documents, instruments, securities and agreements related thereto and all annexes, exhibits, and schedules appended thereto, and the obligations thereunder shall constitute legal, valid, binding and authorized obligations of each of the respective parties thereto, enforceable in accordance with their terms without the need for any stockholder or board of directors' approval. Each of the Debtors and the Reorganized Debtors hereby is authorized and empowered to take such actions, to

perform all acts, to make, execute, and deliver all instruments and documents, and to pay all fees and expenses as set forth in the documents relating to the Plan and including without limitation, Equity Registration Rights Agreement, the Commitment Letters, the Debt Registration Rights Agreement, the Lock-Up Agreement, the Excess Backstop Agreement, the Reorganized Holdco Exchange Agreement, the Holdco LLC Agreement, the Reorganized Holdco LLC Agreement, the Rights Offering Documents, and the Warrants, and that may be required or necessary for its performance thereunder without the need for any stockholder or board of directors' approval. On the Effective Date, the appropriate officers of the Reorganized Company and members of the Board of Directors of the Reorganized Company are authorized and empowered to issue, execute, and deliver the agreements, documents, securities, and instruments contemplated by the Plan in the name of and on behalf of the Reorganized Debtors. Subject to the terms of this Confirmation Order, each of the Debtors, the Reorganized Debtors, and the officers and directors thereof are authorized to take any such actions without further corporate action or action of the directors or stockholders of the Debtors or the Reorganized Debtors. On the Effective Date, or as soon thereafter as is practicable, the Reorganized Debtors shall file their amended certificates of incorporation with the Secretary of State of the state in which each such entity is (or will be) organized, in accordance with the applicable general business law of each such jurisdiction.

145. 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, or agreements, and 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, or agreements, and any amendments or modifications thereto.

BB. Modifications or Amendments.

146. Except as otherwise specifically provided in the Plan, and subject to the Plan Support Agreements and conditions to the Effective Date, the Debtors reserve the right to modify the Plan and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, each of the Debtors expressly reserves its respective rights to revoke or withdraw or 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. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article XIII.A of the Plan. Entry of the Confirmation Order means that all modifications

or amendments to the Plan since the solicitation thereof are approved pursuant to section 1127 of the Bankruptcy Code and do not require additional disclosure or resolicitation under Bankruptcy Rule 3019.

CC. Ownership and Control.

147. The Consummation of the Plan shall not constitute a change of ownership or change in control, as such terms are used in any statute, regulation, contract, or agreement, including, but not limited to, any credit agreement, indenture or other evidence of indebtedness, employment, severance, or termination, or insurance agreements, in effect on the Effective Date and to which either of the Debtors is a party or under any applicable law of any applicable governmental unit, other than a change of control for purposes of section 382 of the U.S. Internal Revenue Code of 1986, as amended, on the Effective Date. Notwithstanding the foregoing, the Debtors and Reorganized Debtors reserve the right to selectively waive this provision of the Plan.

DD. Effect of Conflict Between Plan and Confirmation Order.

148. If there is any direct conflict between the terms of the Plan or the Plan Supplement and the terms of the Confirmation Order, the terms of the Confirmation Order shall control.

EE. Payment of Statutory Fees.

149. All fees payable pursuant to section 1930(a) of the Judicial Code, as determined by the Bankruptcy Court at a hearing pursuant to section 1128 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until the

Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

FF. Reservation of Rights.

150. Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. 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 of Claims or Interests prior to the Effective Date.

GG. Injunctions and Automatic Stay.

151. Unless otherwise provided in the Plan or herein, all injunctions or stays in effect in the Chapter 11 Cases pursuant to section 105, 362, or 525 of the Bankruptcy Code or otherwise, or any order of the Court, and extant on the date of this Confirmation Order (excluding any injunctions or stays contained in the Plan or this Confirmation Order) shall remain in full force and effect until the Effective Date. All injunctions or stays contained in the Plan or herein shall remain in full force and effect in accordance with their terms. This Confirmation Order will permanently enjoin the commencement or prosecution by any Person, whether directly, derivatively or otherwise, of any Claims, Interests, Causes of Action, obligations, suits, judgments, damages, demands, debts, rights, or liabilities released pursuant to the Plan.

HH. Nonseverability of Plan Provisions upon Confirmation.

152. Each term and provision of the Plan, and the transactions related thereto as it heretofore may have been altered or interpreted by the Bankruptcy Court is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and the transactions related thereto and may not be deleted or modified without the consent of the Debtors, the Crossover Committee, and Mr. Allen; and (3) nonseverable and mutually dependent. It is further acknowledged that the participants in the Rights Offering, among others, will be advancing substantial sums to the Reorganized Company or taking other action contemplated by the Plan in reliance upon each term and condition of the Plan and this Order, including the reinstatement of the Senior Debt, which monies or other action will enable the Reorganized Company to make the distributions and other payments contemplated by the Plan and to reorganize as contemplated by the Plan.

II. Waiver or Estoppel.

153. Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court prior to the Confirmation Date.

JJ. Authorization to Consummate.

154. The Debtors are authorized to consummate the Plan at any time after the entry of the Confirmation Order subject to satisfaction or waiver (by the required parties) of the conditions precedent to Consummation set forth in Article XII.B of the Plan.

KK. Compliance with Other Laws.

155. No provision in the Plan or this Order relieves the Reorganized Debtors from their obligations to comply with the Communications Act of 1934, as amended, and the rules, regulations and orders promulgated thereunder by the Federal Communications Commission (the "FCC"). No transfer of control to the Reorganized Debtors of any federal license or authorization issued by the FCC shall take place prior to the issuance of FCC regulatory approval for such transfer of control pursuant to applicable FCC regulations. The FCC's rights and powers to take any action pursuant to its regulatory authority over the transfer of control to the Reorganized Debtors, including, but not limited to, imposing any regulatory conditions on such transfer, are fully preserved, and nothing herein shall proscribe or constrain the FCC's exercise of such power or authority to the extent provided by law.

LL. Resolution of Certain of JPMorgan Chase Bank, N.A.'s Objection.

156. Notwithstanding any language in the Plan to the contrary, this Confirmation Order shall not create rights of setoff in violation of section 2.15(d) the CCO Credit Facility.

157. Notwithstanding any language in the Plan to the contrary, this Confirmation Order shall not alter the choice of law and choice of forum provisions contained in section 10.12 of the CCO Credit Facility.

158. The Plan and this Confirmation Order shall not be deemed to alter any rights and obligations set forth in section 560 of the Bankruptcy Code.

MM. Resolution of Calyon New York Branch Objection.

159. On July 13, 2009, Calyon New York Branch ("Calyon") filed its Limited Objection of Calyon New York Branch to Confirmation of Debtors' Joint Plan of Reorganization (the "Calyon Objection") [Docket No. 569]. The Debtors and Calyon have resolved the Calyon Objection as follows: (a) Calyon is allowed a claim as a CCO Swap Agreements Claim (as defined in the Plan) in the amount of $22,754,646.00, plus amounts accrued since March 30, 2009, including interest, costs, expenses and fees; (b) Calyon is allowed a claim as a CCO Credit Facility Claim (as defined in the Plan) in the amount of $32,625,750.47, plus amounts accrued since April 30, 2009, including interest, costs, expenses and fees; and (c) Allowance of Calyon's claims does not prejudice any other claims or defenses Calyon may have against the Debtors.

NN. Resolution of Tax Claimants Objections.

160. Notwithstanding any language in the Plan to the contrary or any finding of fact contained hereunder that the terms of the Plan comply with the required provisions of the Bankruptcy Code, the rights of any Priority Tax Claimant and/or Administrative Tax Claimant (collectively, "Tax Claimant") under the Plan shall be as provided for

under the Bankruptcy Code, or as subsequently agreed to by the Reorganized Debtors and any Tax Claimant in writing, and the Plan shall not be interpreted or construed to impair or abrogate the rights of any Tax Claimant in any manner.

OO. Resolution of Rembrandt Technologies, L.P. and Rembrandt Technologies, LLC Objection.

161. Notwithstanding any provision to the contrary in the Plan or otherwise, the multidistrict litigation proceeding in the United States District Court for the District of Delaware commenced by Rembrandt Technologies, L.P. and Rembrandt Technologies, LLC against the Debtors CCI and CCO shall not be barred from resuming after the Effective Date of the Plan.

PP. Resolution of Verizon Communications Inc. Objection.

162. Prior to the Petition Date, Verizon Communications Inc.; Verizon Business Global LLC; Verizon Services Corp.; Verizon South Inc.; Verizon Virginia, Inc.; and MCI Communications Corporation (collectively, "Verizon") and certain of the Debtors were adversaries in three lawsuits related to certain patents filed in the Eastern District of Texas, the Eastern District of Virginia, and the Southern District of New York, in which Verizon claims that the Debtors infringed upon, beginning prior to the Petition Date and continuing unabated to the present date, certain patents held by Verizon (collectively, the "Verizon Patent Cases"); and Verizon has asserted contingent prepetition claims against the Debtors for damages (the "Verizon Prepetition Claims"),

postpetition claims against the Debtors for damages related to alleged continued infringement on Verizon's patents (the "Verizon Postpetition Claims," and collectively, the "Verizon Claims"), and post-Effective Date claims against the Debtors for damages related to any continued infringement on Verizon's patents (the "Verizon Post Effective Date Claims"). The Verizon Claims shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code upon confirmation of the Plan. The Verizon Post Effective Date Claims are not subject to the Plan and payments on account thereof, if any, shall be made in the ordinary course of business. In addition, certain of the Debtors brought (1) counterclaims against Verizon or certain of its entities in the Eastern District of Texas for declarations of non-infringement and invalidity of certain patents owned by Verizon or certain of its entities; (2) claims against Verizon or certain of its entities in the Eastern District of Virginia for infringement of certain patents owned by certain of the Debtors; and (3) claims against Verizon or certain of its entities in the Southern District of New York for declarations of non-infringement of certain patents owned by Verizon or certain of its entities (collectively, the "Debtor Patent Claims"). Verizon and the Debtors maintain and do not waive any rights regarding the prosecution or defense of the Verizon Claims, the Verizon Post Effective Date Claims, or the Debtor Patent Claims.

QQ. Resolution of HSBC Objection.

163. On July 10, 2009, HSBC Bank, USA, National Association ("HSBC") filed its Limited Objection of HSBC Bank USA, National Association,

as Indenture Trustee to Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code Dated May 7, 2009 (the "HSBC Objection") [Docket No. 558]. The Debtors and HSBC have resolved the HSBC Objection as follows: (a) HSBC, in its capacity as indenture trustee shall be paid default interest from May 15, 2009 until the date of actual payment as Post-Petition Interest pursuant to Article I.A.152(e) of the Plan; (b) HSBC's reasonable indenture trustee fees and expenses, as provided for under the governing indenture, shall be paid pursuant to Article XI.7 of the Plan; and (c) if HSBC and the Debtors cannot agree on the requisite cure amount to reinstate the CCOH Notes pursuant to Article IV.I.2 of the Plan, such disagreement will be determined by the Court, with notice and objection rights to applicable parties.

RR. Resolution of Travelers Casualty and Surety Company of America Issue

164. Nothing contained within the Plan or any other document or order shall release, compromise, impair or otherwise prejudice or alter the rights and remedies of Travelers Casualty and Surety Company of America under its bonds, indemnity agreements, that certain Final Order Authorizing Debtors to Enter into the DIP Surety Program dated April 15, 2009, and with regard to the collateral or letters of credit which secures such claims.

SS. Assumption of the Chartis Insurance Program

165. Various affiliates of Chartis Inc. provided workers compensation, automobile liability and general liability coverages, among others to the

Debtors from November 1, 2003 to present pursuant to various policies which are governed by certain payment agreements or similar agreements, the schedules and addenda thereto, and any other related documents (collectively, the "Chartis Insurance Program"). Pursuant to the terms of Article VII. A. of the Plan, the Debtors shall assume the Chartis Insurance Program and any renewals thereof which are Executory Contracts, and the Reorganized Debtors shall pay and satisfy all obligations due to any Chartis Inc. affiliated entity under the Chartis Insurance Program any renewal thereof in the ordinary course of business. Accordingly, no administrative expense claim need be filed in connection with the Chartis Insurance Program or any renewal thereof. The Debtors' rights against all collateral held by Insurer, in whatever form, shall be governed by the terms of the Chartis Insurance Program and the related security documentation, and the Debtors shall not take any action against any Chartis Inc. affiliated company in the Bankruptcy Court that is inconsistent with the terms of such documentation, including, without limitation, actions for turnover or estimation.

TT. Secured Tax Claims.

166. Interest on Secured Claims shall accrue from the Petition Date through the Effective Date at the rate set forth in the contracts or other applicable documents giving rise to such Claims (to the extent lawful) or, if the applicable instruments do not specify a rate of interest, at the Federal Judgment Rate as provided for in 28 U.S.C. § 1961 as in effect on the Petition Date, or to the extent provided for by section 511 of the Bankruptcy Code, interest at the

rate determined under applicable nonbankruptcy law.

UU. No Fractional Shares; No Fractional Notes.

167. No fractional shares of New Common Stock, New CCH II Notes, New Preferred Stock and Warrants ("New Securities") shall be issued or distributed under the Plan. Each Person entitled to receive New Common Stock, New CCH II Notes, New Preferred Stock and Warrants shall receive the total number of whole shares of New Common Stock, New Preferred Stock or Warrants or their *pro rata* share in principal amount of New CCH II Notes, whichever is relevant, to which such Person is entitled. New CCH II Notes shall be issued in increments of $1.00. Whenever any distribution to a particular Person would otherwise call for distribution of a fraction of New Securities, the actual distribution of such New Securities shall be rounded to the next higher or lower whole number as follows: (a) fractions one-half (1/2) or greater shall be rounded to the next higher whole number and (b) fractions of less than one-half (1/2) shall be rounded to the next lower whole number. Notwithstanding the foregoing, (a) if the Person is entitled to New Common Stock and rounding to the next lower whole number would result in such Person receiving zero shares of New Common Stock, New Preferred Stock or Warrants such Person shall receive one (1) share of New Common Stock, New Preferred Stock or Warrants, as applicable; and (b) if the Person is entitled to a *pro rata* share in principal amount of New CCH II Notes and rounding to the next lower whole number would result in such Person receiving zero dollars worth of

New CCH II Notes, such Person shall receive a New CCH II Note in the principal amount of $1.00 (One Dollar). If two or more Persons are entitled to fractional entitlements and the aggregate amount of New Securities that would otherwise be issued to such Persons with respect to such fractional entitlements as a result of such rounding exceeds the number of whole New Securities which remain to be allocated, the Disbursing Agent shall allocate the remaining whole New Securities to such holders by random lot or such other impartial method as the Disbursing Agent deems fair. Upon the allocation of all of the whole New Securities authorized under the Plan, all remaining fractional portions of the entitlements shall be cancelled and shall be of no further force and effect. The Disbursing Agent shall have the right to carry forward to subsequent distributions any applicable credits or debits arising from the rounding described in this paragraph. Distributions of New Securities on account of other securities shall be made to the record owner of such securities. For purposes of this paragraph, "Person" shall mean such record owner.

VV. Effect of Non-Occurrence of Conditions to the Effective Date.

168. Each of the conditions to the Effective Date must be satisfied or duly waived, and the Effective Date must occur within 180 days after Confirmation, or by such later date established by Bankruptcy Court order. If the Effective Date has not occurred within 180 days of Confirmation, then upon motion by a party-in-interest made before the Effective Date and a hearing, the Confirmation Order may be vacated by the Bankruptcy Court; provided, however,

that notwithstanding the Filing of such motion to vacate, the Confirmation Order may not be vacated if the Effective Date occurs before the Bankruptcy Court enters an order granting such motion. If the Confirmation Order is vacated, then except as provided in any order of the Bankruptcy Court vacating the Confirmation Order, the Plan will be null and void in all respects, including the discharge of Claims and termination of Interests pursuant to the Plan and section 1141 of the Bankruptcy Code and the assumptions, assignments or rejections of Executory Contracts, and nothing contained in the Plan or Disclosure Statement shall: (1) constitute a waiver or release of any Claims, Interests or Causes of Action; (2) prejudice in any manner the rights of any Debtor or any other Entity; or (3) constitute an admission, acknowledgment, offer or undertaking of any sort by such Debtor or any other Entity.

WW. Adversary Proceeding.

169. For the reasons stated above to the extent relevant to the Adversary Proceeding, judgment for CCO and CCOH shall be entered in the Adversary Proceeding.

IT IS SO ORDERED.

Dated: New York, New York
November 17, 2009

s/ James M. Peck
Honorable James M. Peck
United States Bankruptcy Judge

Exhibit A

Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the United States Bankruptcy Code

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Counsel to the Debtors and Debtors in Possession
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Charter Investment, Inc.

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK

In re:

CHARTER COMMUNICATIONS, INC., et al.,

Debtors.

Chapter 11

Case No. 09-11435 (JMP)

Jointly Administered

DEBTORS' JOINT PLAN OF REORGANIZATION PURSUANT TO CHAPTER 11 OF THE UNITED STATES BANKRUPTCY CODE

Dated: July 15, 2009

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INTRODUCTION

Charter Communications, Inc. and the other debtors in the above-captioned chapter 11 cases (collectively, the "Debtors")[1] propose the following joint plan of reorganization (the "Plan") for the resolution of outstanding creditor claims against, and equity interests in, the Debtors pursuant to title 11 of the United States Code, 11 U.S.C. §§ 101–1532. Capitalized terms used in the Plan and not otherwise defined have the meanings ascribed to such terms in ARTICLE I.A of the Plan.

Reference is made to the Disclosure Statement, Filed contemporaneously with the Plan, for a discussion of the Debtors' history, businesses, assets, results of operations, and projections of future operations, as well as a summary and description of the Plan and certain related matters. The Debtors are the proponents of the Plan within the meaning of section 1129 of the Bankruptcy Code.

ARTICLE I.

DEFINITIONS AND INTERPRETATION

A. Defined Terms. As used in the Plan, the capitalized terms below have the following meanings, except as expressly provided or unless the context otherwise requires. Any term used but not defined in the Plan, but that is used in the Bankruptcy Code or the Bankruptcy Rules, has the meaning ascribed to that term in the Bankruptcy Code or the Bankruptcy Rules.

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[1] A full list of the Debtors in these Chapter 11 Cases is attached as Exhibit 1 to the Plan Supplement.

1. "Accrued Professional Compensation" means, at any given moment, all accrued fees and expenses (including success fees) for services rendered by all Professionals through and including the Effective Date, to the extent such fees and expenses have not been paid and regardless of whether a fee application has been Filed for such fees and expenses. To the extent there is a Final Order denying some or all of a Professional's fees or expenses, such denied amounts shall no longer be considered Accrued Professional Compensation.

2. "Administrative Expense Claim" means a Claim for costs and expenses of administration of the Estates under sections 503(b), 507(b) or 1114(e)(2) of the Bankruptcy Code, including: (a) the actual and necessary costs and expenses incurred after the Petition Date of preserving the Estates and operating the businesses of the Debtors; (b) Allowed Claims of retained Professionals in the Chapter 11 Cases; and (c) all fees and charges assessed against the Estates under chapter 123 of title 28 of the United States Code, 28 U.S.C. §§ 1911-1930.

3. "Affiliate" is as defined in section 101(2) of the Bankruptcy Code.

4. "Allen Entities" means (a) Mr. Allen, (b) any Entity controlled by Mr. Allen, (c) any trust in which Mr. Allen is the grantor, (d) the estate, spouse, immediate family members and heirs of Mr. Allen, and (e) any trust created as a result of the death of Mr. Allen; provided, however, the Debtors (other than CII) shall not be Allen Entities. For the purpose of this definition,

"controlled" means the direct or indirect ownership of at least fifty percent (50%) of the voting power and economic interest of such Entity.

5. "Allen Fee Reimbursement" means up to $20 million for the actual out-of-pocket fees and expenses of the CII Settlement Claim Parties in connection with the proposed restructuring, without further Bankruptcy Court approval and after submission of documentation by Mr. Allen to the Reorganized Debtors (other than Reorganized CII).

6. "Allen Management Receivable" means $25 million for amounts owing to CII under the Management Agreement and predecessor agreements, which shall constitute payment in full thereunder.

7. "Allowed" means, with respect to any Claim against any Debtor, except as otherwise provided herein, any Claim listed by such Debtor in its books and records as liquidated in amount and not disputed or contingent; provided, that to the extent that a Claim is a Disputed Claim, the determination of whether such Claim shall be allowed and/or the amount of any such Claim shall be determined, resolved or adjudicated, as the case may be, in the manner in which such Claim would have been determined, resolved or adjudicated, as the case may be, if the Chapter 11 Cases had not been commenced; and provided, further, the Debtors or Reorganized Debtors in their discretion may bring any objection or other motion with respect to a Disputed Claim for resolution. For the purpose of determining the amount in which a Claim is Allowed, the Debtors

or Reorganized Debtors may, at their option, deduct therefrom an amount equal to the amount of any claim which the Debtors or Reorganized Debtors may hold against the Holder thereof, to the extent such claim may be set off pursuant to applicable law.

8. "Amended and Restated Bylaws" means the bylaws of the Reorganized Company, attached as Exhibit 2 to the Plan Supplement.

9. "Amended and Restated Certificate of Incorporation" means the certificate of incorporation of the Reorganized Company, attached as Exhibit 3 to the Plan Supplement.

10. "Annex C" means the list of Rollover Commitment Parties and related aggregate commitment amounts set forth in Annex C to the Term Sheet (and attached as Exhibit 4 to the Plan Supplement).

11. "Annex D" means the list of New CCH II Notes Commitment Parties and aggregate commitment amounts set forth in Annex D to the Term Sheet (and attached as Exhibit 5 to the Plan Supplement).

12. "Annex E" means the list of Equity Backstop Parties and aggregate commitment amounts set forth in Annex E to the Term Sheet (and attached as Exhibit 6 to the Plan Supplement).

13. "Authorized Class B Holders" means any of: (a) Mr. Allen; (b) his estate, spouse, immediate family members and heirs; and (c) any trust, corporation, partnership or other entity, the beneficiaries, stockholders, partners or other

owners of which consist exclusively of Mr. Allen or such other Persons referred to in clause (b) above or a combination thereof.

14. "Available Cash" means, as of any date of determination, all Cash and cash equivalents on the consolidated balance sheet of the Reorganized Company and its consolidated subsidiaries, excluding any Cash collateral securing letters of credit and segregated Cash that may be used only as required by contract, statute or regulation (other than funds set aside to satisfy Specified Fees and Expenses), after giving effect to the use of proceeds described in clauses (a) through (e) of ARTICLE VI.A.1, minus the Fee Payment Threshold; provided, that if the Overallotment Option is exercised, the Cash proceeds of the Overallotment Option shall be deemed to be included on the balance sheet of the Reorganized Company as of the Effective Date, regardless of the actual date of funding thereof.

15. "Bankruptcy Code" means title 11 of the United States Code, 11 U.S.C. §§ 101-1532.

16. "Bankruptcy Court" means the United States Bankruptcy Court for the Southern District of New York.

17. "Bankruptcy Rules" means the Federal Rules of Bankruptcy Procedure as promulgated by the United States Supreme Court under section 2075 of title 28 of the United States Code, 28 U.S.C. § 2075.

18. "Board of Directors" means the Reorganized Company's board of directors.

19. "Business Day" means any day other than a Saturday, Sunday or any other day on which banking institutions in New York, New York are required or authorized to close by law or executive order.

20. "Cash" means legal tender of the United States of America.

21. "Causes of Action" means all actions, causes of action, Claims, liabilities, obligations, rights, suits, debts, damages, judgments, remedies, demands, setoffs, defenses, recoupments, crossclaims, counterclaims, third party claims, indemnity claims, contribution claims or any other claims disputed or undisputed, suspected or unsuspected, foreseen or unforeseen, direct or indirect, choate or inchoate, existing or hereafter arising, in law, equity or otherwise, based in whole or in part upon any act or omission or other event occurring prior to the Petition Date or during the course of the Chapter 11 Cases, including through the Effective Date.

22. "CC VIII" means CC VIII, LLC.

23. "CC VIII Preferred Units" means the Class A preferred units of CC VIII.

24. "CCH" means Charter Communications Holdings, LLC.

25. "CCH Notes" means:

(a) the 9.625% Senior Notes of CCH and Charter Communications Holdings Capital Corp. due November 15, 2009 issued pursuant to the Indenture, dated as of May 15, 2001, among CCH and Charter Communications

Holdings Capital Corp, as issuers, and BNY Midwest Trust Company, as trustee;

(b) the 9.92% Senior Discount Notes of CCH and Charter Communications Holdings Capital Corp. due April 1, 2011 issued pursuant to the Indenture, dated as of March 17, 1999, among CCH and Charter Communications Holdings Capital Corp., as issuers, Marcus Cable Holdings, LLC, as guarantor, and Harris Trust and Savings Bank, as trustee;

(c) the 10.00% Senior Notes of CCH and Charter Communications Holdings Capital Corp. due April 1, 2009 issued pursuant to the Indenture, dated as of January 12, 2000, among CCH and Charter Communications Holdings Capital Corp., as issuers, and Harris Trust and Savings Bank, as trustee;

(d) the 10.00% Senior Notes of CCH and Charter Communications Holdings Capital Corp. due May 15, 2011 issued pursuant to the Indenture, dated as of May 15, 2001, among CCH and Charter Communications Holdings Capital Corp., as issuers, and BNY Midwest Trust Company, as trustee;

(e) the 10.25% Senior Notes of CCH and Charter Communications Holdings Capital Corp. due January 15, 2010 issued pursuant to the Indenture, dated as of January 12, 2000, among CCH and Charter Communications Holdings Capital Corp., as issuers, and Harris Trust and Savings Bank, as trustee;

(f) the 10.75% Senior Notes of CCH and Charter Communications Holdings Capital

Corp. due October 1, 2009 issued pursuant to the Indenture, dated as of January 10, 2001, among CCH and Charter Communications Holdings Capital Corp., as issuers, and BNY Midwest Trust Company, as trustee;

(g) the 11.125% Senior Notes of CCH and Charter Communications Holdings Capital Corp. due January 15, 2011 issued pursuant to the Indenture, dated as of January 10, 2001, among CCH and Charter Communications Holdings Capital Corp., as issuers, and BNY Midwest Trust Company, as trustee;

(h) the 11.75% Senior Discount Notes of CCH and Charter Communications Holdings Capital Corp. due January 15, 2010 issued pursuant to the Indenture, dated as of January 12, 2000, among CCH and Charter Communications Holdings Capital Corp., as issuers, and Harris Trust and Savings Bank, as trustee;

(i) the 11.75% Senior Discount Notes of CCH and Charter Communications Holdings Capital Corp. due May 15, 2011 issued pursuant to the Indenture, dated as of May 15, 2001, among CCH and Charter Communications Holdings Capital Corp., as issuers, and BNY Midwest Trust Company, as trustee;

(j) the 12.125% Senior Discount Notes of CCH and Charter Communications Holdings Capital Corp. due January 15, 2012 issued pursuant to the Indenture, dated as of January 14, 2002, among CCH and Charter

Communications Holdings Capital Corp., as issuers, and BNY Midwest Trust Company, as trustee; and

(k) the 13.50% Senior Discount Notes of CCH and Charter Communications Holdings Capital Corp. due January 15, 2011 issued pursuant to the Indenture, dated as of January 10, 2001, among CCH and Charter Communications Holdings Capital Corp., as issuers, and BNY Midwest Trust Company, as trustee.

26. "CCH Notes Claim" means any Claim against CCH and/or Charter Communications Holdings Capital Corp. by Holders of CCH Notes on account of CCH Notes.

27. "CCH Warrants" means those Warrants to be issued to Holders of CCH Notes Claims, which shall be in the form set forth in Exhibit 7 to the Plan Supplement.

28. "CCH I" means CCH I, LLC.

29. "CCH I Notes" means the 11.00% Senior Secured Notes of CCH I and CCH I Capital Corp. due 2015 issued pursuant to the Indenture, dated as of September 28, 2005, among CCH I and CCH I Capital Corp., as issuers, CCH, as parent guarantor, and The Bank of New York Trust Company, N.A., as trustee.

30. "CCH I Notes Claim" means any Claim against a Debtor by Holders of CCH I Notes on account of CCH I Notes.

31. " CCH II" means CCH II, LLC.

32. "CCH II Notes" means:

(a) the 10.25% Senior Notes of CCH II, LLC and CCH II Capital Corp. due 2010 issued pursuant to the Indenture, dated as of September 23, 2003, among CCH II, LLC and CCH II Capital Corp., as issuers, and Wells Fargo Bank, N.A., as trustee;

(b) the 10.25% Senior Notes of CCH II, LLC and CCH II Capital Corp. due 2010 issued pursuant to the First Supplemental Indenture, dated as of January 30, 2006, among CCH II, LLC and CCH II Capital Corp., as issuers, and Wells Fargo Bank, N.A., as trustee;

(c) the 10.25% Senior Notes of CCH II, LLC and CCH II Capital Corp. due 2010 issued pursuant to the Second Supplemental Indenture, dated as of September 14, 2006, among CCH II, LLC and CCH II Capital Corp., as issuers, and Wells Fargo Bank, N.A., as trustee;

(d) the 10.25% Senior Notes of CCH II, LLC and CCH II Capital Corp. due 2013 issued pursuant to the Indenture, dated as of September 14, 2006, among CCH II, LLC and CCH II Capital Corp., as issuers, CCH, as parent guarantor, and The Bank of New York Trust Company, N.A., as trustee; and

(e) the 10.25% Senior Notes of CCH II, LLC and CCH II Capital Corp. due 2013 issued pursuant to the First Supplemental Indenture, dated as of July 2, 2008, among CCH II, LLC and CCH II Capital Corp., as issuers, CCH, as parent guarantor, and The Bank of New York Mellon Trust Company, N.A., as trustee.

33. "CCH II Notes Claim" means any Claim against a Debtor by Holders of CCH II Notes on account of CCH II Notes.

34. " CCHC" means CCHC, LLC.

35. "CCHC Note" means the 14% Subordinated Accreting Note, dated as of October 31, 2005, issued by CCHC in favor of CII.

36. "CCI" means Charter Communications, Inc.

37. "CCI-CII Exchange Agreement" means the exchange agreement, dated as of November 12, 1999, by and among CCI, CII, Vulcan Cable III Inc. and Mr. Allen.

38. "CCI Notes" means:

(a) the 5.875% Convertible Senior Notes of CCI due 2009 issued pursuant to the Indenture, dated as of November 22, 2004, among CCI and Wells Fargo Bank, N.A., as trustee; and

(b) the 6.50% Convertible Senior Notes of CCI due 2027 issued pursuant to the Indenture, dated as of October 2, 2007, among CCI and The Bank of New York Trust Company, N.A., as trustee.

39. "CCI Notes Claim" means any Claim against CCI by Holders of CCI Notes on account of CCI Notes.

40. "CCO" means Charter Communications Operating, LLC.

41. "CCO Credit Facility" means the Amended and Restated Credit Agreement, dated as of March 18, 1999, as amended and restated on

March 6, 2007, among CCO, CCOH, the several banks and other financial institutions or entities from time to time parties thereto, J.P. Morgan Chase Bank, N.A., as administrative agent, J.P. Morgan Chase Bank, N.A. and Bank of America, N.A., as syndication agents, Citicorp North America, Inc., Deutsche Bank Securities Inc., General Electric Capital Corporation and Credit Suisse Securities (USA) LLC, as revolving facility co-documentation agents, and Citicorp North America, Inc., Credit Suisse Securities (USA) LLC, General Electric Capital Corporation and Deutsche Bank Securities Inc., as term facility co-documentation agents.

42. "CCO Credit Facility Claim" means any Claim against CCO and any other obligors under the CCO Credit Facility by Holders of the obligations under the CCO Credit Facility.

43. "CCO Notes" means:

(a) the 8% Senior Second Lien Notes of CCO and Charter Communications Operating Capital Corp. due April 30, 2012 and the 8 3/8% Senior Second Lien Notes of CCO and Charter Communications Operating Capital Corp. due April 30, 2014 issued pursuant to the Indenture, dated as of April 27, 2004, among CCO and Charter Communications Operating Capital Corp., as issuers, each of the guarantors from time to time party thereto, as guarantors, and Wells Fargo Bank, N.A., as trustee; and

(b) the 10.875% Senior Second Lien Notes of CCO and Charter Communications Operating

Capital Corp. due September 15, 2014 issued pursuant to the Indenture, dated as of March 19, 2008, among CCO and Charter Communications Operating Capital Corp., as issuers, each of the guarantors from time to time party thereto, as guarantors, and Wilmington Trust Company, as trustee.

44. "CCO Notes Claim" means any Claim against CCO, Charter Communications Operating Capital Corp., and any other obligors under the CCO Notes by Holders of CCO Notes on account of the CCO Notes.

45. "CCO Swap Agreements" means interest rate swaps entered into under ISDA Master Agreements with counterparties who were at the time of the relevant transaction lenders or affiliates of lenders under the CCO Credit Facility and which constitute Specified Hedge Agreements under the CCO Credit Facility and that share in the collateral pledged to the CCO Credit Facility lenders.

46. "CCO Swap Agreements Claim" means any Claim against CCO by counterparties to CCO Swap Agreements on account of CCO Swap Agreements.

47. "CCOH" means CCO Holdings, LLC.

48. "CCOH Credit Facility" means the Credit Agreement, dated as of March 6, 2007, among CCOH, the several banks and other financial institutions or entities from time to time parties thereto, Bank of America, N.A., as administrative agent, Banc of America Securities LLC and J.P. Morgan Securities Inc., as co-syndication agents,

and Citigroup Global Markets Inc., Credit Suisse Securities (USA) LLC and Deutsche Bank Securities Inc., as co-documentation agents.

49. "CCOH Credit Facility Claim" means any Claim against CCOH and any other obligors under the CCOH Credit Facility by Holders of the obligations under the CCOH Credit Facility.

50. "CCOH Notes" means the 8.75% Senior Notes of CCOH and CCO Holdings Capital Corp. due November 15, 2013 issued pursuant to the Indenture, dated as of November 10, 2003, among CCOH and CCO Holdings Capital Corp., as issuers, and Wells Fargo Bank, N.A., as trustee.

51. "CCOH Notes Claim" means any Claim against CCOH and/or CCO Holdings Capital Corp. by Holders of CCOH Notes on account of CCOH Notes Claims.

52. "CEO" means the Reorganized Company's Chief Executive Officer.

53. "Certificate" means any instrument evidencing a Claim or an Interest.

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

55. "CIH" means CCH I Holdings, LLC.

56. "CIH Notes" means the following notes issued pursuant to the Indenture, dated as of September 28, 2005, among CIH and CCH I

Holdings Capital Corp., as issuers, CCH, as parent guarantor, and The Bank of New York Trust Company, N.A., as trustee:

(a) 9.920% Senior Accreting Notes of CIH and CCH I Holdings Capital Corp. due April 1, 2014;

(b) 10.00% Senior Accreting Notes of CIH and CCH I Holdings Capital Corp. due May 15, 2014;

(c) 11.125% Senior Accreting Notes of CIH and CCH I Holdings Capital Corp. due January 15, 2014;

(d) 11.75% Senior Accreting Notes of CIH and CCH I Holdings Capital Corp. due May 15, 2014;

(e) 12.125% Senior Accreting Notes of CIH and CCH I Holdings Capital Corp. due January 15, 2015; and

(f) 13.50% Senior Accreting Notes of CIH and CCH I Holdings Capital Corp. due January 15, 2014.

57. "CIH Notes Claim" means any Claim against a Debtor by Holders of CIH Notes on account of CIH Notes.

58. "CIH Warrants" means those Warrants issued to Holders of CIH Notes Claims, the terms of which shall be set forth on Exhibit 8 to the Plan Supplement.

59. " CII" means Charter Investment, Inc.

60. "CII Settlement Claim" means any Claim or Interest held by a CII Settlement Claim Party

on the Effective Date against or in a Debtor (other than CII), which

(a) includes:

(i) 28,467,421 shares of Class A Common Stock of CCI (unless disposed of prior to the Effective Date, subject to the restrictions on transfer in any order of the Bankruptcy Court);

(ii) 10,000 vested options to acquire shares of Class A Common Stock of CCI;

(iii) 50,000 shares of Class B Common Stock of CCI;

(iv) 324,300,479 Class A Common Units of Holdco;

(v) 14,831,552 Class C Common Units of Holdco;

(vi) rights under the CCI-CII Exchange Agreement;

(vii) all Interests with respect to 7,282,183 CC VIII Preferred Units;

(viii) the CCHC Note;

(ix) accrued and unpaid management fees owing to CII under the Management Agreement;

(x) rights under a letter agreement, dated as of September 21, 1999, by and among Vulcan Ventures Inc. (an entity controlled by Mr. Allen), CCI, CII, and Holdco, which would have granted Vulcan Ventures Inc. exclusive rights for carriage

of up to eight digital channels of each of the Debtors' (other than CII) cable systems ;

(xi) rights under that certain consulting agreement, dated as of March 10, 1999, by and among Vulcan Inc. (an entity controlled by Mr. Allen), CCI, and CCH, which provides for payment of a fee to Vulcan Inc. for assistance with acquisitions made by CCI or CCH; and

(xii) any other Claim or Interest held by a CII Settlement Claim Party, including any rejection damages Claims, other than Claims and Executory Contracts specifically or categorically listed in clause (b) of this definition; but

(b) excludes:

(i) $70,650,000 principal amount of 9.920% Senior Discount Notes due 2014 (CUSIP No. 12501BAP9), $25,982,000 principal amount of 10.000% Senior Discount Notes due 2014 (CUSIP No. 12501BAQ7), and $55,140,000 principal amount of 11.750% Senior Discount Notes due 2014 (CUSIP No. 12501BAR5), issued by CIH and CCH I Holdings Capital Corp.;

(ii) $47,278,000 principal amount of 11.000% Senior Notes due 2015 (CUSIP No. 12502BAE3), issued by CCH I and CCH I Capital Corp.;

(iii) any Executory Contract to which Digeo, Inc., Digeo Interactive, LLC, or any of their subsidiaries is a party;

(iv) the Indemnification Agreement by and between Mr. Allen and CCI, dated as of September 15, 2008; the Indemnification Agreement by and between Jo Allen Patton and CCI, dated as of September 15, 2008; and the Indemnification Agreement by and between W. Lance Conn and CCI, dated as of September 15, 2008;

(v) any Executory Contract between the Debtors (other than CII) and a CII Settlement Party that the Debtors assume, in consultation the Requisite Holders, which assumed Executory Contracts (if any) shall be listed on an Exhibit to the Plan Supplement; and

(vi) any payment due for goods or services provided by a CII Settlement Party to the Debtors (other than CII) between February 11, 2009 and the Effective Date.

61. "CII Settlement Claim Party" means: (a) Mr. Allen; (b) his estate, spouse, immediate family members and heirs; (c) any trust in which Mr. Allen is the grantor or which is created as a result of his death; (d) CII; and (e) any other Allen Entity which Mr. Allen or any of the other persons or Entities identified in clauses (a) through (d) of this definition, unilaterally or together with any other Allen Entity (directly or through agents), can legally bind to a settlement, compromise and release of Claims and Interests against the applicable Debtors under the Plan without authorization, consent or approval of any other person or Entity; provided, however, that in no event shall "CII Settlement Claim Party" include

any public company, including without limitation, any Entity that has securities listed, quoted or traded on any securities exchange.

62. "CII Settlement Claim Warrants" means those warrants issued to Mr. Allen (or his designees) to purchase shares of New Class A Stock in an aggregate amount equal to 4% of the equity value of the Reorganized Company, after giving effect to the Rights Offering, but prior to the issuance of warrants and equity-based awards provided for by the Plan, the remaining terms of which are set forth on Exhibit 9 to the Plan Supplement.

63. "CII Shareholder Claim" means any Claim against CII held by Mr. Allen.

64. "Claim" means any claim against a Debtor as defined in section 101(5) of the Bankruptcy Code.

65. "Claims Register" means the official register of Claims and Interests maintained by the Notice, Claims and Solicitation Agent.

66. "Class" means any group of substantially similar Claims or Interests classified by the Plan pursuant to sections 1122 and 1123(a)(1) of the Bankruptcy Code.

67. "Collateral" means any property or interest in property of the estates of the Debtors subject to a Lien, charge, or other encumbrance to secure the payment or performance of a Claim, which Lien, charge or other encumbrance is not subject to avoidance or otherwise invalid under the Bankruptcy Code or applicable state law.

68. "Commitment Fees" means the aggregate of the Equity Backstop Fee, the Rollover Fee, and the New CCH II Notes Commitment Fee.

69. "Commitment Letters" means the letters executed between CCI, CCH I, CCH II and CCO, on the one hand, and each of the New CCH II Notes Commitment Parties, on the other hand (attached as Exhibit 10 to the Plan Supplement).

70. "Confirmation" means the entry of the Confirmation Order on the docket of the Chapter 11 Cases.

71. "Confirmation Date" means the date upon which the Bankruptcy Court enters the Confirmation Order on the docket of the Chapter 11 Cases.

72. "Confirmation Hearing" means the hearing conducted by the Bankruptcy Court pursuant to section 1128(a) of the Bankruptcy Code to consider confirmation of the Plan, as such hearing may be adjourned or continued from time to time.

73. "Confirmation Hearing Notice" means the notice of the Confirmation Hearing that sets forth in detail the voting and objection deadlines with respect to the Plan.

74. "Confirmation Order" means the order of the Bankruptcy Court confirming the Plan pursuant to, among others, section 1129 of the Bankruptcy Code.

75. "COO" means the Reorganized Company's Chief Operating Officer.

76. "Creditor" means any Holder of a Claim.

77. "Creditors' Committee" means the Official Committee of Unsecured Creditors appointed in the Chapter 11 Cases by the United States Trustee for the Southern District of New York on April 10, 2009 [Docket No. 136], with such additions and changes as may occur from time to time.

78. "Crossover Committee" means the members of the unofficial committee of unaffiliated holders of CCH I Notes and CCH II Notes.

79. "Cure" means the payment of Cash by the Debtors, or the distribution of other property (as the applicable Debtors and the counterparty to the applicable Executory Contract may agree or the Bankruptcy Court may order), as necessary to (a) cure a monetary default by the Debtors in accordance with the terms of an Executory Contract of the Debtors and (b) permit the Debtors to assume such Executory Contract under section 365(a) of the Bankruptcy Code.

80. "Cure Bar Date" means the deadline for filing requests for payment of Cure, which shall be the later of: (a) thirty (30) days after the Effective Date or (b) thirty (30) days after the assumption of the applicable Executory Contract, unless otherwise ordered by the Bankruptcy Court or agreed to by the Debtors and the counterparty to the applicable Executory Contract.

81. "D&O Liability Insurance Policies" means all insurance policies for directors and officers' liability maintained by the Debtors as of the Petition Date.

82. "Debt Registration Rights Agreement" means the registration rights agreement between Reorganized CCH II, on the one hand, and certain holders of New CCH II Notes, on the other hand, attached as Exhibit 11 to the Plan Supplement.

83. "Debtor" means one of the Debtors, in its individual capacity as a debtor and debtor in possession in the Chapter 11 Cases.

84. "Disclosure Statement" means the disclosure statement for the Plan, as amended, supplemented or modified from time to time, that is prepared and distributed in accordance with sections 1125, 1126(b) and 1145 of the Bankruptcy Code, Bankruptcy Rule 3018 and other applicable law.

85. "Disputed Claim" means any Claim against or Interest in any Reorganized Debtor which such Reorganized Debtor believes is unliquidated, disputed or contingent, and which has not been allowed by Final Order of a court of competent jurisdiction or by agreement with such Reorganized Debtor.

86. "Distribution Agent" means the Reorganized Debtors, or the Entity or Entities chosen by the Reorganized Debtors to make or to facilitate distributions pursuant to the Plan.

87. "Distribution Date" means the date occurring as soon as reasonably practicable after the Effective Date when distributions under the Plan shall commence, but not later than ten days after the Effective Date, without further Bankruptcy Court order.

88. "Effective Date" means the date that all conditions to the effectiveness of the Plan have been satisfied or waived.

89. "Eligible CCH I Notes Claim Holder" means each Holder of a CCH I Notes Claim on the Rights Offering Record Date and any transferee of such Holder's Rights as permitted under the Rights Offering Documents, in each case that is a qualified institutional buyer as defined in Rule 144A under the Securities Act or an accredited investor as defined in Rule 501 under the Securities Act and who has timely delivered an investor certificate certifying to that effect.

90. "Employment Agreements" means the employment agreements attached as Exhibit 12 to the Plan Supplement.

91. "Entity" has the meaning set forth in section 101(15) of the Bankruptcy Code.

92. "Equity Backstop" means the obligations, several and not joint, of the Equity Backstop Parties (in the respective amounts set forth on Annex E), as described in ARTICLE IV.G.4(c)(iii) of the Plan and the Commitment Letters.

93. "Equity Backstop Fee" means the aggregate Equity Backstop commitment fee for the use of capital set forth in the Commitment Letters.

94. "Equity Backstop Parties" means the members of the Crossover Committee who have agreed, pursuant to their respective Commitment Letters, to provide the Equity Backstop.

95. "Equity Registration Rights Agreement" means the registration rights agreement between

Reorganized CCI, on the one hand, and certain holders of New Common Stock, on the other hand, attached as Exhibit 13 to the Plan Supplement.

96. "Estate" means, as to each Debtor, the estate created for such Debtor in its Chapter 11 Case pursuant to section 541 of the Bankruptcy Code.

97. "Excess Backstop" means the obligations, several and not joint, of the Excess Backstop Parties, as described in ARTICLE IV.G.4(c)(iv) of the Plan, the Commitment Letters, and the Excess Backstop Agreement.

98. "Excess Backstop Agreement" means the excess backstop agreement executed between CCI, CCH I, CCH II and CCO, on the one hand, and each of the Excess Backstop Parties, on the other hand (attached as Exhibit 14 to the Plan Supplement).

99. "Excess Backstop Party" means each Equity Backstop Party who committed to an Equity Backstop in excess of the dollar amount corresponding to its Pro Rata Participation Amount, the aggregate of which is set forth on Annex E.

100. "Exchange" means the exchange by existing Holders of CCH II Notes for New CCH II Notes, as described in ARTICLE IV.A.4(c)(i).

101. "Exchange Cutback" means, with respect to any existing Holder of CCH II Notes electing to participate in the Exchange, the potential reduction of such Holder's participation in the Exchange, as described in the treatment section for Class H-4 of the Plan.

102. "Executory Contract" means a contract or lease to which one or more of the Debtors is a party that is subject to assumption or rejection under sections 365 or 1123 of the Bankruptcy Code.

103. "Exculpated Parties" means the Debtors, each party who signed a Plan Support Agreement, and the Creditors' Committee, and each of their respective members, officers, directors, agents, financial advisors, attorneys, employees, partners, Affiliates and representatives.

104. "Federal Judgment Rate" means the federal judgment rate in effect on the Petition Date.

105. "Fees" means the reasonable fees, costs or charges provided for under the applicable agreement.

106. "Fee Payment Threshold" means $600 million minus the sum of (i) any Cash payment of interest made during the Chapter 11 Cases on the CCH II Notes that are exchanged for New CCH II Notes pursuant to the Exchange and (ii) any prepayment of indebtedness for borrowed money or Cash redemption payment for New Preferred Stock after the Effective Date.

107. "File" means to file with the Bankruptcy Court in the Chapter 11 Cases, or in the case of a Proof of Claim or Interest, to file with the Notice, Claims and Solicitation Agent.

108. "Final Order" means an order or judgment of the Bankruptcy Court, or other court of competent jurisdiction with respect to the subject matter, as entered on the docket in any Chapter

11 Case or the docket of any court of competent jurisdiction, that has not been reversed, stayed, modified or amended, and as to which the time to appeal, or seek certiorari or move for a new trial, reargument or rehearing has expired and no appeal or petition for certiorari or other proceedings for a new trial, reargument or rehearing has been timely taken, or as to which any appeal that has been taken or any petition for certiorari that has been timely Filed has been withdrawn or resolved by the highest court to which the order or judgment was appealed or from which certiorari was 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.

109. "General Unsecured Claim" means any and all Claims against any of the Debtors that are not a/an (a) Administrative Expense Claim; (b) Professional Compensation and Reimbursement Claim; (c) Priority Tax Claim; (d) Priority Non-Tax Claim; (e) Secured Claim; (f) Section 510(b) Claim; (g) CCI Notes Claim; (h) CII Settlement Claim; (i) CII Shareholder Claim; (j) Holdco Notes Claim; (k) CCH Notes Claim; (l) CIH Notes Claim; (m) CCH I Notes Claim; (n) CCH II Notes Claim; (o) CCOH Credit Facility Claim; (p) CCOH Notes Claim; (q) CCO Credit Facility Claim; (r) CCO Swap Agreements Claim; (s) CCO Notes Claim; or (t) Interest.

110. "Holdco" means Charter Communications Holding Company, LLC.

111. "Holdco LLC Agreement" means the Amended and Restated Limited Liability

Company Agreement for Holdco, a Delaware limited liability company, made and entered into effective as of August 31, 2001.

112. "Holdco Notes" means:

(a) the 5.875% Mirror Convertible Senior Note of Holdco due November 16, 2009 issued pursuant to the Holdco Mirror Notes Agreement, dated as of November 22, 2004, between CCI and Holdco; and

(b) the 6.50% Mirror Convertible Senior Note of Holdco due October 1, 2027 issued pursuant to the Holdco Mirror Notes Agreement, dated as of October 2, 2007, between CCI and Holdco.

113. "Holdco Notes Claim" means any Claim against Holdco by the Holder of Holdco Notes on account of Holdco Notes.

114. "Holder" means an Entity holding a Claim or Interest, as applicable.

115. "Impaired" means Claims in an Impaired Class.

116. "Impaired Class" means an Impaired Class within the meaning of section 1124 of the Bankruptcy Code.

117. "Incentive Program" means the Charter Communications, Inc. Incentive Program under the 2001 Stock Incentive Plan to provide incentives to certain management employees.

118. "Indemnification Obligation" means a Debtor's obligation under an Executory Contract or otherwise to indemnify directors, officers, or

employees of such Debtor who served in such capacity at any time, with respect to or based upon any act or omission taken or omitted in any of such capacities, or for or on behalf of any Debtor, pursuant to and to the maximum extent provided by the Debtor's respective articles of incorporation, certificates of formation, bylaws, similar corporate documents, and applicable law, as in effect as of the Effective Date.

119. "Interest" means any (a) equity Security in a Debtor, including all issued, unissued, authorized or outstanding shares of stock together with any Warrants, equity-based awards or contractual rights to purchase or acquire such equity Securities at any time and all rights arising with respect thereto or (b) partnership, limited liability company or similar interest in a Debtor.

120. "Interim Compensation Order" means the order entered pursuant to the Debtors' Motion for an Order Under 11 U.S.C. §§ 105(a) and 331 Establishing Procedures for Interim Compensation and Reimbursement of Expenses for Professionals, Filed on or about the Petition Date.

121. "Key Executives" means the Chief Financial Officer, Chief Marketing Officer, Chief Technology Officer, General Counsel & Corporate Secretary, Chief Accounting Officer, Treasurer, SVP–IT, SVP–Business Development, SVP–Customer Operations, SVP–Media, President–West Division and President–East Division.

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

123. "Litigation Settlement Fund Proceeds" means the $26,428,089 in litigation settlement proceeds (after fees and expenses) being held in escrow pursuant to the February 10, 2009 Escrow Agreement by and among CCI, Holdco, CCH, CC V Holdings, LLC, CCO, and Wilmington Trust FSB (as escrow agent).

124. "Local Bankruptcy Rules" means the Local Bankruptcy Rules for the Southern District of New York.

125. "Lock-Up Agreement" means the lock-up agreement between the Reorganized Company and Mr. Allen (attached as Exhibit 15 to the Plan Supplement).

126. " Management Agreement" means the Amended and Restated Management Agreement, dated as of June 19, 2003, between CCO and CCI.

127. "Management Incentive Plan" means the stock incentive plan, attached as Exhibit 25 to the Plan Supplement, adopted by the CCI Board of Directors in 2009, that provides for grants of various awards, including but not limited to: nonqualified stock options, incentive stock options, stock appreciation rights, dividend equivalent rights, performance units and performance shares, share awards, phantom stock, restricted stock units and restricted stock, cash payments or any combination of the above. The Management Incentive Plan will include, among other things, an allocation of equity-based awards representing no less than 3% of the fully diluted New Common Stock outstanding on the Effective Date, after giving effect to the Rights Offering and the

issuance of warrants, 50% of which will be distributed as determined by the Board of Directors no later than one month after the Effective Date.

128. "Mr. Allen" means Paul G. Allen.

129. "Mutual Services Agreement" means the Second Amended and Restated Mutual Services Agreement, dated as of June 19, 2003, between CCI and Holdco.

130. "Net Proceeds" means the aggregate total Cash proceeds from the issuance of New CCH II Notes pursuant to the New CCH II Notes Commitment (if any), the Rights Offering and the Overallotment Option (if exercised).

131. " New CCH II Notes" means the new 13.5% Senior Notes of CCH II and CCH II Capital Corp. to be issued pursuant to a new indenture in the form of Exhibit 16 to the Plan Supplement.

132. "New CCH II Notes Commitment" means the agreement by a New CCH II Notes Commitment Party in its Commitment Letter.

133. "New CCH II Notes Commitment Fee" means the Fee payable to the New CCH II Commitment Parties with respect to the New CCH II Notes Commitment, as set forth in the Commitment Letters.

134. "New CCH II Notes Commitment Parties" means the members of the Crossover Committee listed on Annex D.

135. "New Class A Stock" means the new Class A common stock, par value $.001 per share, of the Reorganized Company.

136. "New Class B Stock" means the new Class B common stock, par value $.001 per share, of the Reorganized Company.

137. "New Common Stock" means, collectively, the New Class A Stock and New Class B Stock.

138. "New Preferred Stock" means the Reorganized Company's Series A 15% Pay-in-Kind Preferred Stock, the terms of which are set forth on Exhibit A to the Amended and Restated Certificate of Incorporation.

139. "New Value Consideration" means consideration contributed (directly or indirectly) by CCI in exchange for Interests in certain Debtors remaining in place.

140. "New Value Interest" means interests in certain Reorganized Debtors purchased for Cash or other consideration, as provided for in the Plan.

141. "Non-Released Parties" means those Entities (other than Releasing Parties) identified in the Plan Supplement as Non-Released Parties.

142. "Notice, Claims and Solicitation Agent" means Kurtzman Carson Consultants LLC, located at 2335 Alaska Avenue, El Segundo, California 90245, (888) 249-2792, retained as the Debtors' notice, claims and solicitation agent.

143. "Overallotment Option" means the option offered to the Excess Backstop Parties to purchase additional shares of New Class A Stock pursuant to the Excess Backstop Agreement in an aggregate amount equal to $400 million less the aggregate dollar amount of shares purchased pursuant to the Excess Backstop.

144. "Per Share Purchase Price" means the Cash payment per share, reflecting a discount of 25% to the Plan Value minus the Warrant Value per share, to be paid by each participant in the Rights Offering and the Overallotment Option.

145. "Periodic Distribution Date" means the first Business Day that is as soon as reasonably practicable occurring approximately ninety (90) days after the Distribution Date, and thereafter, the first Business Day that is as soon as reasonably practicable occurring approximately ninety (90) days after the immediately preceding Periodic Distribution Date.

146. "Person" means any individual, corporation, partnership, joint venture, association, limited liability company, joint stock company, trust, unincorporated organization, government or agency or political subdivision thereof or any other Entity.

147. "Petition Date" means the date on which the Debtors Filed their voluntary petitions commencing these Chapter 11 Cases in the Bankruptcy Court.

148. "Plan" means this joint plan of reorganization, including the exhibits hereto or contained in the Plan Supplement.

149. "Plan Support Agreement" means restructuring agreements, dated as of February 11, 2009, between certain Debtors (other than CII), on the one hand, and certain Holders of Claims, on the other hand.

150. "Plan Supplement" means the compilation of documents and forms of documents and exhibits

to the Plan Filed herewith, as supplemented or modified from time to time in accordance with the terms hereof, the Bankruptcy Code and the Bankruptcy Rules.

151. "Plan Value" means $665 million.

152. "Post-Petition Interest" means with respect to:

(a) the CCO Credit Facility, accrued and unpaid interest pursuant to the CCO Credit Facility from the Petition Date through the Effective Date, as determined by the Bankruptcy Court to be required by section 1124 of the Bankruptcy Code;

(b) the CCO Swap Agreements, accrued and unpaid interest pursuant to the applicable ISDA Master Agreements from the Petition Date through the Effective Date, as determined by the Bankruptcy Court to be required;

(c) the CCO Notes, accrued and unpaid interest pursuant to the applicable indenture from the Petition Date through the Effective Date, as determined by the Bankruptcy Court to be required by section 1124 of the Bankruptcy Code;

(d) the CCOH Credit Facility, accrued and unpaid interest pursuant to the CCOH Credit Facility from the Petition Date through the Effective Date, as determined by the Bankruptcy Court to be required by section 1124 of the Bankruptcy Code;

(e) the CCOH Notes, accrued and unpaid interest pursuant to the applicable indenture from the Petition Date through the Effective Date, as determined by the Bankruptcy Court to be required by section 1124 of the Bankruptcy Code;

(f) the CCH II Notes, accrued and unpaid interest pursuant to the applicable indenture from the Petition Date through the Effective Date, as determined by the Bankruptcy Court to be required;

(g) Secured Claims, interest accruing on such Claims from the Petition Date through the Effective Date at the rate set forth in the contracts or other applicable documents giving rise to such Claims (to the extent lawful) or, if the applicable instruments do not specify a rate of interest, at the Federal Judgment Rate as provided for in 28 U.S.C. § 1961 as in effect on the Petition Date; and

(h) General Unsecured Claims, interest accruing on such Claims from the Petition Date through the Effective Date at the Federal Judgment Rate as provided for in 28 U.S.C. § 1961 as in effect on the Petition Date, to the extent entitled thereto.

153. "Priority Non-Tax Claims" means any and all Claims entitled to priority in payment as specified in section 507(a)(4), (5), (6), or (7) of the Bankruptcy Code.

154. "Priority Tax Claims" mean any and all Claims of a governmental unit of the kind

specified in section 507(a)(8) of the Bankruptcy Code.

155. "Pro Rata" means the proportion that an Allowed Claim in a particular Class bears to the aggregate amount of Allowed Claims in that Class, or the proportion that Allowed Claims in a particular Class bear to the aggregate amount of Allowed Claims in that particular Class and in other Classes entitled to share in the same recovery as such Allowed Claims under the Plan.

156. "Pro Rata Participation Amount" means, with respect to each Eligible CCH I Notes Claim Holder, an amount expressed in shares of New Class A Stock equal to the product of (a) the aggregate number of shares of New Class A Stock underlying Rights offered to all Eligible CCH I Notes Claim Holders multiplied by (b) a fraction, the numerator of which is the principal amount of CCH I Notes Claims held by such Eligible CCH I Notes Claim Holder, and the denominator of which is the principal amount of CCH I Notes Claims held by all Eligible CCH I Notes Claim Holders.

157. "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 prior to or on the Confirmation Date, pursuant to sections 327, 328, 329, 330, 363 or 331 of the Bankruptcy Code or (b) awarded compensation and reimbursement by the Bankruptcy Court pursuant to section 503(b)(4) of the Bankruptcy Code.

158. "Professional Compensation and Reimbursement Claim" means a Claim by a Professional seeking an award by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code.

159. "Professional Fee Escrow Account" means an interest-bearing account in an amount equal to any Professional fee reserve amount funded and maintained by the Reorganized Debtors on and after the Effective Date solely for the purpose of paying all Allowed and unpaid fees and expenses of Professionals in the Chapter 11 Cases.

160. "Proof of Claim" means a proof of Claim Filed against any of the Debtors in the Chapter 11 Cases.

161. "Rejection Damages Claim" means any Claim on account of the rejection of an Executory Contract pursuant to section 365 of the Bankruptcy Code or the repudiation of such contract.

162. "Releasing Parties" means (a) the Debtors, (b) the parties who signed Plan Support Agreements with a Debtor, and (c) any statutory committees appointed in the Chapter 11 Cases.

163. "Reorganized CCH I" means CCH I after the Effective Date.

164. "Reorganized CCH II" means CCH II after the Effective Date.

165. "Reorganized CCO" means CCO after the Effective Date.

166. "Reorganized CII" means CII after the Effective Date.

167. " Reorganized Company" or "Reorganized CCI" means CCI after the Effective Date.

168. "Reorganized Debtors" means, collectively, the Debtors after the Effective Date.

169. "Reorganized Holdco" means Holdco after the Effective Date.

170. "Reorganized Holdco Exchange Agreement" means the exchange agreement among CCI, CII, Holdco and Mr. Allen, attached as Exhibit 17 to the Plan Supplement.

171. "Reorganized Holdco LLC Agreement" means the Amended and Restated Limited Liability Company Agreement of Reorganized Holdco, attached as Exhibit 18 to the Plan Supplement.

172. "Requisite Holders" means the members of the Crossover Committee holding a majority in principal amount of the CCH I Notes held by all members of the Crossover Committee.

173. "Rights" means the rights to purchase New Class A Stock, as described in ARTICLE G.4(c)(ii).

174. "Rights Offering" means the transaction described in ARTICLE IV.G.4(c), the terms of which are set forth in the Rights Offering Documents, including without limitation the issuance of shares to certain Holders of CCH I

Notes Claims who are not Eligible CCH I Notes Claim Holders.

175. "Rights Offering Amount" means an amount equal to (a) $1.623 billion minus (b) the excess, if any, of $450 million over the amount of the CCO Swap Agreements Claims.

176. "Rights Offering Documents" means the documents evidencing the offer and procedures for the Rights Offering, which procedures shall be approved in connection with the Bankruptcy Court's approval of the Disclosure Statement and are attached as Exhibit 19 to the Plan Supplement.

177. "Rights Offering Record Date" means April 17, 2009, 12 days prior to the date for which the Disclosure Statement hearing was originally scheduled.

178. "Rollover Commitment" means the commitment of the Rollover Commitment Parties.

179. " Rollover Commitment Parties" means the members of the Crossover Committee listed on Annex C.

180. "Rollover Fee" means an aggregate commitment fee for the use of capital, payable in Cash, in an amount equal to 1.5% of the principal amount plus interest on CCH II Notes exchanged by such Holder pursuant to the Exchange, as consideration for participating in the Exchange.

181. "Schedules" means the schedules of assets and liabilities, schedules of Executory Contracts, and statement of financial affairs Filed by the Debtors pursuant to section 521 of the Bankruptcy

Code, the official bankruptcy forms, and the Bankruptcy Rules.

182. "Section 510(b) Claims" means any Claim arising from rescission of a purchase or sale of a Security (including any Interest) of the Debtors, for damages arising from the purchase or sale of such a Security, or for reimbursement or contribution allowed under section 502 of the Bankruptcy Code on account of such Claim.

183. "Secured Claim" means, with respect to any Claim against any Debtor—other than CCO Credit Facility Claims, CCO Swap Agreements Claims, CCO Notes Claims, CCOH Credit Facility Claims, and CCH I Notes Claims—that portion, which, pursuant to section 506 of the Bankruptcy Code is (a) secured by a valid, perfected, and enforceable security interest, Lien, mortgage or other encumbrance, that is not subject to avoidance under applicable bankruptcy or nonbankruptcy law, in or upon any right, title or interest of a Debtor in and to property of the relevant estate, to the extent of the value of the Holder's interest in such property as of the relevant determination date or (b) Allowed as such pursuant to the terms of the Plan (subject to the occurrence of the Effective Date).

184. "Securities Act" means the Securities Act of 1933, as amended.

185. "Security" means any instrument that qualifies under section 2(a)(1) of the Securities Act.

186. "Servicer" means an indenture trustee, agent, servicer or other authorized representative

of Holders of Claims or Interests recognized by the Debtors.

187. "Specified Fees and Expenses" means the Allen Management Receivable, the Allen Fee Reimbursement, the Commitment Fees, and payments due under the VCP.

188. "Target Amount" means $1.477 billion, plus accrued but unpaid interest to the Petition Date plus Post-Petition Interest on exchanged CCH II Notes, but excluding any call premiums or any prepayment penalties.

189. "Term Sheet" means the term sheet attached to the Plan Support Agreements and the Commitment Letters, to which CCI, among others, is a party, dated as of February 11, 2009.

190. "Unclaimed Distribution" means any distribution under the Plan on account of an Allowed Claim or Interest to a Holder that has not: (a) accepted a particular distribution or, in the case of distributions made by check, negotiated such check; (b) given notice to the Reorganized Debtors of an intent to accept a particular distribution; (c) responded to the Debtors' or Reorganized Debtors' requests for information necessary to facilitate a particular distribution; or (d) taken any other action necessary to facilitate such distribution.

191. "Unimpaired" has the meaning set forth in section 1124 of the Bankruptcy Code.

192. "VCP" means the Value Creation Plan adopted by CCI on March 12, 2009 and attached as Exhibit 20 to the Plan Supplement.

193. "Warrant Value" means $53 million, subject to update upon Confirmation and with the consent of the Requisite Holders.

194. "Warrants" means, collectively, the CIH Warrants, the CCH Warrants and the CII Settlement Claim Warrants.

B. Rules of Interpretation. For purposes of the Plan:

1. whenever from the context it is appropriate, each term, whether stated in the singular or the plural, shall include both the singular and the plural, and pronouns stated in the masculine, feminine or neuter gender shall include the masculine, feminine, and the neuter gender;

2. unless otherwise specified, any reference in the Plan or Plan Supplement to a contract, instrument, release, indenture, or other agreement or document being in a particular form or on particular terms and conditions means that such document shall be substantially in such form or substantially on such terms and conditions, except that any contract, instrument, release, indenture, or other agreement or document attached as an exhibit to the Plan Supplement shall be in the form attached, subject to technical amendments prior to the Effective Date to correct ambiguities, inconsistencies or errors, as applicable;

3. unless otherwise specified, any reference in the Plan to an existing document or exhibit, whether or not filed with the Bankruptcy Court, shall mean such document or exhibit, as it may

have been or may be amended, modified or supplemented in accordance with its terms;

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 in the Plan to ARTICLES are references to ARTICLES of the Plan;

6. unless otherwise specified, all references in the Plan to exhibits are references to exhibits in the Plan Supplement;

7. 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, applicable federal law, including the Bankruptcy Code and Bankruptcy Rules;

9. captions and headings of the Plan 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 set forth in the Plan, the rules of construction set forth in section 102 of the Bankruptcy Code shall apply;

11. any term used in capitalized form in the Plan that is not otherwise defined but that is used in the Bankruptcy Code or the Bankruptcy Rules

shall have the meaning assigned to such term in the Bankruptcy Code or the Bankruptcy Rules, as applicable;

12. 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;

13. all references to statutes, regulations, orders, rules of courts, and the like shall mean as amended from time to time, as applicable to the Chapter 11 Cases, unless otherwise stated; and

14. any immaterial effectuating provisions may be interpreted by the Reorganized Debtors after the Effective Date in such a manner that is consistent with the overall purpose and intent of the Plan, all without further Bankruptcy Court order.

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

ARTICLE II.

ADMINISTRATIVE AND PRIORITY CLAIMS

In accordance with section 1123(a)(1) of the Bankruptcy Code, Administrative Expense Claims and Priority Tax Claims have not been classified and thus are excluded from the Classes of Claims set forth in ARTICLE III. Notwithstanding anything to the contrary herein, the CII Settlement Claim shall not be a Claim designated in this ARTICLE II.

A. Administrative Expense Claims. Except with respect to Administrative Expense Claims that are Professional Compensation and Reimbursement

Claims and except to the extent that a Holder of an Allowed Administrative Expense Claim and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of an Allowed Administrative Expense Claim shall be paid in full in Cash on the later of the Distribution Date under the Plan, the date such Administrative Expense Claim is Allowed, and the date such Allowed Administrative Expense Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Allowed Administrative Expense Claims that arise in the ordinary course of the Debtors' business shall be paid in full 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.

B. Professional Compensation and Reimbursement Claims. Except as provided in ARTICLE II.A hereof, all Entities seeking awards by the Bankruptcy Court of compensation for services rendered or reimbursement of expenses incurred through and including the Confirmation Date under sections 330, 331, 503(b)(2), 503(b)(3), 503(b)(4) or 503(b)(5) of the Bankruptcy Code shall (1) File, on or before the date that is ninety (90) days after the Effective Date, their respective applications for final allowances of compensation for services rendered and reimbursement of expenses incurred and (2) be paid in full, in Cash, in such amounts as are Allowed by the Bankruptcy Court in accordance with the order relating to or Allowing any such Administrative Expense Claim. The Reorganized Debtors are authorized to pay compensation for Professional services rendered and reimbursement of expenses

incurred after the Confirmation Date in the ordinary course and without the need for Bankruptcy Court approval.

C. Priority Tax Claims. Each Holder of an Allowed Priority Tax Claim shall receive, on the Distribution Date or such later date as such Allowed Priority Tax Claim becomes due and payable, at the option of the Debtors, one of the following treatments on account of such Claim: (1) Cash in an amount equal to the amount of such Allowed Priority Tax Claim, plus, to the extent provided for by section 511 of the Bankruptcy Code, interest at the rate determined under applicable nonbankruptcy law; or (2) such other treatment as may be agreed to by such Holder and the applicable Debtors or otherwise determined upon an order of the Bankruptcy Court.

ARTICLE III.

CLASSIFICATION OF CLAIMS AND INTERESTS

Pursuant to section 1122 of the Bankruptcy Code, set forth below is a designation of Classes of Claims against and Interests in the Debtors. A Claim or Interest is placed in a particular Class for the purposes of voting on the Plan and receiving distributions pursuant to the Plan only to the extent that such Claim or Interest is an Allowed Claim or an Allowed Interest in that Class and such Claim or Interest has not been paid, released or otherwise settled prior to the Effective Date. Notwithstanding anything to the contrary herein, the CII Settlement Claim shall not be a Claim or Interest designated in this ARTICLE III.

A. CCI

1. **Class A-1** shall consist of all Priority Non-Tax Claims that may exist against CCI.

2. **Class A-2** shall consist of all Secured Claims that may exist against CCI.

3. **Class A-3** shall consist of all General Unsecured Claims that may exist against CCI.

4. **Class A-4** shall consist of CCI Notes Claims.

5. **Class A-5** shall consist of all Section 510(b) Claims that may exist against CCI other than all 510(b) Claims against CCI held by any CII Settlement Claim Party.

6. **Class A-6** shall consist of all Interests in CCI other than all Interests in CCI held by any CII Settlement Claim Party.

B. CII

1. **Class B-1** shall consist of all Priority Non-Tax Claims that may exist against CII.

2. **Class B-2** shall consist of all Secured Claims that may exist against CII.

3. **Class B-3** shall consist of all General Unsecured Claims that may exist against CII.

4. **Class B-4** shall consist of CII Shareholder Claims.

C. Holdco, Enstar Communications Corporation, and Charter Gateway, LLC

1. **Class C-1** shall consist of all Priority Non-Tax Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

2. **Class C-2** shall consist of all Secured Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

3. **Class C-3** shall consist of all General Unsecured Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

4. **Class C-4** shall consist of Holdco Notes Claims.

5. **Class C-5** shall consist of all Section 510(b) Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

6. **Class C-6** shall consist of all Interests in Holdco, Enstar Communications Corporation, and Charter Gateway, LLC other than all Interests in Holdco held by any CII Settlement Claim Party.

D. **CCHC**

1. **Class D-1** shall consist of all Priority Non-Tax Claims that may exist against CCHC.

2. **Class D-2** shall consist of all Secured Claims that may exist against CCHC.

3. **Class D-3** shall consist of all General Unsecured Claims that may exist against CCHC.

4. **Class D-4** shall consist of all Section 510(b) Claims that may exist against CCHC.

5. **Class D-5** shall consist of all Interests in CCHC.

E. CCH and Charter Communications Holdings Capital Corp.

1. **Class E-1** shall consist of all Priority Non-Tax Claims that may exist against CCH and Charter Communications Holdings Capital Corp.

2. **Class E-2** shall consist of all Secured Claims that may exist against CCH and Charter Communications Holdings Capital Corp.

3. **Class E-3** shall consist of all General Unsecured Claims that may exist against CCH and Charter Communications Holdings Capital Corp.

4. **Class E-4** shall consist of CCH Notes Claims.

5. **Class E-5** shall consist of all Section 510(b) Claims that may exist against CCH and Charter Communications Holdings Capital Corp.

6. **Class E-6** shall consist of all Interests in CCH and Charter Communications Holdings Capital Corp.

F. CIH and CCH I Holdings Capital Corp.

1. **Class F-1** shall consist of all Priority Non-Tax Claims that may exist against CIH and CCH I Holdings Capital Corp.

2. **Class F-2** shall consist of all Secured Claims that may exist against CIH and CCH I Holdings Capital Corp.

3. **Class F-3** shall consist of all General Unsecured Claims that may exist against CIH and CCH I Holdings Capital Corp.

4. **Class F-4** shall consist of CIH Notes Claims.

5. **Class F-5** shall consist of all Section 510(b) Claims that may exist against CIH and CCH I Holdings Capital Corp.

6. **Class F-6** shall consist of all Interests in CIH and CCH I Holdings Capital Corp.

G. CCH I and CCH I Capital Corp.

1. **Class G-1** shall consist of all Priority Non-Tax Claims that may exist against CCH I and CCH I Capital Corp.

2. **Class G-2** shall consist of all Secured Claims that may exist against CCH I and CCH I Capital Corp.

3. **Class G-3** shall consist of all General Unsecured Claims that may exist against CCH I and CCH I Capital Corp.

4. **Class G-4** shall consist of CCH I Notes Claims.

5. **Class G-5** shall consist of all Section 510(b) Claims that may exist against CCH I and CCH I Capital Corp.

6. **Class G-6** shall consist of all Interests in CCH I and CCH I Capital Corp.

H. CCH II and CCH II Capital Corp.

1. **Class H-1** shall consist of all Priority Non-Tax Claims that may exist against CCH II and CCH II Capital Corp.

2. **Class H-2** shall consist of all Secured Claims that may exist against CCH II and CCH II Capital Corp.

3. **Class H-3** shall consist of all General Unsecured Claims that may exist against CCH II and CCH II Capital Corp.

4. **Class H-4** shall consist of CCH II Notes Claims.

5. **Class H-5** shall consist of all Section 510(b) Claims that may exist against CCH II and CCH II Capital Corp.

6. **Class H-6** shall consist of all Interests in CCH II and CCH II Capital Corp.

I. <u>CCOH and CCO Holdings Capital Corp.</u>

1. **Class I-1** shall consist of CCOH Credit Facility Claims.

2. **Class I-2** shall consist of CCOH Notes Claims.

3. **Class I-3** shall consist of all Priority Non-Tax Claims that may exist against CCOH and CCO Holdings Capital Corp.

4. **Class I-4** shall consist of all Secured Claims that may exist against CCOH and CCO Holdings Capital Corp.

5. **Class I-5** shall consist of all General Unsecured Claims that may exist against CCOH and CCO Holdings Capital Corp.

6. **Class I-6** shall consist of all Interests in CCOH and CCO Holdings Capital Corp.

J. CCO (and its direct and indirect subsidiaries)

The classifications set forth in Classes J-4 to J-9 shall be deemed to apply to CCO and each of its direct and indirect subsidiaries.[2]

1. **Class J-1** shall consist of CCO Credit Facility Claims.

2. **Class J-2** shall consist of CCO Swap Agreements Claims.

3. **Class J-3** shall consist of CCO Notes Claims.

4. **Class J-4** shall consist of all Priority Non-Tax Claims that may exist against CCO and its direct and indirect subsidiaries.

5. **Class J-5** shall consist of all Secured Claims that may exist against CCO and its direct and indirect subsidiaries.

6. **Class J-6** shall consist of all General Unsecured Claims that may exist against CCO and its direct and indirect subsidiaries.

7. **Class J-7** shall consist of all Interests in CCO and its direct and indirect subsidiaries (other than CC VIII Preferred Units held by a CII Settlement Claim Party).

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[2] For the avoidance of doubt, Classes J-4 to J-7 shall apply to the Debtors listed on Exhibit 21 to the Plan Supplement.

ARTICLE IV.

TREATMENT OF CLAIMS AND INTERESTS

To the extent a Class contains Allowed Claims or Interests with respect to a particular Debtor, the treatment provided to each Class for distribution purposes is specified below. For the avoidance of doubt, notwithstanding any other provision of the Plan, (a) CII shall not be liable for any payment or distributions on account of Claims, Interests or amounts to be paid or owing by or other obligations of any kind of the Debtors (other than CII) under or in connection with the Plan and (b) the Debtors other than CII shall not be liable for any payment or distributions on account of Claims, Interest of amounts to be paid or owing by or other obligations of any kind of CII under or in connection with the Plan (other than the CII Settlement Claim).

A. CCI

1. Class A-1: Priority Non-Tax Claims

(a) Classification. Class A-1 consists of all Priority Non-Tax Claims that may exist against CCI.

(b) Impairment and Voting. Class A-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CCI is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CCI and the applicable Debtors agree to less favorable treatment to such Holder,

each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class A-2: Secured Claims

(a) Classification. Class A-2 consists of all Secured Claims that may exist against CCI.

(b) Impairment and Voting. Class A-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CCI is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CCI and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against CCI shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CCI shall be paid in full in Cash, plus Post-Petition Interest, on the later of the

Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CCI shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

3. Class A-3: General Unsecured Claims

(a) Classification. Class A-3 consists of all General Unsecured Claims that may exist against CCI other than all General Unsecured Claims against CCI held by any CII Settlement Claim Party.

(b) Impairment and Voting. Class A-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CCI is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CCI and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CCI shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, or (ii) each Holder of an Allowed General Unsecured Claim against CCI shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class A-4: CCI Notes Claims

(a) Classification. Class A-4 consists of all CCI Notes Claims.

(b) Impairment and Voting. Class A-4 is Impaired by the Plan. Each Holder of an Allowed CCI Notes Claim is entitled to vote to accept or reject the Plan.

(c) Distributions. The CCI Notes Claims shall be deemed Allowed in the aggregate amount of $497,489,463. On the Distribution Date, each Holder of an Allowed CCI Notes Claim shall receive its Pro Rata share of (i) New Preferred Stock and (ii) Cash in an aggregate amount equal to (A) $24,549,331 and (B) Litigation Settlement Fund Proceeds in an aggregate amount, if any, that the Bankruptcy Court determines is owned by CCI and Holdco.

5. Class A-5: Section 510(b) Claims

(a) Classification. Class A-5 consists of all Section 510(b) Claims that may exist against CCI other than all Section 510(b) Claims against CCI held by any CII Settlement Claim Party.

(b) Impairment and Voting. Class A-5 is Impaired by the Plan. Each Holder of a Section 510(b) Claim against CCI is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Section 510(b) Claims shall be cancelled, released, and extinguished and the Holders of Section 510(b) Claims shall

receive no distribution under the Plan on account of such Claims.

6. Class A-6: Interests

(a) Classification. Class A-6 consists of all Interests in CCI other than all Interests in CCI held by any CII Settlement Claim Party.

(b) Impairment and Voting. Class A-6 is Impaired by the Plan. Each Holder of an Interest in CCI is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Interests in CCI, whether represented by stock, preferred share purchase rights or otherwise, shall be cancelled, released, and extinguished and the Holders of such Interests shall receive no distribution under the Plan on account thereof.

B. CII

1. Class B-1: Priority Non-Tax Claims

(a) Classification. Class B-1 consists of all Priority Non-Tax Claims that may exist against CII.

(b) Impairment and Voting. Class B-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CII is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CII and the applicable Debtors agree to

less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date under the Plan, the date such Priority Non-Tax Claim is Allowed, and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class B-2: Secured Claims

(a) Classification. Class B-2 consists of all Secured Claims that may exist against CII.

(b) Impairment and Voting. Class B-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CII is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CII and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of CII, (i) each Allowed Secured Claim against CII shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CII shall be paid in full in Cash, plus Post-Petition

Interest, on the later of the Distribution Date under the Plan and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CII shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date under the Plan and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

3. Class B-3: General Unsecured Claims

(a) Classification. Class B-3 consists of all General Unsecured Claims that may exist against CII.

(b) Impairment and Voting. Class B-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CII is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CII and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the applicable Debtors, (i) each Allowed General Unsecured Claim against CII shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code or (ii) each Holder of an Allowed General Unsecured Claim against CII shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class B-4: CII Shareholder Claims

(a) Classification. Class B-4 consists of CII Shareholder Claims.

(b) Impairment and Voting. Class B-4 is Impaired by the Plan. The Holder of an Allowed CII Shareholder Claim is entitled to vote to accept or reject the Plan.

(c) Distributions. The Holder of Allowed CII Shareholder Claims shall receive 100,000 newly issued shares of Class A Voting Common Stock of Reorganized CII on the Effective Date.

C. Holdco, Enstar Communications Corporation, and Charter Gateway, LLC

1. Class C-1: Priority Non-Tax Claims

(a) Classification. Class C-1 consists of all Priority Non-Tax Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

(b) Impairment and Voting. Class C-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim shall be paid

in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class C-2: Secured Claims

(a) Classification. Class C-2 consists of all Secured Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

(b) Impairment and Voting. Class C-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC shall be reinstated and

rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

3. Class C-3: General Unsecured Claims

(a) Classification. Class C-3 consists of all General Unsecured Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

(b) Impairment and Voting. Class C-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC and

the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code or (ii) each Holder of an Allowed General Unsecured Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class C-4: Holdco Notes Claims

(a) Classification. Class C-4 consists of Holdco Notes Claims.

(b) Impairment and Voting. Class C-4 is Impaired by the Plan. Each Holder of an Allowed Holdco Notes Claim is entitled to vote to accept or reject the Plan.

(c) Distributions. The Holdco Notes Claims shall be Allowed in the aggregate amount of $497,489,463. The aggregate amount distributed under the Plan on account of Class C-4 Allowed Holdco Notes Claims shall be Cash in an amount equal to (i) $19,549,331 and (ii) Litigation Settlement Fund Proceeds in an aggregate amount, if any, that the Bankruptcy Court determines is owned by Holdco, which consideration shall be distributed as set forth in Class A-4 as CCI is the sole Holder of Holdco Notes Claims.

5. Class C-5: Section 510(b) Claims

(a) Classification. Class C-5 consists of all Section 510(b) Claims that may exist against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC.

(b) Impairment and Voting. Class C-5 is Impaired by the Plan. Each Holder of a Section 510(b) Claim against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Section 510(b) Claims shall be cancelled, released, and extinguished and the Holders of Section 510(b) Claims shall receive no distribution under the Plan on account of such Claims.

6. Class C-6: Interests

(a) Classification. Class C-6 consists of all Interests in Holdco, Enstar Communications Corporation, and Charter Gateway, LLC other than all Interests in Holdco held by any CII Settlement Claim Party.

(b) Impairment and Voting. Class C-6 is Impaired by the Plan. Each Holder of an Allowed Interest against Holdco, Enstar Communications Corporation, and Charter Gateway, LLC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Interests in Holdco, Enstar Communications Corporation, and

Charter Gateway, LLC shall remain in place in exchange for New Value Consideration in the amount of $2,000,000 to be contributed by CCI from the Rights Offering.

D. CCHC

1. Class D-1: Priority Non-Tax Claims

(a) Classification. Class D-1 consists of all Priority Non-Tax Claims that may exist against CCHC.

(b) Impairment and Voting. Class D-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CCHC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CCHC and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class D-2: Secured Claims

(a) Classification. Class D-2 consists of all Secured Claims that may exist against CCHC.

(b) Impairment and Voting. Class D-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CCHC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CCHC and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against CCHC shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CCHC shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CCHC shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

3. Class D-3: General Unsecured Claims

(a) Classification. Class D-3 consists of all General Unsecured Claims that may exist

against CCHC other than all General Unsecured Claims against CCHC held by any CII Settlement Claim Party.

(b) Impairment and Voting. Class D-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CCHC is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CCHC and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CCHC shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, or (ii) each Holder of an Allowed General Unsecured Claim against CCHC shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class D-4: Section 510(b) Claims

(a) Classification. Class D-4 consists of all Section 510(b) Claims that may exist against CCHC.

(b) Impairment and Voting. Class D-4 is Impaired by the Plan. Each Holder of a Section 510(b) Claim against CCHC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Section 510(b) Claims shall be cancelled, released and extinguished and the Holders of Section 510(b) Claims shall

receive no distribution under the Plan on account of such Claims.

5. Class D-5: Interests

(a) Classification. Class D-5 consists of all Interests in CCHC.

(b) Impairment and Voting. Class D-5 is Impaired by the Plan. Each Holder of an Allowed Interest against CCHC is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Interests in CCHC shall remain in place in exchange for New Value Consideration in the amount of $2,000,000 to be contributed by CCI from the Rights Offering.

E. CCH and Charter Communications Holdings Capital Corp.

1. Class E-1: Priority Non-Tax Claims

(a) Classification. Class E-1 consists of all Priority Non-Tax Claims that may exist against CCH and Charter Communications Holdings Capital Corp.

(b) Impairment and Voting. Class E-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CCH and Charter Communications Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim

against CCH and Charter Communications Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class E-2: Secured Claims

(a) Classification. Class E-2 consists of all Secured Claims that may exist against CCH and Charter Communications Holdings Capital Corp.

(b) Impairment and Voting. Class E-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CCH and Charter Communications Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CCH and Charter Communications Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at

the sole option of the Debtors, (i) each Allowed Secured Claim against CCH and Charter Communications Holdings Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CCH and Charter Communications Holdings Capital Corp. shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CCH and Charter Communications Holdings Capital Corp. shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

3. Class E-3: General Unsecured Claims

(a) Classification. Class E-3 consists of all General Unsecured Claims that may exist against CCH and Charter Communications Holdings Capital Corp.

(b) Impairment and Voting. Class E-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CCH and Charter Communications Holdings Capital Corp. is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CCH and Charter Communications Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CCH and Charter Communications Holdings Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code or (ii) each Holder of an Allowed General Unsecured Claim against CCH and Charter Communications Holdings Capital Corp. shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class E-4: CCH Notes Claims

(a) Classification. Class E-4 consists of CCH Notes Claims.

(b) Impairment and Voting. Class E-4 is Impaired by the Plan. Each Holder of an Allowed CCH Notes Claim is entitled to vote to accept or reject the Plan.

(c) Distributions. CCH Notes Claims shall be Allowed in the aggregate amount of $599,379,759. On the Distribution Date, each Holder of an Allowed CCH Notes Claim shall receive its Pro Rata share of the CCH Warrants.

5. Class E-5: Section 510(b) Claims

(a) Classification. Class E-5 consists of all Section 510(b) Claims that may exist against

CCH and Charter Communications Holdings Capital Corp.

(b) Impairment and Voting. Class E-5 is Impaired by the Plan. Each Holder of a Section 510(b) Claim against CCH and Charter Communications Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Section 510(b) Claims shall be cancelled, released, and extinguished and the Holders of Section 510(b) Claims shall receive no distribution under the Plan on account of such Claims.

6. Class E-6: Interests

(a) Classification. Class E-6 consists of all Interests in CCH and Charter Communications Holdings Capital Corp.

(b) Impairment and Voting. Class E-6 is Impaired by the Plan. Each Holder of an Allowed Interest against CCH and Charter Communications Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Interests in CCH and Charter Communications Holdings Capital Corp. shall remain in place in exchange for New Value Consideration in the amount of $1,533,180 to be contributed by CCI from the Rights Offering.

F. CIH and CCH I Holdings Capital Corp.

1. Class F-1: Priority Non-Tax Claims

(a) Classification. Class F-1 consists of all Priority Non-Tax Claims that may exist against CIH and CCH I Holdings Capital Corp.

(b) Impairment and Voting. Class F-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CIH and CCH I Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CIH and CCH I Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class F-2: Secured Claims

(a) Classification. Class F-2 consists of all Secured Claims that may exist against CIH and CCH I Holdings Capital Corp.

(b) Impairment and Voting. Class F-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CIH and CCH I Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CIH and CCH I Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against CIH and CCH I Holdings Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CIH and CCH I Holdings Capital Corp. shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CIH and CCH I Holdings Capital Corp. shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

3. Class F-3: General Unsecured Claims

(a) Classification. Class F-3 consists of all General Unsecured Claims that may exist against CIH and CCH I Holdings Capital Corp.

(b) Impairment and Voting. Class F-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CIH and CCH I Holdings Capital Corp. is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CIH and CCH I Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CIH and CCH I Holdings Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, or (ii) each Holder of an Allowed General Unsecured Claim against CIH and CCH I Holdings Capital Corp. shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class F-4: CIH Notes Claims

(a) Classification. Class F-4 consists of CIH Notes Claims.

(b) Impairment and Voting. Class F-4 is Impaired by the Plan. Each Holder of an Allowed CIH Notes Claim is entitled to vote to accept or reject the Plan.

(c) Distributions. CIH Notes Claims shall be Allowed in the aggregate amount of $2,625,060,226. On the Distribution Date, each Holder of CIH Notes Claim shall receive its Pro Rata share of the CIH Warrants.

5. Class F-5: Section 510(b) Claims

(a) Classification. Class F-5 consists of all Section 510(b) Claims that may exist against CIH and CCH I Holdings Capital Corp.

(b) Impairment and Voting. Class F-5 is Impaired by the Plan. Each Holder of a Section 510(b) Claim against CIH and CCH I Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Section 510(b) Claims shall be cancelled, released, and extinguished and the Holders of Section 510(b) Claims shall receive no distribution under the Plan on account of such Claims.

6. Class F-6: Interests

(a) Classification. Class F-6 consists of all Interests in CIH and CCH I Holdings Capital Corp.

(b) Impairment and Voting. Class F-6 is Impaired by the Plan. Each Holder of an Allowed Interest against CIH and CCH I Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Interests in CIH and CCH I Holdings Capital Corp. shall remain in place

in exchange for New Value Consideration in the amount of $8,932,440 to be contributed by CCI from the Rights Offering.

G. CCH I and CCH I Capital Corp.

1. Class G-1: Priority Non-Tax Claims

(a) Classification. Class G-1 consists of all Priority Non-Tax Claims that may exist against CCH I and CCH I Capital Corp.

(b) Impairment and Voting. Class G-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CCH I and CCH I Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CCH I and CCH I Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class G-2: Secured Claims

(a) Classification. Class G-2 consists of all Secured Claims that may exist against CCH I and CCH I Capital Corp. (but excluding any Secured Claim that is also a CCH I Notes Claim).

(b) Impairment and Voting. Class G-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CCH I and CCH I Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CCH I and CCH I Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against CCH I and CCH I Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CCH I and CCH I Capital Corp. shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CCH I and CCH I Capital Corp. shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed

Secured Claim, or as soon thereafter as is practicable.

3. Class G-3: General Unsecured Claims

(a) Classification. Class G-3 consists of all General Unsecured Claims that may exist against CCH I and CCH I Capital Corp.

(b) Impairment and Voting. Class G-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CCH I and CCH I Capital Corp. is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CCH I and CCH I Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CCH I and CCH I Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, or (ii) each Holder of an Allowed General Unsecured Claim against CCH I and CCH I Capital Corp. shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class G-4: CCH I Notes Claims

(a) Classification. Class G-4 consists of CCH I Notes Claims.

(b) Impairment and Voting. Class G-4 is Impaired by the Plan. Each Holder of an Allowed CCH I Notes Claim is entitled to vote to accept or reject the Plan.

(c) Distributions.

(i) The CCH I Notes Claims shall be Allowed in the aggregate amount of $4,170,040,378. On the Distribution Date, each Holder of a CCH I Notes Claim shall receive its Pro Rata share of New Class A Stock in an aggregate amount to all such Holders equal to 100% of the New Class A Stock outstanding as of the Effective Date, prior to giving effect to the Rights Offering, the issuance of Warrants and any other distributions of New Class A Stock contemplated by the Plan, which New Class A Stock (prior to such effects) shall be deemed to have an aggregate value equal to the Plan Value minus the Warrant Value minus 3% of the equity value of the Reorganized Company, after giving effect to the Rights Offering, but prior to the issuance of Warrants and equity-based awards provided for by the Plan.

Each Eligible CCH I Notes Claim Holder shall also receive Rights pursuant to the Rights Offering, as set forth below.

(ii) Rights Offering. Each Eligible CCH I Notes Claim Holder shall be offered pursuant to the Rights Offering Documents the right to purchase shares of New Class A Stock, according to that Holder's Pro Rata Participation Amount, for a Cash payment of the product of the Per Share Purchase Price multiplied by such Pro Rata Participation Amount.

(iii) Equity Backstop by Members of the Crossover Committee. Pursuant to the Commitment Letters, the Equity Backstop Parties have, severally and not jointly, committed to purchase their respective Pro Rata Participation Amount in the Rights Offering.

(iv) Excess Backstop by the Excess Backstop Parties. Pursuant to the Commitment Letters and the Excess Backstop Agreements, the Excess Backstop Parties have, severally and not jointly, committed to purchase shares of New Class A Stock underlying Rights not exercised by Eligible CCH I Notes Claim Holders other than the Equity Backstop Parties.

(v) Overallotment Option. Pursuant to the Commitment Letters and Excess Backstop Agreements, each Excess Backstop Party shall be offered the Overallotment Option.

Each Holder of CCH I Notes Claims that affirmatively represents it is not an Eligible CCH I Notes Claim Holder on a timely submitted investor certification shall receive an amount of New Class A Stock equal to the value of the Rights that such Holder would have been offered if it were an accredited investor or qualified institutional buyer participating in the Rights Offering.

5. Class G-5: Section 510(b) Claims

(a) Classification. Class G-5 consists of all Section 510(b) Claims that may exist against CCH I and CCH I Capital Corp.

(b) Impairment and Voting. Class G-5 is Impaired by the Plan. Each Holder of a Section 510(b) Claim against CCH I and CCH I Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Section 510(b) Claims shall be cancelled, released, and extinguished and the Holders of Section 510(b) Claims shall receive no distribution under the Plan on account of such Claims.

6. Class G-6: Interests

(a) Classification. Class G-6 consists of all Interests in CCH I and CCH I Capital Corp.

(b) Impairment and Voting. Class G-6 is Impaired by the Plan. Each Holder of an Allowed Interest against CCH I and CCH I Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Interests in CCH I and CCH I Capital Corp. shall remain in place in exchange for New Value Consideration in the amount of $12,000,000 to be contributed by CCI from the Rights Offering.

H. CCH II and CCH II Capital Corp.

1. Class H-1: Priority Non-Tax Claims

(a) Classification. Class H-1 consists of all Priority Non-Tax Claims that may exist against CCH II and CCH II Capital Corp.

(b) Impairment and Voting. Class H-1 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CCH II and CCH II Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CCH II and CCH II Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

2. Class H-2: Secured Claims

(a) Classification. Class H-2 consists of all Secured Claims that may exist against CCH II and CCH II Capital Corp.

(b) Impairment and Voting. Class H-2 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CCH II and CCH II Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CCH II and CCH II Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against CCH II and CCH II Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CCH II and CCH II Capital Corp. shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable, or (iii) each Holder of an Allowed Secured Claim against CCH II and CCH II Capital Corp. shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

3. Class H-3: General Unsecured Claims

(a) Classification. Class H-3 consists of all General Unsecured Claims that may exist against CCH II and CCH II Capital Corp.

(b) Impairment and Voting. Class H-3 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CCH II and CCH II Capital Corp. is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CCH II and CCH II Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CCH II and CCH II Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, or (ii) each Holder of an Allowed General Unsecured Claim against CCH II and CCH II Capital Corp. shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

4. Class H-4: CCH II Notes Claims

(a) Classification. Class H-4 consists of CCH II Notes Claims.

(b) Impairment and Voting. Class H-4 is Impaired by the Plan. Each Holder of an Allowed CCH II Notes Claim is entitled to vote to accept or reject the Plan.

(c) Distributions. The CCH II Notes Claims shall be Allowed in the aggregate amount of $2,586,033,908, plus Post-Petition Interest. Each Holder of CCH II Notes Claims shall be paid in full in Cash in an amount equal to the Allowed amount of its Claim plus Post-Petition

Interest, on the Distribution Date, unless such Holder is a Rollover Commitment Party or elects to exchange CCH II Notes for New CCH II Notes pursuant to the Exchange by noting such election on such Holder's ballot. Each Holder of an Allowed CCH II Notes Claim that elects to exchange as set forth above or is a Rollover Commitment Party, shall receive the New CCH II Notes as set forth below in a principal amount equal to the Allowed amount of its CCH II Notes Claim plus Post-Petition Interest, subject to the Exchange Cutback set forth below; provided that the applicable Debtors may pay Post- Petition Interest in Cash if the applicable Debtors elect such option on or before the Effective Date by filing a notice of such election with the Court on or before the Effective Date. No partial Exchange of CCH II Notes shall be allowed.

(i) Exchange. CCH II shall effectuate the Exchange pursuant to the Plan. The aggregate principal amount of the New CCH II Notes shall be equal to the sum of (x) the Target Amount and (y) $85 million. Each Holder of an Allowed CCH II Notes Claim that elects to exchange CCH II Notes for New CCH II Notes pursuant to the Exchange, and each Rollover Commitment Party, in each case subject to the Exchange Cutback, shall be entitled to receive (A) New CCH II Notes with a principal amount equal to the Allowed principal amount of the CCH II Notes held by such Holder or Rollover Commitment Party, (B) New CCH II Notes with a principal amount equal to

the accrued but unpaid interest on such CCH II Notes held by such Holder or Rollover Commitment Party to the Petition Date, and (C) New CCH II Notes with a principal amount equal to Post-Petition Interest on such CCH II Notes. No Holder or Rollover Commitment Party shall be entitled to receive any amounts for any call premiums or prepayment penalty with respect to the CCH II Notes.

Rollover Commitment. Pursuant to the Commitment Letters, the Rollover Commitment Parties have, severally and not jointly (in the respective amounts set forth on Annex C), committed to exchange on the Effective Date an aggregate of $1.21 billion in principal amount of CCH II Notes, plus accrued but unpaid interest to the Petition Date, plus Post-Petition Interest, but excluding any call premiums or any prepayment penalties, for New CCH II Notes pursuant to the Exchange, subject to the Exchange Cutback.

Exchange Cutback. Notwithstanding the foregoing, if the aggregate principal amount of New CCH II Notes to be issued to Holders of CCH II Notes Claims (including the Rollover Commitment Parties) electing to participate in the Exchange would exceed the Target Amount, then each participating Holder (including the Rollover Commitment Parties) shall receive its pro rata portion of the Target Amount of New CCH II Notes in the same proportion that the Allowed

amount of CCH II Notes sought to be exchanged by such Holder bears to the total Allowed amount of CCH II Notes sought to be exchanged, and the remainder of such Holder's Allowed CCH II Notes Claims shall be paid in full in Cash on the Distribution Date.

(ii) New CCH II Notes Commitment. Pursuant to the Commitment Letters, the New CCH II Notes Commitment Parties have, severally and not jointly (in the respective amounts set forth on Annex D), committed to purchase additional New CCH II Notes in an aggregate principal amount of $267 million. If the aggregate principal amount of New CCH II Notes to be issued to Holders (including the Rollover Commitment Parties) electing to participate in the Exchange is less than the Target Amount, then the New CCH II Notes Commitment shall be funded up to the extent of such shortfall.

5. Class H-5: Section 510(b) Claims

(a) Classification. Class H-5 consists of all Section 510(b) Claims that may exist against CCH II and CCH II Capital Corp.

(b) Impairment and Voting. Class H-5 is Impaired by the Plan. Each Holder of a Section 510(b) Claim against CCH II and CCH II Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Section 510(b) Claims shall be cancelled, released, and extinguished and the Holders of Section 510(b) Claims shall receive no distribution under the Plan on account of such Claims.

6. Class H-6: Interests

(a) Classification. Class H-6 consists of all Interests in CCH II and CCH II Capital Corp.

(b) Impairment and Voting. Class H-6 is Impaired by the Plan. Each Holder of an Allowed Interest against CCH II and CCH II Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have rejected the Plan.

(c) Distributions. Interests in CCH II and CCH II Capital Corp. shall remain in place in exchange for New Value Consideration in the amount of $15,000,000 to be contributed by CCI from the Rights Offering.

I. CCOH and CCO Holdings Capital Corp.

1. Class I-1: CCOH Credit Facility Claims

(a) Classification. Class I-1 consists of CCOH Credit Facility Claims.

(b) Impairment and Voting. Class I-1 is Unimpaired by the Plan. Each Holder of an Allowed CCOH Credit Facility Claim is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Each Allowed CCOH Credit Facility Claim shall be reinstated and

rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

2. Class I-2: CCOH Notes Claims

(a) Classification. Class I-2 consists of CCOH Notes Claims.

(b) Impairment and Voting. Class I-2 is Unimpaired by the Plan. Each Holder of an Allowed CCOH Notes Claim is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Each Allowed CCOH Notes Claim shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

3. Class I-3: Priority Non-Tax Claims

(a) Classification. Class I-3 consists of all Priority Non-Tax Claims that may exist against CCOH and CCO Holdings Capital Corp.

(b) Impairment and Voting. Class I-3 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CCOH and CCO Holdings Capital Corp. is entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CCOH and CCO Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, each Holder of such Allowed Priority Non-Tax Claim

shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

4. Class I-4: Secured Claims

(a) Classification. Class I-4 consists of all Secured Claims (but excluding CCOH Credit Facility Claims) that may exist against CCOH and CCO Holdings Capital Corp.

(b) Impairment and Voting. Class I-4 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CCOH and CCO Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CCOH and CCO Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against CCOH and CCO Holdings Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an

Allowed Secured Claim against CCOH and CCO Holdings Capital Corp. shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CCOH and CCO Holdings Capital Corp. shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

5. Class I-5: General Unsecured Claims

(a) Classification. Class I-5 consists of all General Unsecured Claims that may exist against CCOH and CCO Holdings Capital Corp.

(b) Impairment and Voting. Class I-5 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CCOH and CCO Holdings Capital Corp. is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CCOH and CCO Holdings Capital Corp. and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CCOH and CCO Holdings Capital Corp. shall be reinstated and rendered Unimpaired in

accordance with section 1124 of the Bankruptcy Code, or (ii) each Holder of an Allowed General Unsecured Claim against CCOH and CCO Holdings Capital Corp. shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

6. Class I-6: Interests

(a) Classification. Class I-6 consists of all Interests in CCOH and CCO Holdings Capital Corp.

(b) Impairment and Voting. Class I-6 is Unimpaired by the Plan. Each Holder of an Allowed Interest against CCOH and CCO Holdings Capital Corp. is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Interests in CCOH and CCO Holdings Capital Corp. shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

J. CCO (and its direct and indirect subsidiaries)

1. Class J-1: CCO Credit Facility Claims

(a) Classification. Class J-1 consists of CCO Credit Facility Claims.

(b) Impairment and Voting. Class J-1 is Unimpaired by the Plan. Each Holder of an Allowed CCO Credit Facility Claim is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Each Allowed CCO Credit Facility Claim shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code. The Debtors shall waive and/or abjure any right to require any lender to make loans (whether term, incremental term, revolving, or swingline loans) under the CCO Credit Facility, other than loans outstanding as of the Effective Date.

2. Class J-2: CCO Swap Agreements Claims

(a) Classification. Class J-2 consists of CCO Swap Agreements Claims.

(b) Impairment and Voting. Class J-2 is Impaired by the Plan. Each Holder of an Allowed CCO Swap Agreements Claim against CCO is entitled to vote to accept or reject the Plan; provided, however, the Debtors reserve their right to argue the proposed distribution to each Holder of an Allowed CCO Swap Agreements Claim renders Class J-2 Unimpaired, not entitled to vote to accept or reject the Plan, and deemed conclusively to have accepted the Plan.

(c) Distributions. CCO Swap Agreements Claims shall be Allowed in the aggregate amount determined by the Bankruptcy Court, plus Post-Petition Interest, but excluding any call premiums or any prepayment penalties. Each Holder of an Allowed CCO Swap Agreements Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such

CCO Swap Agreements Claim becomes an Allowed CCO Swap Agreements Claim, or as soon thereafter as is practicable.

3. Class J-3: CCO Notes Claims

(a) Classification. Class J-3 consists of CCO Notes Claims.

(b) Impairment and Voting. Class J-3 is Unimpaired by the Plan. Each Holder of an Allowed CCO Notes Claim is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Each Allowed CCO Notes Claim shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

4. Class J-4: Priority Non-Tax Claims

(a) Classification. Class J-4 consists of all Priority Non-Tax Claims that may exist against CCO and its direct and indirect subsidiaries.

(b) Impairment and Voting. Class J-4 is Unimpaired by the Plan. Each Holder of an Allowed Priority Non-Tax Claim against CCO and its direct and indirect subsidiaries is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Priority Non-Tax Claim against CCO and its direct and indirect subsidiaries and the applicable Debtors agree to less favorable treatment to such Holder,

each Holder of such Allowed Priority Non-Tax Claim shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date, the date such Priority Non-Tax Claim is Allowed and the date such Allowed Priority Non-Tax Claim becomes due and payable, or as soon thereafter as is practicable; provided, however, that Priority Non-Tax Claims that arise in the ordinary course of the Debtors' business and which are not due and payable on or before the Effective Date shall be paid in the ordinary course of business in accordance with the terms thereof.

5. Class J-5: Secured Claims

(a) Classification. Class J-5 consists of all Secured Claims (but excluding CCO Credit Facility Claims, CCO Notes Claims and CCO Swap Agreements Claims) that may exist against CCO and its direct and indirect subsidiaries.

(b) Impairment and Voting. Class J-5 is Unimpaired by the Plan. Each Holder of an Allowed Secured Claim against CCO and its direct and indirect subsidiaries is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed Secured Claim against CCO and its direct and indirect subsidiaries and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed Secured Claim against CCO and its direct and indirect

subsidiaries shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code, (ii) each Holder of an Allowed Secured Claim against CCO and its direct and indirect subsidiaries shall be paid in full in Cash, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable or (iii) each Holder of an Allowed Secured Claim against CCO and its direct and indirect subsidiaries shall receive the collateral securing its Allowed Secured Claim, plus Post-Petition Interest, on the later of the Distribution Date and the date such Secured Claim becomes an Allowed Secured Claim, or as soon thereafter as is practicable.

6. Class J-6: General Unsecured Claims

(a) Classification. Class J-6 consists of all General Unsecured Claims that may exist against CCO and its direct and indirect subsidiaries other than all General Unsecured Claims against CCO and its direct and indirect subsidiaries held by any CII Settlement Claim Party.

(b) Impairment and Voting. Class J-6 is Impaired by the Plan. Each Holder of an Allowed General Unsecured Claim against CCO and its direct and indirect subsidiaries is entitled to vote to accept or reject the Plan.

(c) Distributions. Except to the extent that a Holder of an Allowed General Unsecured Claim against CCO and its direct and indirect

subsidiaries and the applicable Debtors agree to less favorable treatment to such Holder, at the sole option of the Debtors, (i) each Allowed General Unsecured Claim against CCO and its direct and indirect subsidiaries shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code or (ii) each Holder of an Allowed General Unsecured Claim against CCO and its direct and indirect subsidiaries shall be paid in full in Cash on the Distribution Date or as soon thereafter as is practicable.

7. Class J-7: Interests (other than CC VIII Preferred Units held by a CII Settlement Claim Party)

(a) Classification. Class J-7 consists of all Interests in CCO and its direct and indirect subsidiaries (other than CC VIII Preferred Units held by a CII Settlement Claim Party).

(b) Impairment and Voting. Class J-7 is Unimpaired by the Plan. Each Holder of an Allowed Interest against CCO and its direct and indirect subsidiaries (other than CC VIII Preferred Units held by a CII Settlement Claim Party) is not entitled to vote to accept or reject the Plan and shall be deemed conclusively to have accepted the Plan.

(c) Distributions. Interests in CCO and its direct and indirect subsidiaries (other than CC VIII Preferred Units held by a CII Settlement Claim Party) shall be reinstated and rendered Unimpaired in accordance with section 1124 of the Bankruptcy Code.

ARTICLE V.

IDENTIFICATION OF IMPAIRED CLASSES OF CLAIMS AND INTERESTS; ACCEPTANCE OR REJECTION OF THIS PLAN OF REORGANIZATION

A. Classes Entitled to Vote. The following Classes are Impaired by the Plan and thus are entitled to vote to accept or reject the Plan.

Class A-3 (General Unsecured Claims against CCI)
Class A-4 (CCI Notes Claims)

Class B-3 (General Unsecured Claims against CII)
Class B-4 (CII Shareholder Claims)

Class C-3 (General Unsecured Claims against Holdco, Enstar Communications Corporation, and Charter Gateway LLC)
Class C-4 (Holdco Notes Claims)

Class D-3 (General Unsecured Claims against CCHC)

Class E-3 (General Unsecured Claims against CCH and Charter Communications Holdings Capital Corp.)
Class E-4 (CCH Notes Claims)

Class F-3 (General Unsecured Claims against CIH and CCH I Holdings Capital Corp.)
Class F-4 (CIH Notes Claims)

Class G-3 (General Unsecured Claims against CCH I and CCH I Capital Corp.)
Class G-4 (CCH I Notes Claims)

Class H-3 (General Unsecured Claims against CCH II and CCH II Capital Corp.)
Class H-4 (CCH II Notes Claims)

Class I-5 (General Unsecured Claims against CCOH and CCO Holdings Capital Corp.)

Class J-2 (CCO Swap Agreements Claims)
Class J-6 (General Unsecured Claims against CCO and its direct and indirect subsidiaries)

B. Classes Not Entitled to Vote; Deemed to Accept. The following Classes are Unimpaired by the Plan—and thus not entitled to vote to accept or reject the Plan—and shall be deemed conclusively to have accepted the Plan.

Class A-1 (Priority Non-Tax Claims against CCI)
Class A-2 (Secured Claims against CCI)

Class B-1 (Priority Non-Tax Claims against CII)
Class B-2 (Secured Claims against CII)

Class C-1 (Priority Non-Tax Claims against Holdco, Enstar Communications Corporation, and Charter Gateway LLC)
Class C-2 (Secured Claims against Holdco, Enstar Communications Corporation, and Charter Gateway LLC)

Class D-1 (Priority Non-Tax Claims against CCHC)
Class D-2 (Secured Claims against CCHC)

Class E-1 (Priority Non-Tax Claims against CCH and Charter Communications Holdings Capital Corp.)

Class E-2 (Secured Claims against CCH and Charter Communications Holdings Capital Corp.)

Class F-1 (Priority Non-Tax Claims against CIH and CCH I Holdings Capital Corp.)
Class F-2 (Secured Claims against CIH and CCH I Holdings Capital Corp.

Class G-1 (Priority Non-Tax Claims against CCH I and CCH I Capital Corp.)
Class G-2 (Secured Claims against CCH I and CCH I Capital Corp.)

Class H-1 (Priority Non-Tax Claims against CCH II and CCH II Capital Corp.)
Class H-2 (Secured Claims against CCH II and CCH II Capital Corp.)

Class I-1 (CCOH Credit Facility Claims)
Class I-2 (CCOH Notes Claims)
Class I-3 (Priority Non-Tax Claims against CCOH and CCO Holdings Capital Corp.)
Class I-4 (Secured Claims against CCOH and CCO Holdings Capital Corp.)
Class I-6 (Interests in CCOH and CCO Holdings Capital Corp.)

Class J-1 (CCO Credit Facility Claims)
Class J-3 (CCO Notes Claims)
Class J-4 (Priority Non-Tax Claims against CCO and its direct and indirect subsidiaries)
Class J-5 (Secured Claims against CCO and its direct and indirect subsidiaries)
Class J-7 (Interests in CCO and its direct and indirect subsidiaries (other than CC VIII Preferred Units held by a CII Settlement Claim Party))

C. Classes Not Entitled to Vote; Deemed to Reject. The following Classes are Impaired by the Plan—but not entitled to vote to accept or reject the Plan—and shall be deemed conclusively to have rejected the Plan.

Class A-5 (Section 510(b) Claims against CCI other than all Section 510(b) Claims against CCI held by any CII Settlement Claim Party)
Class A-6 (Interests in CCI other than all Interests in CCI held by any CII Settlement Claim Party)

Class C-5 (Section 510(b) Claims against Holdco, Enstar Communications Corporation, and Charter Gateway LLC)
Class C-6 (Interests in Holdco, Enstar Communications Corporation, and Charter Gateway LLC other than all Interests in Holdco held by any CII Settlement Claim Party)

Class D-4 (Section 510(b) Claims against CCHC)
Class D-5 (Interests in CCHC)

Class E-5 (Section 510(b) Claims against CCH and Charter Communications Holdings Capital Corp.)
Class E-6 (Interests in CCH and Charter Communications Holdings Capital Corp.)

Class F-5 (Section 510(b) Claims against CIH and CCH I Holdings Capital Corp.)
Class F-6 (Interests in CIH and CCH I Holdings Capital Corp.)

Class G-5 (Section 510(b) Claims against CCH I and CCH I Capital Corp.)

Class G-6 (Interests in CCH I and CCH I Capital Corp.)

Class H-5 (Section 510(b) Claims against CCH II and CCH II Capital Corp.)

Class H-6 (Interests in CCH II and CCH II Capital Corp.)

D. Nonconsensual Confirmation. Except as otherwise specifically provided in the Plan, if any Impaired Class shall not accept the Plan by the requisite statutory majority provided in section 1126(c) or (d) of the Bankruptcy Code, the Debtors reserve the right to amend the Plan (subject to the Plan Support Agreements and conditions to the Effective Date set forth below) or undertake to have the Bankruptcy Court confirm the Plan under section 1129(b) of the Bankruptcy Code or both.

ARTICLE VI.

PROVISIONS FOR IMPLEMENTATION OF THE PLAN

A. Sources of Consideration for Plan Distributions. Cash Distributions under the Plan shall be funded from: (1) operations, (2) the New CCH II Notes Commitment (as described in ARTICLE IV.H.4 above), and (3) the Rights Offering (as described in ARTICLE IV.G.4 above).

1. Use of Net Proceeds. CCI shall utilize the Net Proceeds as follows: (a) to pay the expenses of the Rights Offering; (b) to contribute to CCH II an amount sufficient to fund the Cash payments due on the CCH II Notes Claims; (c) to contribute to CCO to pay the CCO Swap Agreements Claims; (d) to contribute, as necessary, to Holdco, CCHC, CCH, CIH, CCH I, and CCH II in consideration

for New Value Interests; (e) to pay Administrative Expense Claims and to make other payments as needed to confirm the Plan and to cause the Effective Date to occur; and (f) to pay the fees and expenses described in ARTICLE VI.A.2 below in the manner and order provided therein. Subject to ARTICLE VI.A.2 below, plus Professional Fees, the remaining Net Proceeds, if any, will be contributed to CCO on the Effective Date to fund CCO's working capital requirements following the Effective Date.

2. Specified Fees and Expenses.

(a) Allen Management Receivable. As partial consideration for the settlement and compromise of the CII Settlement Claim, the Debtors (other than CII) shall pay to Mr. Allen (or his designees) the Allen Management Receivable, in Cash, as provided in clause (d) below.

(b) Allen Fee Reimbursement. As partial consideration for the settlement and compromise of the CII Settlement Claim, the Debtors (other than CII) shall pay to Mr. Allen (or his designees) the Allen Fee Reimbursement, in Cash, as provided in clause (d) below.

(c) Other Fees and Expenses.

Each participating Holder (including the Rollover Commitment Parties) shall receive from the Debtors (other than CII) the Rollover Fee for the use of capital, in Cash, as provided in clause (d) below.

Each New CCH II Notes Commitment Party shall receive from the Debtors (other than CII) the New CCH II Notes Commitment Fee (if such fee is payable), for the use of capital, in Cash, as provided in clause (d) below; provided, that such New CCH II Notes Commitment Party shall not have terminated its Commitment Letter with respect to the New CCH II Notes Commitment on or prior to the Effective Date.

Each Equity Backstop Party shall receive from the Debtors (other than CII) the Equity Backstop Fee (if such fee is payable), for the use of capital, in Cash, as provided in clause (d) below; provided, that such Equity Backstop Party shall not have terminated its Commitment Letter with respect to the Equity Backstop on or prior to the Effective Date.

(d) Priority of Payments. On the Effective Date, the Allen Management Receivable shall be paid in Cash to the extent of Available Cash. If the Allen Management Receivable is not paid in full on the Effective Date, then any unpaid portion thereof shall be paid in Cash within 30 days after the end of the first calendar quarter following the Effective Date to the extent of Available Cash on the last day of such calendar quarter, and within 20 days after the end of each following calendar quarter to the extent of Available Cash on the last day of each such following calendar quarter, until the Allen Management Receivable is paid in full.

On the Effective Date (or when the Overallotment Option is received by the Reorganized Company), following payment of the Allen Management Receivable in full, the Commitment Fees, the Allen Fee Reimbursement, and the VCP shall be paid in Cash to the extent of any remaining Available Cash; provided, however, that, if there is not sufficient Available Cash for payment of the Commitment Fees, the Allen Fee Reimbursement, and the VCP in full on the Effective Date, then payment of such fees on such date shall be reduced pro rata based on the amount of each such fee in proportion to the total amount of the Commitment Fees, the Allen Fee Reimbursement, and the VCP. If the Commitment Fees, the Allen Fee Reimbursement, and the VCP are not paid in full on the Effective Date, then any unpaid portion thereof shall be paid in Cash within 20 days after the end of the first calendar quarter following the Effective Date in which the Allen Management Receivable is paid in full in Cash if there is Available Cash on the last day of such calendar quarter; provided, however, that, in the discretion of the Board of Directors, the Allen Fee Reimbursement, the Commitment Fees, and the VCP on a pari passu basis may be paid regardless of sufficient Available Cash. For the avoidance of doubt, in no event shall the Commitment Fees (or any portion thereof), the Allen Fee Reimbursement (or any portion thereof) or the VCP (or any portion thereof) be paid unless

and until the Allen Management Receivable has been paid in full.

If all Specified Fees and Expenses have not been paid in full on the Effective Date, Cash in the full amount of the unpaid portion of the Specified Fees and Expenses shall be retained by CCI pending payment, subject to the good faith determination of the Reorganized Company to contribute all or any portion of such retained amount to direct or indirect subsidiaries. If such amounts are contributed, alternative arrangements for actual funding by the Reorganized Company shall be made by the Reorganized Company.

B. Reorganized Company Equity Interests. The Reorganized Company's equity interests shall consist of New Class A Stock, New Class B Stock, New Preferred Stock and Warrants.

1. New Class A Stock. Shares of New Class A Stock shall be issued to (a) participants in the Rights Offering, (b) Equity Backstop Parties upon the exercise of the Overallotment Option (if exercised), (c) Holders of Claims with respect to CCH I Notes, (d) the Allen Entities upon exchange of their Reorganized Holdco equity pursuant to the Reorganized Holdco Exchange Agreement, (e) holders of Warrants upon exercise of such Warrants, and (f) holders of equity-based awards issued under the Management Incentive Plan.

CCI shall cause the New Class A Stock to be listed on the NASDAQ Global Select Market as promptly as practicable but in no event prior to the later of (x) the 46th day following the Effective

Date, and (y) October 15, 2009 (unless Mr. Allen and the Reorganized Company agree to an earlier date), and the Reorganized Company shall maintain such listing thereafter.

2. New Class B Stock. The New Class B Stock issued to Mr. Allen or other Authorized Class B Holders shall be identical to the New Class A Stock except with respect to certain voting, transfer and conversion rights. Each share of New Class B Stock shall be entitled to a number of votes such that the aggregate number of votes attributable to the shares of New Class B Stock held by the Authorized Class B Holders shall equal 35% (determined on a fully diluted basis) of the combined voting power of the capital stock of the Reorganized Company. Subject to the Lock-Up Agreement, each holder of New Class B Stock shall have the right to convert its shares of New Class B Stock into shares of New Class A Stock on a one-for-one basis. In addition, on or after January 1, 2011, Reorganized CCI shall have the right to cause shares of New Class B Stock to convert into shares of New Class A Stock on a one-for-one basis pursuant to and in accordance with the provisions of the Amended and Restated Certificate of Incorporation. New Class B Stock shall be subject to restrictions on conversion and transfer pursuant to the Lock-Up Agreement.

3. New Preferred Stock. Shares of New Preferred Stock shall be issued to Holders of CCI Notes Claims. The New Preferred Stock shall be listed on an exchange contemporaneously with the New Class A Stock.

4. Warrants. Warrants to be issued pursuant to the Plan consist solely of CIH Warrants, CCH Warrants and CII Settlement Claim Warrants.

5. Registration Rights. Holders of New Common Stock shall be entitled to registration rights pursuant to the Equity Registration Rights Agreement.

6. Post-Confirmation Restrictions. For a period of at least six (6) months following the Effective Date, the Reorganized Company, Reorganized Holdco, Reorganized CCO and each of their respective direct and indirect subsidiaries shall not negotiate, enter into agreements, understandings or arrangements or consummate transactions in the aggregate in excess of $500 million in total value to the extent that such transactions shall occur at a price in excess of 110% of either the value implied by the Plan or the appraised values, if any such appraisal is obtained pursuant to ARTICLE VI.C.2. Any transactions occurring at a price that implies a value of 110% or lower than both of such value implied by the Plan and such appraised values (if obtained) shall not be subject to restriction and shall not be taken into account in determining whether the $500 million limitation has been exceeded.

C. CII Settlement Claim. Notwithstanding anything to the contrary herein, on the Effective Date, the following consideration shall be transferred by the Debtors (other than CII) to Mr. Allen (or his designees which, in the case of New Class B Stock, shall be limited to Authorized Class B Holders) on account of the CII Settlement Claim: (a) shares of

New Class B Stock representing, as of the Effective Date, (i) 2% of the equity value of the Reorganized Company, after giving effect to the Rights Offering, but prior to the issuance of the Warrants and equity-based awards under the Management Incentive Plan, and (ii) 35% (determined on a fully diluted basis) of the combined voting power of the capital stock of Reorganized CCI; (b) the CII Settlement Claim Warrants; (c) $85 million principal amount of New CCH II Notes, which shall be deemed transferred from Holders of CCH I Notes Claims automatically and without further action by any party; (d) Cash in the amount of $25 million on account of the Allen Management Receivable; (e) $150 million in Cash; and (f) Cash of up to $20 million on account of the Allen Fee Reimbursement. In addition, on the Effective Date, CII shall retain a 1% direct equity interest in Reorganized Holdco, including the right to exchange such interest into New Class A Stock, pursuant to the Reorganized Holdco Exchange Agreement, and Mr. Allen shall retain all of the Interests in Reorganized CII. Furthermore, on the Effective Date, the 7,282,183 CC VIII Preferred Units held by the CII shall be deemed transferred, automatically and without further action by any party, to Reorganized CCI.

1. Bankruptcy Rule 9019. The treatment set forth above and the rights and obligations accorded elsewhere in this Plan on account of the CII Settlement Claim shall constitute the compromise and settlement under Bankruptcy Rule 9019 by and among the Debtors (other than CII), on the one hand, and the CII Settlement Claim Parties, on the other hand, that fully resolves any and all legal, contractual and

equitable rights, claims and remedies between such parties in exchange for the consideration to be given to such parties. For the avoidance of doubt, CCH I Claims and CIH Claims held by CII shall be treated identically to similar Claims held by Persons other than CII.

2. Independent Appraisal. Within 30 days after the Effective Date, at Mr. Allen's request, Reorganized CCI, Reorganized Holdco and Reorganized CCO shall obtain (at their expense) an independent appraisal of the fair market value of Reorganized Holdco's and Reorganized CCO's (and their respective subsidiaries') tangible and intangible assets as of the Effective Date that will include a reasonable allocation of value on an asset-by-asset basis, including any and all below market financing arrangements as may be appropriate. The appraisal firm and scope of the appraisal shall be reasonably acceptable to Mr. Allen and Reorganized CCI, Reorganized Holdco and Reorganized CCO, but shall at all times be retained by and act under the direction of Reorganized CCI, Reorganized Holdco and Reorganized CCO, consulting with Mr. Allen.

3. Retained Interest; Preservation of Exchange Right. As partial consideration for the settlement and compromise of the CII Settlement Claim, CII will retain a 1% equity interest in Reorganized Holdco and shall hold such interest pursuant to and in accordance with the Reorganized Holdco LLC Agreement. After the Effective Date, CII or its transferee that is an Allen Entity shall have the right to exchange all or a portion of their Reorganized Holdco equity for New Class A Stock

pursuant to the terms of the Reorganized Holdco Exchange Agreement.

There shall be no restrictions on the Allen Entities' ability to liquidate or sell CII following consummation of the Plan; provided, that CII shall have transferred all interests in Reorganized Holdco to one or more Allen Entities (or to Reorganized CCI pursuant to the Reorganized Holdco Exchange Agreement) prior to or as part of such liquidation or sale as provided in the Reorganized Holdco LLC Agreement.

4. Other Matters. The Parties agree to use reasonable best efforts to ensure that Plan Confirmation and the Effective Date occur in the same calendar year. The Debtors shall not seek to schedule, and shall use all commercially reasonable efforts to avoid scheduling the hearing to confirm the Plan during the month of December.

5. Post-Effective Date Lock-Up Agreement. Shares of New Class B Stock received by Mr. Allen under the Plan shall be subject to restrictions on transfer and conversion as set forth in the Lock-Up Agreement.

For the avoidance of doubt, notwithstanding any other provision of the Plan, CII shall not be liable for any payment or distributions on account of Claims, Interests or amounts to be paid or owing by or other obligations of any kind of the Debtors (other than CII) under or in connection with the Plan.

D. Section 1145 Exemption. Pursuant to section 1145 of the Bankruptcy Code, the offering, issuance,

and distribution of any Securities pursuant to the Plan and any and all settlement agreements incorporated herein 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, except as otherwise provided in the Plan, under section 1145 of the Bankruptcy Code, any Securities contemplated by the Plan and any and all settlement agreements incorporated therein will be freely tradable by the recipients thereof, subject to (a) 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 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; (b) the restrictions, if any, on the transferability of such Securities and instruments; and (c) applicable regulatory approval. Notwithstanding the foregoing, shares of New Class A Stock issued to Eligible CCH I Notes Claim Holders pursuant to the Rights Offering and New CCH II Notes issued to Rollover Commitment Parties and New CCH II Note Commitment Parties shall be issued pursuant to the exemption provided under section 4(2) of the Securities Act. The holders of such equity and debt securities and certain other affiliates of the Reorganized Company shall receive registration rights as set forth in the Equity Registration Rights Agreement and the Debt Registration Rights Agreement, respectively.

E. Corporate Existence. Except as otherwise provided in the Plan, each Debtor shall continue to

exist after the Effective Date as a separate corporate Entity, limited liability company, partnership or other form, as the case may be, with all the powers of a corporation, limited liability company, partnership or other form, 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 bylaws (or other formation documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation and bylaws (or other formation documents) are amended by the Plan or otherwise, and to the extent such documents are amended, such documents are deemed to be pursuant to the Plan and require no further action or approval.

F. Vesting of Assets in the Reorganized Debtors. Except as otherwise provided in the Plan or any agreement, instrument, or other document incorporated therein, on the Effective Date, all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors pursuant to the Plan shall vest in each respective Reorganized Debtor, free and clear of all Liens, Claims, charges or other encumbrances (except for Liens, if any, granted to secure any indebtedness that is Unimpaired by the Plan). 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.

G. Discharge of Debtors. Except as otherwise provided in the Plan, on the Effective Date and effective as of the Effective Date: (1) the rights afforded in the Plan and the treatment of all Claims and Interests shall be in exchange for and in complete satisfaction, discharge and release of all Claims and Interests of any nature whatsoever, including any interest accrued on such Claims from and after the Petition Date, against the Debtors, or any of their assets, property or Estates; (2) the Plan shall bind all Holders of Claims and Interests, notwithstanding whether any such Holders failed to vote to accept or reject the Plan or voted to reject the Plan; (3) all Claims against and Interests in the Debtors shall be satisfied, discharged and released in full, 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; and (4) all Entities shall be precluded from asserting against the Debtors, the Debtors' Estates, the Reorganized Debtors, each of their 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 prior to the Effective Date. All debt under the Plan that shall be surrendered, redeemed, exchanged or cancelled shall be deemed for all purposes, including income tax purposes, to be outstanding until the Effective Date, and such debt shall not be deemed surrendered, redeemed, exchanged or cancelled on any date earlier than the Effective Date.

H. 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 Plan, including: (1) certain transactions in conjunction with the Effective Date in accordance with Exhibit 22 to the Plan Supplement; (2) 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; (3) 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; (4) the filing of appropriate certificates of incorporation, merger or consolidation with the appropriate governmental authorities pursuant to applicable law; and (5) all other actions that the Reorganized Debtors determine are necessary or appropriate.

I. Corporate Action. Each of the matters provided for by the Plan involving the corporate structure of the Debtors or corporate or related actions to be taken by or required of the Reorganized Debtors shall, as of the Effective Date, be deemed to have occurred and be effective as provided in the Plan (except to the extent otherwise indicated), and shall be authorized, approved, and, to the extent taken prior to the Effective Date, ratified in all respects without any requirement of further action by Holders of Claims or Interests, directors of the Debtors or any other Entity. Without limiting the foregoing, such actions may include: the adoption and (as applicable) filing of the Amended and Restated Certificate of Incorporation and the Amended and Restated

Bylaws; the adoption of the Reorganized Holdco LLC Agreement; the appointment of officers and (as applicable) directors for the Reorganized Debtors; and the adoption, implementation, and amendment of the Management Incentive Plan.

J. Post-Effective Date Governance. The Reorganized Debtors shall enter into such agreements and amend their corporate governance documents to the extent necessary to implement the terms and conditions of the Plan. Without limiting the generality of the foregoing, as of the Effective Date, Reorganized CCI shall be governed by the Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws. On and as of the Effective Date, the Rights Agreement between CCI and Mellon Investor Services LLC, dated as of August 14, 2007, as amended thereafter, shall be automatically terminated.

K. Limited Liability Company Agreement. The Holdco LLC Agreement shall be in effect and govern Holdco for the period up to and including the Effective Date. At the Effective Date, the Holdco LLC Agreement shall be amended and restated and the Reorganized Holdco LLC Agreement shall be in effect as of the day immediately following the Effective Date for federal, state, local and foreign income tax purposes. Reorganized Holdco shall effect a "closing of the books" as of the Effective Date, and the provisions of the Holdco LLC Agreement, taking into account each member's Percentage Interest (as defined in the Holdco LLC Agreement) immediately before the transactions contemplated by this Plan, shall govern with respect to allocations of items of income, gain, loss, credit and deduction for the period

up to and including the Effective Date, including any items of income, gain, loss, credit and deduction arising on the Effective Date and/or arising as a result of the transactions effective as of the Effective Date as contemplated by this Plan. Reorganized Holdco shall not make the election under section 108(i) of the U.S. Internal Revenue Code of 1986, as amended (or any similar election under state or local law), with respect to any cancellation of indebtedness income relating to the consummation of the Plan. Notwithstanding anything to the contrary in the Reorganized Holdco LLC Agreement, in the event of any dispute, challenge, audit or examination of Holdco's tax affairs for any period prior to or including the Effective Date, the consent of Mr. Allen shall be required to settle any such dispute and Mr. Allen and CII shall be entitled to participate alongside Reorganized CCI in any such examinations, judicial determinations, and administrative proceedings, with respect to any portion of the dispute relating to the period prior to and including the Effective Date.

L. Effectuating Documents; Further Transactions. On and after the Effective Date, the Reorganized Debtors, and the officers and members of the boards of directors or managers, as applicable, thereof, are authorized to and may issue, execute, deliver, file or record such contracts, Securities, instruments, releases, and other agreements or documents and take such actions as may be necessary or appropriate to effectuate, implement, and further evidence the terms and conditions of the Plan and the Securities issued pursuant to the Plan in the name of and on behalf of the Reorganized Debtors, without the need for any approvals,

authorizations, or consents except for those expressly required pursuant to the Plan.

M. Exemption from Certain Transfer Taxes and Recording Fees. Pursuant to section 1146(a) of the Bankruptcy Code, any transfer from a Debtor to a Reorganized Debtor or to any Entity pursuant to, in contemplation of, or in connection with the Plan or pursuant to: (1) the issuance, distribution, transfer, or exchange of any debt, equity Security, or other interest in the Debtors or the Reorganized Debtors; (2) the creation, modification, consolidation, or recording of any mortgage, deed of trust or other security interest, or the securing of additional indebtedness by such or other means; (3) the making, assignment, or recording of any lease or sublease; or (4) the making, delivery, or recording of any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan, including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage tax, real estate transfer tax, mortgage recording tax, Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar tax or governmental assessment, and the appropriate state or local governmental officials or agents shall forego the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

N. Board Representation. The Amended and Restated Certificate of Incorporation and the Amended and Restated Bylaws shall provide that the Board of Directors shall be fixed at 11 members. Each projected holder of 10% or more of the voting power of the Reorganized Company on the Effective Date (determined on an undiluted basis and giving effect to the Overallotment Option) based on such holder's pro rata share of New Class A Stock (i) to be received in respect of its CCH I Notes Claims, (ii) to be purchased pursuant to its exercise of Rights and (iii) to be purchased pursuant to the exercise by such holder of its Overallotment Option, if any, on or prior to the date that is five business days prior to the commencement of the Confirmation Hearing, shall have the right to appoint one member of the initial Board of Directors upon emergence for each 10% of the voting power attributable to such holder's New Class A Stock. Mr. Allen shall have the right to appoint four (4) of the eleven (11) members of the initial Board of Directors, and Neil Smit, the President and Chief Executive Officer of the Reorganized Company, will also serve on the Reorganized Company's Board of Directors. The identity of these members will be disclosed on Exhibit 23 to the Plan Supplement prior to the hearing on Confirmation of the Plan. Subject to the Amended and Restated Bylaws relating to the filling of vacancies, if any, on the Board of Directors, the members of the Board of Directors as constituted on the Effective Date will continue to serve at least until the first annual meeting of stockholders after the Effective Date, which meeting shall not take place until at least 12 months after the Effective Date. Starting at such first annual meeting of stockholders

and so long as shares of New Class B Stock are outstanding, holders of New Class B Stock shall have the right to elect 35% of the members of the Board of Directors (rounded up to the next whole number), and all other members of the Board of Directors shall be elected by majority vote of New Class A Stock and New Preferred Stock, voting together as a single class.

The members of the Board of Directors elected by holders of New Class B Stock shall have no less than proportionate representation on each committee of the Board of Directors, except for any committee (1) required by applicable stock exchange rules to be comprised solely of independent directors or (2) formed solely for the purpose of reviewing, recommending and/or authorizing any transaction in which holders of Class B Stock or their affiliates (other than Reorganized CCI or its subsidiaries) are interested parties. In addition, CCI's current Chief Executive Officer and Chief Operating Officer will continue in their same positions.

O. Senior Management. The CEO and the COO of the Reorganized Company shall be the same as the CEO and COO of CCI on the date hereof. The CEO and COO shall receive Cash and bonus compensation and benefits on substantially the same terms as (but not less economically favorable than) those contained in their respective employment agreements in effect on the date hereof. The CEO shall receive (1) long-term incentive compensation having substantially the same value as the long-term incentive compensation contained in his employment agreement in effect on the date hereof, and (2) a waiver with respect to the

retention bonus clawback provision contained in his employment agreement in effect on the date hereof.

Key Executives of the Reorganized Debtors shall be determined by the Board of Directors in consultation with the CEO. The Reorganized Debtors shall provide Key Executives with Cash and bonus compensation and benefits consistent with (but not less economically favorable than) such Key Executives' respective employment agreements in effect on the date hereof.

P. Management Incentive Plan and VCP. The Reorganized Company shall be deemed to have adopted the Management Incentive Plan and VCP on the Effective Date.

Q. Employee and Retiree Benefits. Except with respect to any rejected employment agreements, on and after the Effective Date, the Reorganized Debtors may: (1) honor, in the ordinary course of business, any contracts, agreements, policies, programs, and plans for, among other things, compensation (including equity based and bonus compensation), health care benefits, disability benefits, deferred compensation benefits, travel benefits, savings, severance benefits, retirement benefits, welfare benefits, workers' compensation insurance, and accidental death and dismemberment insurance for the directors, officers, and employees of any of the Debtors who served in such capacity at any time; and (2) honor, in the ordinary course of business, Claims of employees employed as of the Effective Date for accrued vacation time arising prior to the Petition Date; provided, however, that the Debtors' or Reorganized Debtors' performance of any employment agreement that is not a rejected

employment agreement will not entitle any Person to any benefit or alleged entitlement under any policy, program or plan that has expired or been terminated before the Effective Date, or restore, reinstate, or revive any such benefit or alleged entitlement under any such policy, program, or plan. Nothing in the Plan shall limit, diminish, or otherwise alter the Reorganized Debtors' defenses, claims, Causes of Action, or other rights with respect to any such contracts, agreements, policies, programs, and plans. Notwithstanding the foregoing, pursuant to section 1129(a)(13) of the Bankruptcy Code, on and after the Effective Date, all retiree benefits (as that term is defined in section 1114 of the Bankruptcy Code), if any, shall continue to be paid in accordance with applicable law.

R. Creation of Professional Fee Escrow Account. On the Effective Date, the Reorganized Debtors shall establish the Professional Fee Escrow Account and reserve an amount necessary to pay all of the Accrued Professional Compensation.

S. Preservation of Rights of Action. Subject to the releases set forth in ARTICLE X.D and ARTICLE X.E below, and 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, including any actions specifically enumerated in the Plan Supplement, and the Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. The Reorganized Debtors may pursue such Causes of Action, as

appropriate, in accordance with the best interests of the Reorganized Debtors. **No Entity may rely on the absence of a specific reference in the Plan, the Plan Supplement or the Disclosure Statement to any Cause of Action against them as any indication that the Debtors or Reorganized Debtors, as applicable, will not pursue any and all available Causes of Action against them. The Debtors or Reorganized Debtors, as applicable, expressly reserve all rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly provided in the Plan.** Unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised or settled in the Plan or a Bankruptcy Court order, the Reorganized Debtors expressly reserve all Causes of Action, for later adjudication, and, therefore no preclusion doctrine, including the doctrines of res judicata, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable or otherwise) or laches, shall apply to such Causes of Action upon, after, or as a consequence of the Confirmation or the Effective Date.

Further, subject to the releases set forth in ARTICLE X.D and ARTICLE X.D below, the Reorganized Debtors reserve and shall retain the foregoing Causes of Action notwithstanding the rejection or repudiation of any Executory Contract during the Chapter 11 Cases or pursuant to the Plan. In accordance with section 1123(b)(3) of the Bankruptcy Code, any Causes of Action that a Debtor may hold against any Entity shall vest in the Reorganized Debtors, as the case may be. 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 VII.

TREATMENT OF EXECUTORY CONTRACTS

A. Assumption and Rejection of Executory Contracts. With the exception of Executory Contracts between a Debtor (other than CII) and a CII Settlement Claim Party, which shall be deemed rejected unless set forth in clause (b) of the definition of "CII Settlement Claim," each of the Debtors' Executory Contracts, including the Management Agreement, the Mutual Services Agreement, and the Employment Agreements (subject to the conditions in ARTICLES VI.O and VII.A), shall be deemed assumed as of the Effective Date, unless listed on Exhibit 24 to the Plan Supplement and mutually agreed to by the Debtors, the Requisite Holders, and Mr. Allen.

The Employment Agreements of the CEO and COO shall be modified as set forth in ARTICLE VI.O and be deemed assumed as of the Effective Date.

The Employment Agreements of the Chief Financial Officer, Chief Restructuring Officer, General Counsel and Corporate Secretary, Chief Marketing Officer, and Chief Technology Officer as of

the Petition Date shall be deemed assumed as of the Effective Date, contingent upon amending such Employment Agreements, to the extent applicable, to: (i) conform the definition of "Change in Control" to the corresponding definition in the VCP; (ii) provide that "Good Reason" shall not exist under the Employment Agreements by virtue of the filing of the Chapter 11 Cases or the implementation of the Plan; and (iii) include an acknowledgement that, contingent upon the VCP becoming effective as set forth in the Plan, no awards will be granted in 2009 under the Incentive Program in place as of the Petition Date.

The Employment Agreements of the Chief Accounting Officer, Treasurer, SVP–IT, SVP–Business Development, SVP–Customer Operations, SVP–Media, President–West Division and President–East Division shall be deemed assumed as of the Effective Date, contingent upon amending such Employment Agreements to: (i) conform the definition of "Change in Control" to the corresponding definition in the VCP; and (ii) provide that "Good Reason" shall not exist under the Employment Agreements by virtue of the filing of the Chapter 11 Cases or the implementation of the Plan.

Except as expressly provided otherwise, the Plan shall give effect to any subordination rights as required by section 510(a) of the Bankruptcy Code.

Entry of the Confirmation Order shall constitute a Bankruptcy Court order approving the assumptions or rejections of such Executory Contracts as set forth in the Plan, all pursuant to sections 365(a) and 1123 of the Bankruptcy Code. Unless otherwise indicated, all assumptions or rejections of such Executory

Contracts in the Plan are effective as of the Effective Date. Each such Executory Contract assumed pursuant to the Plan or by Bankruptcy Court order but not assigned to a third party prior to the Effective Date shall revest 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 such order. Notwithstanding anything to the contrary in the Plan, the Debtors or Reorganized Debtors, as applicable, reserve the right, with the consent of the Requisite Holders and Mr. Allen, to alter, amend, modify or supplement the Exhibit of Executory Contracts identified in the Plan Supplement.

B. Indemnification Obligations. Notwithstanding anything to the contrary herein, the obligations of the Debtors as provided in the Debtors' respective certificates of incorporation, bylaws, applicable law or other applicable agreements as of the Petition Date to indemnify, defend, reimburse, exculpate, advance fees and expenses to, or limit the liability of directors or officers who were directors or officers of such Debtor at any time prior to the Effective Date, respectively, 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, shall survive confirmation of the Plan, remain unaffected thereby after the Effective Date and not be discharged, irrespective of whether such indemnification, defense, advancement, reimbursement, exculpation or limitation is owed in connection with an event occurring before or after the Petition Date. Any Claim based on the Debtors'

obligations herein shall not be a Disputed Claim or subject to any objection in either case by reason of section 502(e)(1)(B) of the Bankruptcy Code.

As of the Effective Date, each Debtor's bylaws shall provide for the indemnification, defense, reimbursement, exculpation, and/or limitation of liability of, and advancement of fees and expenses to, directors and officers who were directors or officers of such Debtor, at any time prior to the Effective Date at least to the same extent as the bylaws 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 before or after the Effective Date to terminate or materially adversely affect any of the Reorganized Debtors' obligations or such directors' or officers' rights.

In addition, after the Effective Date, none of the Reorganized Debtors shall terminate or otherwise reduce the coverage under any directors' and officers' insurance policies (including any "tail policy") in effect on the Petition Date, with respect to conduct occurring prior thereto, and all directors and officers of the Debtors who served in such capacity at any time prior to the Effective Date shall be entitled to the full benefits of any such policy for the full term of such policy regardless of whether such directors and/or officers remain in such positions after the Effective Date.

C. Cure of Defaults for Assumed Executory Contracts. With respect to each of the Debtors' Executory Contracts to be assumed, the Debtors shall have designated a proposed Cure, and the assumption of such Executory Contract may be conditioned upon the disposition of all issues with respect to Cure. Any provisions or terms of the Debtors' Executory Contracts to be assumed pursuant to the Plan that are, or may be, alleged to be in default, shall be satisfied solely by Cure or by an agreed-upon waiver of Cure. Except with respect to Executory Contracts in which the Debtors and the applicable counterparties have stipulated in writing to payment of Cure, all requests for payment of Cure that differ from the amounts proposed by the Debtors must be Filed with the Notice, Claims and Solicitation Agent on or before the Cure Bar Date. The Cure Bar Date shall not apply to any franchise or Executory Contract with a state or local franchise authority. Any request for payment of Cure that is not timely Filed shall be disallowed automatically and forever barred from assertion and shall not be enforceable against any Reorganized Debtor, without the need for any objection by the Reorganized Debtors or further notice to or action, order, or approval of the Bankruptcy Court, and any Claim for Cure shall be deemed fully satisfied, released, and discharged upon payment by the applicable Debtor of the amount listed on the Debtors' proposed Cure schedule, notwithstanding anything included in the Schedules or in any Proof of Claim to the contrary; provided, however, that nothing shall prevent the applicable Reorganized Debtor from paying any Cure despite the failure of the relevant counterparty to File such request for payment of such Cure. The

Reorganized Debtors also may settle any Cure without further notice to or action, order, or approval of the Bankruptcy Court.

If the Debtors or Reorganized Debtors, as applicable, object to any Cure or any other matter related to assumption, the Bankruptcy Court shall determine the Allowed amount of such Cure and any related issues. If there is a dispute regarding such Cure, the ability of the applicable Reorganized Debtor or any assignee to provide "adequate assurance of future performance" within the meaning of section 365 of the Bankruptcy Code, or any other matter pertaining to assumption, then Cure shall occur as soon as reasonably practicable after entry of a Final Order resolving such dispute, approving such assumption (and, if applicable, assignment), or as may be agreed upon by the applicable Debtor or Reorganized Debtor, and the counterparty to the Executory Contract. Any counterparty to an Executory Contract that fails to object timely to the proposed assumption of any Executory Contract will be deemed to have consented to such assumption. The Debtors or Reorganized Debtors, as applicable, reserve the right, with the consent of the Requisite Holders and Mr. Allen, either to reject or nullify the assumption of any Executory Contract no later than thirty days after a Final Order determining the Cure or any request for adequate assurance of future performance required to assume such Executory Contract.

Assumption of any Executory Contract pursuant to the Plan or otherwise, except any Executory Contract with a state or local franchise authority 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 at any time prior to the effective date of assumption. Any Proof of Claim Filed with respect to an Executory Contract that has been assumed shall be deemed disallowed and expunged, without further notice to or action, order or approval of the Bankruptcy Court.

D. Claims Based on Rejection or Repudiation of Executory Contracts. Unless otherwise provided by a Bankruptcy Court order, any Proofs of Claim asserting Claims arising from the rejection or repudiation of the Debtors' Executory Contracts pursuant to the Plan or otherwise must be Filed with the Notice, Claims and Solicitation Agent no later than thirty days after the later of the Effective Date or the effective date of rejection or repudiation. Any Proofs of Claim arising from the rejection or repudiation of the Debtors' Executory Contracts that are not timely Filed shall be disallowed automatically, forever barred from assertion, and shall not be enforceable against any Reorganized Debtor without the need for any objection by the Reorganized Debtors or further notice to or action, order, or approval of the Bankruptcy Court, and any Claim arising out of the rejection or repudiation of the Executory Contract shall be deemed fully satisfied, released, and discharged, notwithstanding anything in the Schedules or a Proof of Claim to the contrary.

E. Reservation of Rights. Neither the exclusion nor inclusion of any contract or lease in the Plan Supplement, 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 that any Reorganized Debtor has any liability thereunder. If 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 or Reorganized Debtors, as applicable, shall have thirty (30) days following entry of a Final Order resolving such dispute to alter their treatment of such contract or lease.

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

ARTICLE VIII.

PROCEDURES FOR RESOLVING CLAIMS AND DISPUTES

A. Allowance of Claims and Interests. After the Effective Date, each Reorganized Debtor shall have and retain any and all rights and defenses such Debtor had with respect to any Claim or Interest immediately prior to the Effective Date.

B. Claims and Interests Administration Responsibilities. Except as otherwise specifically provided in the Plan, after the Effective Date, the Reorganized Debtors shall have the sole authority: (1) to File, withdraw or litigate to judgment, objections to Claims or Interests; (2) to settle or compromise any

Disputed Claim without any further notice to or action, order or approval by the Bankruptcy Court; and (3) to administer and adjust the Claims Register to reflect any such settlements or compromises without any further notice to or action, order or approval by the Bankruptcy Court.

C. Estimation of Claims and Interests. Before or after the Effective Date, the Debtors or Reorganized Debtors, as applicable, may (but are not required to) at any time request that the Bankruptcy Court estimate any Disputed Claim or Interest 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. Notwithstanding any provision otherwise in the Plan, a Claim or Interest that has been expunged from the Claims Register, but that either is subject to appeal or has not been the subject of a Final Order, shall be deemed to be estimated at zero dollars, unless otherwise ordered by the Bankruptcy Court. In the event that the Bankruptcy Court estimates any contingent or unliquidated Claim or Interest, that estimated amount shall constitute a maximum limitation on such Claim or Interest for all purposes under the Plan (including for purposes of distributions), 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 and Interests Without Objection. Any Claim or Interest that has been paid or satisfied, or any Claim or Interest that has been amended or superseded, may be adjusted or expunged on the Claims Register 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. Beginning on the end of the first full calendar quarter that is at least 90 days after the Effective Date, the Reorganized Debtors shall publish every calendar quarter a list of all Claims or Interests that have been paid, satisfied, amended or superseded during such prior calendar quarter.

E. Disallowance of Claims or Interests. Any Claims or Interests 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 and Interests may not receive any distributions on account of such Claims and Interests 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 and expunged from the Claims Register 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. All Claims Filed on account of an employee benefit shall be deemed satisfied and expunged from the Claims Register as of the Effective Date to the extent the Reorganized Debtors elect to honor such employee benefit, without any further notice to or action, order or approval of the Bankruptcy Court.

F. Offer of Judgment. The Reorganized Debtors are authorized to serve upon a Holder of a Claim an offer to allow judgment to be taken on account of such Claim, and, pursuant to Bankruptcy Rules 7068 and 9014, Federal Rule of Civil Procedure 68 shall apply to such offer of judgment. To the extent the Holder of a Claim or Interest must pay the costs incurred by the Reorganized Debtors after the making of such offer, the Reorganized Debtors are entitled to setoff such amounts against the amount of any distribution to be paid to such Holder without any further notice to or action, order, or approval of the Bankruptcy Court.

G. Amendments to Claims. On or after the Effective Date, a Claim may not be Filed or amended without the prior authorization of the Bankruptcy Court or the Reorganized Debtors, and any such new or amended Claim Filed shall be deemed disallowed in full and expunged without any further action.

ARTICLE IX.

PROVISIONS GOVERNING DISTRIBUTIONS

A. Distributions on Account of Claims and Interests Allowed As of the Effective Date. Except as otherwise provided in the Plan, a Final Order, or as agreed to by the relevant parties, distributions under

the Plan on account of Claims and Interests Allowed on or before the Effective Date shall be made on the Distribution Date; provided, however, that (1) Allowed Administrative Expense Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases or assumed by the Debtors prior to the Effective Date shall be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business or industry practice, and (2) Allowed Priority Tax Claims, unless otherwise agreed, shall be paid in full in Cash on the Distribution Date.

B. Distributions on Account of Claims and Interests Allowed After the Effective Date.

1. Payments and Distributions on Disputed Claims. Except as otherwise provided in the Plan, a Final Order, or as agreed to by the relevant parties, distributions under the Plan on account of Disputed Claims that become Allowed after the Effective Date shall be made on the Periodic Distribution Date that is at least thirty (30) days after the Disputed Claim becomes an Allowed Claim or Interest; provided, however, that (a) Disputed Administrative Expense Claims with respect to liabilities incurred by the Debtors in the ordinary course of business during the Chapter 11 Cases or assumed by the Debtors on or before the Effective Date that become Allowed after the Effective Date shall be paid or performed in the ordinary course of business in accordance with the terms and conditions of any controlling agreements, course of dealing, course of business,

or industry practice and (b) Disputed Priority Tax Claims that become Allowed Priority Tax Claims after the Effective Date, unless otherwise agreed, shall be paid in full in Cash on the Periodic Distribution Date that is at least thirty (30) days after the Disputed Claim becomes an Allowed Claim.

2. Special Rules for Distributions to Holders of Disputed Claims. Notwithstanding any provision otherwise in the Plan and except as otherwise agreed by the relevant parties: (a) no partial payments and no partial distributions shall be made with respect to a Disputed Claim until all such disputes in connection with such Disputed Claim have been resolved by settlement or Final Order and (b) any Entity that holds both an Allowed Claim and a Disputed Claim shall not receive any distribution on the Allowed Claim unless and until all objections to the Disputed Claim have been resolved by settlement or Final Order and the Claims have been Allowed.

C. Delivery of Distributions.

1. Record Date for Distributions. On the Effective Date, the Claims Register shall be closed and any party responsible for making distributions shall instead be authorized and entitled to recognize only those record Holders listed on the Claims Register as of the close of business on the Effective Date. Notwithstanding the foregoing, if a Claim or Interest, other than one based on a publicly-traded Certificate is transferred twenty or fewer days before the Effective Date, the Distribution Agent shall make distributions to the transferee only to the extent

practical and in any event only if the relevant transfer form contains an unconditional and explicit certification and waiver of any objection to the transfer by the transferor.

2. Distribution Agent. The Distribution Agent shall make all distributions required under the Plan, except that distributions to Holders of Allowed Claims and Interests governed by a separate agreement and administered by a Servicer shall be deposited with the appropriate Servicer, at which time such distributions shall be deemed complete, and the Servicer shall deliver such distributions in accordance with the Plan and the terms of the governing agreement.

3. Delivery of Distributions in General. Except as otherwise provided in the Plan, and notwithstanding any authority to the contrary, distributions to Holders of Allowed Claims and Interests shall be made to Holders of record as of the Effective Date by the Distribution Agent or a Servicer, as appropriate: (a) in accordance with Federal Rule of Civil Procedure 4, as modified and made applicable by Bankruptcy Rule 7004; (b) to the signatory set forth on any of the Proofs of Claim or Interest Filed by such Holder or other representative identified therein (or at the last known addresses of such Holder if no Proof of Claim or Interest is Filed or if the Debtors have been notified in writing of a change of address); (c) at the addresses set forth in any written notices of address changes delivered to the Distribution Agent after the date of any related Proof of Claim or Interest; (d) at the addresses reflected in the Schedules if no Proof of Claim or Interest has been

Filed and the Distribution Agent has not received a written notice of a change of address; or (e) on any counsel that has appeared in the Chapter 11 Cases on the Holder's behalf. Distributions under the Plan on account of Allowed Claims and Interests shall not be subject to levy, garnishment, attachment, or like legal process, so that each Holder of an Allowed Claim or Interest shall have and receive the benefit of the distributions in the manner set forth in the Plan. The Debtors, the Reorganized Debtors, and the Distribution Agent, as applicable, shall not incur any liability whatsoever on account of any distributions under the Plan except for gross negligence or willful misconduct.

4. Compliance Matters. In connection with the Plan, to the extent applicable, the Reorganized Debtors and the Distribution Agent 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 Distribution 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 all applicable wage garnishments, alimony, child support, and other spousal awards, liens, and encumbrances.

5. Undeliverable Distributions. If any distribution to a Holder of an Allowed Claim or Interest is returned to a Distribution Agent as undeliverable, no further distributions shall be made to such Holder unless and until such Distribution Agent is notified in writing of such Holder's then-current address, at which time all currently due missed distributions shall be made to such Holder on the next Periodic Distribution Date. Undeliverable distributions shall remain in the possession of the Reorganized Debtors until such time as a distribution becomes deliverable, or such distribution reverts to the Reorganized Debtors and shall not be supplemented with any interest, dividends or other accruals of any kind.

6. Reversion. Any distribution under the Plan that is an Unclaimed Distribution for a period of six (6) months after distribution shall be deemed unclaimed property under section 347(b) of the Bankruptcy Code and such Unclaimed Distribution shall revest in the Reorganized Debtors. Upon such revesting, the Claim or Interest of any Holder or its successors with respect to such property shall be cancelled, discharged, and forever barred notwithstanding any applicable federal or state escheat, abandoned or unclaimed property laws to the contrary. The provisions of the Plan regarding undeliverable distributions and Unclaimed Distributions shall apply with equal force to distributions that are

issued by the Debtors, made pursuant to any indenture or Certificate (but only with respect to the distribution by the Servicer to Holders that are entitled to be recognized under the relevant indenture or Certificate and not with respect to Entities to whom those recognized Holders distribute), notwithstanding any provision in such indenture or Certificate to the contrary and notwithstanding any otherwise applicable federal or state escheat, abandoned or unclaimed property law.

7. Manner of Payment Pursuant to the Plan. Any payment in Cash to be made pursuant to the Plan shall be made at the election of the Reorganized Debtors by check or by wire transfer. Checks issued by the Distribution Agent or applicable Servicer on account of Allowed Claims and Interests shall be null and void if not negotiated within ninety (90) days after issuance, but may be requested to be reissued until the distribution revests in the Reorganized Debtors.

8. Surrender of Cancelled Instruments or Securities. On the Effective Date or as soon as reasonably practicable thereafter, each Holder of a Certificate shall be deemed to have surrendered such Certificate to the Distribution Agent or a Servicer (to the extent the relevant Claim or Interest is governed by an agreement and administered by a Servicer). Such surrendered Certificate shall be cancelled solely with respect to the Debtors, and such cancellation shall not alter the obligations or rights of any non-Debtor third parties vis-à-vis one another with respect to such Certificate. Notwithstanding anything to the

contrary herein, this paragraph shall not apply to Certificates evidencing Claims that are rendered Unimpaired under the Plan.

D. Claims Paid or Payable by Third Parties.

1. Claims Paid by Third Parties. The Notice, Claims and Solicitation Agent shall reduce in full a Claim, and such Claim shall be disallowed without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court, 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 Reorganized Debtor. 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 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. To the extent that one or more of the Debtors' insurers agrees to satisfy in full a Claim (if and to the extent adjudicated by a court of competent jurisdiction), then immediately upon such insurers' agreement, such Claim may be expunged to the extent of any agreed upon satisfaction on the Claims Register by the Notice, Claims and Solicitation Agent without a Claims objection having to be Filed and without any further notice to or action, order or approval of the Bankruptcy Court.

E. Allocation Between Principal and Accrued Interest. Except as otherwise provided in the Plan (e.g., in Class H-4), the aggregate consideration paid to Holders with respect to their Allowed Claims shall be treated pursuant to the Plan as allocated first to the principal amount of such Allowed Claim (to the extent thereof) and, thereafter, to the interest, if any, accrued through the Effective Date.

ARTICLE X.

EFFECT OF PLAN CONFIRMATION

A. 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, 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, 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 prior to the Effective Date and that arise from a termination of employment or a termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date, any contingent or noncontingent liability on account of representations or warranties issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h), or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Interest 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 or their Affiliates with respect to any Claim or Interest that existed immediately prior to 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.

B. Compromise and Settlement of Claims and Controversies. Pursuant to section 363 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 all Claims, Interests, and controversies relating to the contractual, legal, and subordination 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 an 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 of Claims and Interests 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 against other Entities.

C. CCO Credit Facility. Without reservation or qualification, the Debtors (1) irrevocably waive and abjure any right to engage in any additional borrowing under the reinstated CCO Credit Facility, and (2) commit to Cash collateralize, if required by section 1124 of the Bankruptcy Code, by the Effective Date, any letters of credit issued pursuant to the CCO Credit Facility that remain outstanding as of the Effective Date.

D. Releases by the Debtors. On the Effective Date and effective as of the Effective Date, for the good and valuable consideration provided by each of the Debtor Releasees (as defined below), including: (1) the discharge of debt and all other good and valuable consideration paid pursuant to the Plan; (2) the obligations of the Holders of Claims party to Plan Support Agreements to provide the support necessary for the Effective Date of the Plan; and (3) the services of the Debtors' present and former officers and directors in facilitating the expeditious implementation of the restructuring contemplated by the Plan, each of the Debtors shall provide a full discharge and release to each Releasing Party, including each other Debtor, and each of their respective members, officers, directors, agents, financial advisors, attorneys, employees, partners, affiliates and representatives (collectively, the "Debtor Releasees" (and each such Debtor Releasee so released shall be deemed released and discharged by the Debtors)) and their respective properties from any and all Causes of Action, whether known or unknown, whether for tort, fraud, contract, violations of federal or state securities laws or otherwise, arising from or related in any way to the Debtors, including those that any of the Debtors or Reorganized Debtors would have been legally entitled to assert against a Debtor Releasee in their own right (whether individually or collectively) or that any Holder of a Claim or Interest or other Entity, would have been legally entitled to assert on behalf of

any of the Debtors or any of their Estates, including those in any way related to the Chapter 11 Cases or the Plan to the fullest extent of the law; provided, however, that the foregoing "Debtor Release" shall not operate to waive or release any person or Entity other than a Releasing Party from any causes of action expressly set forth in and preserved by the Plan. Notwithstanding anything in the Plan to the contrary, the Debtors or the Reorganized Debtors will not release any Causes of Action that they may have now or in the future against the Non-Released Parties.

E. Third Party Releases. On the Effective Date and effective as of the Effective Date, the Holders of Claims and Interests shall be deemed to provide a full discharge and release to the Debtor Releasees and their respective property from any and all Causes of Action, whether known or unknown, whether for tort, contract, violations of federal or state securities laws or otherwise, arising from or related in any way to the Debtors, including those in any way related to the Chapter 11 Cases or the Plan; provided, that the foregoing "Third Party Release" shall not operate to waive or release any person or Entity (other than a Debtor Releasee) from any Causes of Action expressly set forth in and preserved by the Plan, the Plan Supplement or related documents, and provided further that the foregoing "Third Party Release" shall not impair the rights (a) to which an Allowed Unimpaired Claim entitles the Holder of such Allowed Unimpaired Claim or (b) of a Holder of

a General Unsecured Claim as to any General Unsecured Claim. Notwithstanding anything in the Plan to the contrary, the Releasing Parties will not release any Causes of Action that they, the Debtors or the Reorganized Debtors may have now or in the future against the Non-Released Parties. Entry of the Confirmation Order shall constitute the Bankruptcy Court's approval, pursuant to Bankruptcy Rule 9019, of the Third Party Release, and further, shall constitute its finding that the Third Party Release is: (1) in exchange for the good and valuable consideration provided by the Debtor Releasees, a good faith settlement and compromise of the claims released by the Third Party Release; (2) in the best interests of the Debtors and all Holders of Claims; (3) fair, equitable and reasonable; (4) given and made after due notice and opportunity for hearing; and (5) a bar to any of the Holders of Claims and Interests asserting any claim released by the Third Party Release against any of the Debtor Releasees.

Nothing in the Confirmation Order or the Plan shall affect a release of any claim by the United States Government or any of its agencies or any state and local authority whatsoever, including any claim arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States or any state and local authority against the Released Parties, nor shall anything in the Confirmation Order or the Plan enjoin the United States Government or any of its agencies or any state or local

authority from bringing any claim, suit, action or other proceedings against the Released Parties for any liability whatsoever, including without limitation any claim, suit or action arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States Government or any of its agencies or any state or local authority, nor shall anything in the Confirmation Order or the Plan exculpate any party from any liability to the United States Government or any of its agencies or any state and local authority whatsoever, including any liabilities arising under the Internal Revenue Code, federal securities laws, the environmental laws or any criminal laws of the United States Government or any of its agencies or any state and local authority against the Released Parties. This paragraph, however, shall in no way affect or limit the discharge granted to the Debtors under sections 524 and 1141 of the Bankruptcy Code.

F. 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.

G. Exculpation. The Exculpated Parties shall neither have, nor incur any liability to any Entity for any pre-petition or post-petition act taken or omitted to be taken in connection with, or related to formulating, negotiating, preparing, disseminating, implementing,

administering, confirming or effecting the Effective Date of the Plan, the Disclosure Statement or any contract, instrument, release or other agreement or document created or entered into in connection with the Plan or any other pre-petition or post-petition act taken or omitted to be taken in connection with or in contemplation of the restructuring of the Company; provided, that the foregoing provisions of this exculpation shall have no effect on the liability of any Entity that results from any such act or omission that is determined in a final order to have constituted gross negligence or willful misconduct; provided, further, that each Exculpated Party shall be entitled to rely upon the advice of counsel concerning his, her or its duties pursuant to, or in connection with, the Plan; provided further, that the foregoing "Exculpation" shall not apply to any acts or omissions expressly set forth in and preserved by the Plan, the Plan Supplement or related documents, except for acts or omissions of Releasing Parties.

H. Protection Against Discriminatory Treatment. Consistent with section 525 of the Bankruptcy Code and the Supremacy Clause of the U.S. Constitution, all Entities, including Governmental Units, shall not discriminate against the Reorganized Debtors or deny, revoke, suspend or refuse to renew a license, permit, charter, franchise or other similar grant to, condition such a grant to, discriminate with respect to such a grant against, the Reorganized Debtors or another Entity with whom such Reorganized Debtors have been associated, solely because one of the

Debtors has been a debtor under chapter 11, has been insolvent before the commencement of the Chapter 11 Cases (or during the Chapter 11 Cases but before the Debtor is granted or denied a discharge) or has not paid a debt that is dischargeable in the Chapter 11 Cases.

I. Setoffs and Recoupment. The Debtors may setoff against or recoup from any Claims of any nature whatsoever that the 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 such claimant.

In no event shall any Holder of Claims or Interests be entitled to setoff any Claim or Interest against any Claim, right, or Cause of Action of the Debtors or Reorganized Debtors unless such Holder has Filed a motion with the Bankruptcy Court requesting the authority to perform such setoff on or before the Confirmation Date, and notwithstanding any indication in any Proof of Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of setoff pursuant to section 553 or otherwise.

In no event shall any Holder of Claims or Interests be entitled to recoup any Claim or Interest against any Claim, right, or Cause of Action of the Debtors or the Reorganized Debtors unless such Holder actually has performed such recoupment and provided notice thereof in writing to the Debtors on or

before the Confirmation Date, notwithstanding any indication in any Proof of Claim or Interest or otherwise that such Holder asserts, has, or intends to preserve any right of recoupment.

J. Release of Liens. Except as otherwise provided in the Plan (including as to reinstated debt) 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 Debtor and its successors and assigns.

K. Document Retention. On and after the Effective Date, the Reorganized Debtors may maintain documents in accordance with their current document retention policy, as may be altered, amended, modified or supplemented by the Reorganized Debtors in the ordinary course of business.

L. Reimbursement or Contribution. If the Bankruptcy Court disallows a Claim for reimbursement or contribution of an Entity pursuant to section 502(e)(1)(B) of the Bankruptcy Code, then to the extent that such Claim is contingent as of the

time of allowance or disallowance, such Claim shall be forever disallowed notwithstanding section 502(j) of the Bankruptcy Code, unless prior to the Effective Date: (1) such Claim has been adjudicated as noncontingent or (2) the relevant Holder of a Claim has Filed a noncontingent Proof of Claim on account of such Claim and a Final Order has been entered determining such Claim as no longer contingent.

ARTICLE XI.

ALLOWANCE AND PAYMENT OF CERTAIN ADMINISTRATIVE EXPENSE CLAIMS

A. Professional Claims.

1. Final Fee Applications. All final requests for Professional Compensation and Reimbursement Claims shall be Filed no later than 45 days after the Effective Date. After notice and a hearing in accordance with the procedures established by the Bankruptcy Code and prior Bankruptcy Court orders, the Allowed amounts of such Professional Compensation and Reimbursement Claims shall be determined by the Bankruptcy Court.

2. Payment of Interim Amounts. Except as otherwise provided in the Plan, Professionals shall be paid pursuant to the Interim Compensation Order.

3. Professional Fee Escrow Account. On the Effective Date, the Reorganized Debtors (other than Reorganized CII) shall 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 respect to whom fees or

expenses have been held back pursuant to the Interim Compensation Order. Such funds shall not be considered property of the Reorganized Debtors. The remaining amount of Professional Compensation and Reimbursement Claims owing to the Professionals shall be paid in Cash to such Professionals by the Reorganized Debtors (other than Reorganized CII) from the Professional Fee Escrow Account, without interest or other earnings therefrom, when such Claims are Allowed by a Bankruptcy Court order. When all Claims by Professional have been paid in full, amounts remaining in the Professional Fee Escrow Account, if any, shall be paid to the Reorganized Debtors (other than Reorganized CII).

4. Professional Fee Reserve Amount. To receive payment for unbilled fees and expenses incurred through the Effective Date, on or before the Effective Date, the Professionals shall estimate their Accrued Professional Compensation prior to and as of the Effective Date and shall deliver such estimate to the Debtors (other than CII). If a Professional does not provide an estimate, the Reorganized Debtors (other than Reorganized CII) may estimate the unbilled fees and expenses of such Professional; provided, however, that such estimate shall not be considered an admission with respect to the fees and expenses of such Professional. The total amount so estimated as of the Effective Date shall comprise the Professional Fee Reserve Amount.

5. Post-Effective Date Fees and Expenses. Except as otherwise specifically provided in the

Plan, from and after the Effective Date, each Reorganized Debtor 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 incurred by that Reorganized Debtor after the Effective Date pursuant to the Plan. Upon the Effective Date, any requirement that Professionals comply with sections 327 through 331 and 1103 of the Bankruptcy Code in seeking retention or compensation for services rendered after such date shall terminate, and each Reorganized Debtor may employ and pay any Professional in the ordinary course of business without any further notice to or action, order or approval of the Bankruptcy Court.

6. Substantial Contribution Compensation and Expenses. Except as otherwise specifically provided in the Plan, any Entity that requests compensation or expense reimbursement for making a substantial contribution in the Chapter 11 Cases pursuant to sections 503(b)(3), (4), and (5) of the Bankruptcy Code must File an application and serve such application on counsel for the Debtors or Reorganized Debtors, as applicable, and as otherwise required by the Bankruptcy Court, the Bankruptcy Code, and the Bankruptcy Rules.

7. Indenture Trustee, Administrative Agent, and Collateral Trustee Fees, and Indemnification Obligations. Unless otherwise ordered by the Bankruptcy Court or specifically provided for in the Plan, all reasonable fees and expenses of the

indenture trustees, administrative agents, and collateral trustees (and their counsel, agents, and advisors) that are provided for under the respective indentures or credit agreements shall be paid in full in Cash without a reduction to the recoveries of applicable Holders of Allowed Claims as soon as reasonably practicable after the Effective Date. Notwithstanding the foregoing, to the extent any fees or expenses of the indenture trustees, the administrative agents, and the collateral trustees are not paid (including, without limitation, any fees or expenses incurred in connection with any unresolved litigation relating to Disputed Claims), the indenture trustees, the administrative agents, and the collateral trustees may assert their charging liens against any recoveries received on behalf of their respective Holders for payment of such unpaid amounts. The contractual indemnification obligations of the Debtors (other than CII) to these Professionals shall be reinstated as unsecured obligations of the Reorganized Debtors (other than Reorganized CII). All disputes related to the fees and expenses of the indenture trustees, administrative agents, and collateral trustees (and their counsel, agents, and advisors) shall be subject to the jurisdiction of and decided by the Bankruptcy Court. Notwithstanding anything to the contrary herein, this Article XI.A.7 will not apply to Claims rendered Unimpaired by the Plan.

8. Other Fees. The Debtors (other than CII) shall promptly pay the reasonable, documented out-of-pocket fees and expenses of Paul, Weiss, Rifkind, Wharton & Garrison LLP, Houlihan Lokey Howard & Zukin Capital, Inc., and UBS

Securities LLC, the legal and financial advisors engaged by the Crossover Committee, without Paul, Weiss, Rifkind, Wharton & Garrison LLP, Houlihan Lokey Howard & Zukin Capital, Inc., or UBS Securities LLC having to file fee applications to receive payment for such fees and expenses.

The Debtors (other than CII) shall pay the reasonable, documented out-of-pocket fees and expenses incurred by the members of the Crossover Committee in connection with the negotiation of the Plan, as well as their due diligence review and the approval and consummation of the transactions contemplated by the Plan, without such members of the Crossover Committee having to file fee applications to receive payment for such fees and expenses.

The Debtors (other than CII) shall pay the reasonable, documented out-of-pocket fees incurred by the members of the Creditors' Committee.

B. Other Administrative Expense Claims. All requests for payment of an Administrative Expense Claim must be Filed with the Notice, Claims and Solicitation Agent and served upon counsel to the Debtors or Reorganized Debtors, as applicable. The Reorganized Debtors may settle and pay any Administrative Expense Claim in the ordinary course of business without any further notice to or action, order, or approval of the Bankruptcy Court. In the event that any party with standing objects to an Administrative Expense Claim, the Bankruptcy Court shall determine the Allowed amount of such Administrative Expense Claim. Notwithstanding the

foregoing, no request for payment of an Administrative Expense Claim need be Filed with respect to an Administrative Expense Claim previously Allowed by Final Order.

ARTICLE XII.

CONDITIONS PRECEDENT TO EFFECTIVE DATE

A. Conditions Precedent to Effective Date. The following shall be satisfied or waived as conditions precedent to the Effective Date.

1. The Bankruptcy Court shall have approved the Disclosure Statement, in a manner acceptable to the Debtors, the Requisite Holders and Mr. Allen, as containing adequate information with respect to the Plan within the meaning of section 1125 of the Bankruptcy Code.

2. The final version of the Plan, the Plan Supplement and all of the documents and exhibits contained therein shall have been Filed and approved in form and substance reasonably acceptable to the Debtors, the Requisite Holders and Mr. Allen.

3. The Bankruptcy Court shall enter the Confirmation Order, in form and substance reasonably satisfactory to the Debtors, the Requisite Holders and Mr. Allen, and such order shall not have been stayed or modified or vacated on appeal.

4. All governmental, regulatory, and material third party approvals and consents, including Bankruptcy Court approval, necessary in connection with the transactions contemplated

herein shall have been obtained and be in full force and effect, and all applicable waiting periods shall have expired without any action being taken or threatened by any competent authority that would restrain, prevent or otherwise impose materially adverse conditions on such transactions.

5. All consents, approvals and waivers necessary in connection with the transactions contemplated herein with respect to Franchises (as defined in the Communications Act of 1934, as amended, 47 U.S.C. Sections 151 et seq.) or similar authorizations for the provision of cable television service in areas serving no less than 80% of CCI's individual basic subscribers in the aggregate at such time shall have been obtained, unless the condition set forth in this clause shall have been waived by the Requisite Holders and Mr. Allen.

6. The Confirmation Date shall have occurred.

7. The Debtors shall have received the funds contemplated by the Commitment Letters and the New CCH II Notes Commitment Parties shall have fulfilled all of the obligations under the Commitment Letters.

B. Waiver of Conditions Precedent. The Debtors or the Reorganized Debtors, as applicable, with the consent of the Requisite Holders and Mr. Allen, may waive any of the conditions to the Effective Date set forth above at any time, without any notice to parties in interest and without any further notice to or action, order or approval of the Bankruptcy Court, and without any formal action other than proceeding

to confirm the Plan. The failure of the Debtors or Reorganized Debtors, as applicable, the Requisite Holders or Mr. Allen to exercise any of the foregoing rights shall not be deemed a waiver of any other rights, and each such right shall be deemed an ongoing right, which may be asserted at any time.

C. Effect of Non-Occurrence of Conditions to the Effective Date. Each of the conditions to the Effective Date must be satisfied or duly waived, and the Effective Date must occur within 180 days after Confirmation, or by such later date established by Bankruptcy Court order. If the Effective Date has not occurred within 180 days of Confirmation, then upon motion by a party-in-interest made before the Effective Date and a hearing, the Confirmation Order may be vacated by the Bankruptcy Court; provided, however, that notwithstanding the Filing of such motion to vacate, the Confirmation Order may not be vacated if the Effective Date occurs before the Bankruptcy Court enters an order granting such motion. If the Confirmation Order is vacated, then except as provided in any order of the Bankruptcy Court vacating the Confirmation Order, the Plan will be null and void in all respects, including the discharge of Claims and termination of Interests pursuant to the Plan and section 1141 of the Bankruptcy Code and the assumptions, assignments or rejections of Executory Contracts, and nothing contained in the Plan or Disclosure Statement shall: (1) constitute a waiver or release of any Claims, Interests or Causes of Action; (2) prejudice in any manner the rights of any Debtor or any other Entity; or (3) constitute an admission, acknowledgment, offer or undertaking of any sort by such Debtor or any other Entity.

ARTICLE XIII.

MODIFICATION, REVOCATION, OR WITHDRAWAL OF THE PLAN

A. Modification or Amendments. Except as otherwise specifically provided in the Plan, and subject to the Plan Support Agreements and conditions to the Effective Date, the Debtors reserve the right to modify the Plan and seek Confirmation consistent with the Bankruptcy Code. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications set forth in the Plan, each of the Debtors expressly reserves its respective rights to revoke or withdraw or 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, subject to the terms of the Plan Support Agreement and conditions to the Effective Date. Upon its Filing, the Plan Supplement may be inspected in the office of the clerk of the Bankruptcy Court or its designee during normal business hours, at the Bankruptcy Court's website at www.nysb.uscourts.gov, and at the Debtors' private website at http://www.kccllc.net/charter. The documents contained in the Plan Supplement are an integral part of the Plan and shall be approved by the

Bankruptcy Court pursuant to the Confirmation Order.

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

C. Revocation or Withdrawal of Plan. Subject to the Plan Support Agreements and conditions to the Effective Date, the Debtors reserve the right to revoke or withdraw the Plan prior to the Confirmation Date and to file subsequent plans of reorganization. If the Debtors revoke or withdraw the Plan, or if Confirmation or the Effective Date does not occur, then: (1) the Plan shall be null and void in all respects; (2) any settlement or compromise embodied in the Plan (including the fixing or limiting to an amount certain of any Claim or Interest or Class of Claims or Interests), assumption or rejection of executory contracts effected by the Plan, and any document or agreement executed pursuant to the Plan, shall be deemed null and void with the exception of the Plan Support Agreements; and (3) 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 or any other Entity; or (c) constitute an admission, acknowledgement, offer, or undertaking of any sort by such Debtor or any other Entity.

ARTICLE XIV.

RETENTION OF JURISDICTION

A. Notwithstanding the entry of the Confirmation Order and the occurrence of the Effective Date, 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 Expense 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 granting and denying, in whole or in part, any applications for allowance of compensation or reimbursement of expenses to Professionals authorized pursuant to the Bankruptcy Code or the Plan;

3. Resolve any matters related to: (a) the assumption, assumption and assignment, or rejection of any Executory Contract 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 Cure or Claims arising therefrom, including Cure or Claims pursuant to section 365 of the Bankruptcy Code; (b) any

potential contractual obligation under any Executory Contract that is assumed; and (c) any dispute regarding whether a contract or lease is or was executory or expired;

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

5. 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 that may be pending on the Effective Date;

6. Adjudicate, decide or resolve any and all matters related to Causes of Action;

7. Adjudicate, decide or resolve any and all matters related to section 1141 of the Bankruptcy Code;

8. 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 or the Disclosure Statement;

9. Enter and enforce any order for the sale of property pursuant to sections 363, 1123, or 1146(a) of the Bankruptcy Code;

10. Resolve any cases, controversies, suits, disputes or Causes of Action that may arise in connection with the 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 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 the Plan 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 or Interest 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 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 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 and Interests 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 under 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, or scope of the Debtors' discharge, including any dispute relating to any liability arising out of the termination of employment or the termination of any employee or retiree benefit program, regardless of whether such termination occurred prior to or after the Effective Date;

23. Enforce all orders previously entered by the Bankruptcy Court; and

24. Hear any other matter not inconsistent with the Bankruptcy Code.

ARTICLE XV.

MISCELLANEOUS PROVISIONS

A. Immediate Binding Effect. Notwithstanding Bankruptcy Rules 3020(e), 6004(g), 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 Holders of such 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 or herein, each Entity acquiring property under the Plan, and any and all non- Debtor parties to Executory Contracts 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 of Claims or Interests receiving distributions pursuant to the Plan and all other parties in interest shall, 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. Payment of Statutory Fees. All fees payable pursuant to section 1930(a) of the Judicial Code, as determined by the Bankruptcy Court at a hearing

pursuant to section 1128 of the Bankruptcy Code, shall be paid for each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed or closed, whichever occurs first.

D. Reservation of Rights. Except as expressly set forth in the Plan, the Plan shall have no force or effect unless the Bankruptcy Court shall enter the Confirmation Order. 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 of Claims or Interests prior to 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. Service of Documents.

1. After the Effective Date, any pleading, notice, or other document required by the Plan to be served on or delivered to the Reorganized Debtors shall be served on:

Debtors	**Counsel to Debtors**
Charter Communications, Inc. 12405 Powerscourt Drive, Suite 100 St. Louis, Missouri 63131-3660 Attn.: Gregory L. Doody, Esq.	Kirkland & Ellis LLP 601 Lexington Avenue New York, New York 10022 Attn.: Richard M. Cieri, Esq. Paul M. Basta, Esq. Stephen E. Hessler, Esq. – and – Kirkland & Ellis LLP 300 North LaSalle Chicago, Illinois 60654 Attn.: Ray C. Schrock, Esq.
Counsel to CII	**United States Trustee**
Togut, Segal & Segal, LLP One Penn Plaza New York, New York 10119 Attn.: Albert Togut, Esq. Frank Oswald, Esq.	Office of the United States Trustee for the Southern District of New York 33 Whitehall Street, 21st Floor New York, New York 10004 Attn.: Paul K. Schwartzberg, Esq.

Counsel to the Agent for the Debtors' Prepetition First Lien Facility	**Counsel to the Crossover Committee**
Simpson Thacher & Bartlett LLP 425 Lexington Avenue New York, New York 10017 Attn.: Peter V. Pantaleo, Esq.	Paul, Weiss, Rifkind, Wharton & Garrison LLP 1285 Avenue of the Americas New York, New York 10019-6064 Attn.: Alan W. Kornberg, Esq. Kenneth M. Schneider, Esq.
Counsel to the Creditors' Committee	
Ropes & Gray LLP 1211 Avenue of the Americas New York, New York 10036-8704 Attn.: Mark R. Somerstein, Esq. Keith H. Wofford, Esq.	

2. After the Effective Date, the Debtors have authority to send a notice to Entities that to continue to receive documents pursuant to Bankruptcy Rule 2002, they must File a renewed request to receive documents pursuant to Bankruptcy Rule 2002. After the Effective Date,

the 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.

3. In accordance with Bankruptcy Rules 2002 and 3020(c), within ten (10) Business Days of the date of entry of the Confirmation Order, the Debtors shall serve the Notice of Confirmation by United States mail, first class postage prepaid, by hand, or by overnight courier service to all parties served with the Confirmation Hearing Notice; provided, however, 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 have been informed in writing by such Entity, or are otherwise aware, of that Entity's new address. To supplement the notice described in the preceding sentence, within twenty days of the date of the Confirmation Order the Debtors shall publish the Notice of Confirmation once in *The Wall Street Journal* (National Edition). Mailing and publication of the Notice of Confirmation in the time and manner set forth in the this paragraph shall be good 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.

G. 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.

H. Entire Agreement. On the Effective Date, 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.

I. 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 New York, 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), and corporate governance matters; provided, however, that corporate governance matters relating to Debtors or Reorganized Debtors, as applicable, not incorporated in New York shall be governed by the laws of the state of incorporation of the applicable Debtor or Reorganized Debtor, as applicable.

J. 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. Except as otherwise provided in the Plan, such exhibits and documents included in the Plan Supplement shall be Filed with the Bankruptcy Court on or before the Plan Supplement Filing Date. After the exhibits and documents are Filed, copies of such exhibits and documents shall have been available upon written request to the Debtors' counsel at the address above or by downloading such exhibits and documents from the Debtors' private website at http://www.kccllc.net/charter or the Bankruptcy Court's website at www.nysb.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 non-document portion of the Plan shall control.

K. Nonseverability of Plan Provisions upon Confirmation. If, prior to 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, as it may have been altered or interpreted in accordance with the foregoing, is: (1) valid and enforceable pursuant to its terms; (2) integral to the Plan and may not be deleted or modified without the consent of the Debtors, the Crossover Committee, and Mr. Allen; and (3) nonseverable and mutually dependent.

L. 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 of the Bankruptcy Court to close the Chapter 11 Cases.

M. Waiver or Estoppel**. Each Holder of a Claim or an Interest shall be deemed to have waived any right to assert any argument, including the right to argue that its Claim or Interest should be Allowed in a certain amount, in a certain priority, Secured or not subordinated by virtue of an agreement made with the Debtors or their counsel, or any other Entity, if such agreement was not disclosed in the Plan, the Disclosure Statement, or papers Filed with the Bankruptcy Court prior to the Confirmation Date.**

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

New York, New York
Dated: July 15, 2009

CHARTER COMMUNICATIONS, INC. (for itself and all other Debtors, except CII)

By: /s/ *Neil Smit*
Name: Neil Smit
Title: Chief Executive Officer, President and Director

CHARTER INVESTMENT, INC.

By: /s/ *William L. McGrath*
Name: William L. McGrath
Title: Vice President

APPENDIX E

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 13th day of November, two thousand twelve,

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In Re: Charter Communications, Inc.
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LAW DEBENTURE TRUST COMPANY OF NEW YORK,

Appellant,

v.

ORDER

CHARTER COMMUNICATIONS, INC., CCH I, LLC, CCH I CAPITAL CORPORATION, CCH II, LLC, CCH II CAPITAL CORPORATION,

Docket No.: 11-1726

Debtors-Appellees,

PAUL G. ALLEN, OFFICIAL COMMITTEE OF UNSECURED CREDITORS,

Appellees.

Appellant Law Debenture Trust Company of New York filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

APPENDIX F

UNITED STATES COURT OF APPEALS
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Daniel Patrick Moynihan United States Courthouse, 500 Pearl Street, in the City of New York, on the 18th day of October, two thousand twelve,

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In re: Charter Communications, Inc.,

R2 INVESTMENTS, LDC,

Appellant,

v.

ORDER

CHARTER COMMUNICATIONS, INC., CCH I, LLC, CCH I CAPITAL CORPORATION, CCH II, LLC, CCH II CAPITAL CORPORATION,

Docket No.: 11-1710

Debtors-Appellees,

PAUL G. ALLEN, OFFICIAL COMMITTEE OF UNSECURED CREDITORS,

Appellees.

Appellant, R2 Investments, LDC, filed a petition for panel rehearing, or, in the alternative, for rehearing *en banc*. The panel that determined the appeal has considered the request for panel rehearing, and the active members of the Court have considered the request for rehearing *en banc*.

IT IS HEREBY ORDERED that the petition is denied.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk