

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
(COMMERCIAL LIST)**

THE HONOURABLE

)

TUESDAY THE 21<sup>ST</sup>

)

MR. JUSTICE HAINEY

)

DAY OF FEBRUARY, 2017



**IN THE MATTER OF THE *COMPANIES' CREDITORS ARRANGEMENT ACT*,  
R.S.C. 1985, c. C-36, AS AMENDED**

**AND IN THE MATTER OF MODULAR SPACE INTERMEDIATE HOLDINGS, INC.,  
MODULAR SPACE CORPORATION, RESUN MODSPACE, INC., MODSPACE  
GOVERNMENT FINANCIAL SERVICES, INC., MODSPACE FINANCIAL SERVICES  
CANADA, LTD., RESUN CHIPPEWA, LLC AND MODULAR SPACE HOLDINGS,  
INC. (THE "DEBTORS")**

**APPLICATION OF MODULAR SPACE CORPORATION UNDER SECTION 46 OF  
THE *COMPANIES' CREDITORS ARRANGEMENT ACT*, R.S.C. 1985, c. C-36, AS  
AMENDED**

**O R D E R**

**THIS MOTION**, made by Modular Space Corporation ("**MSC**"), in its capacity as the foreign representative (the "**Foreign Representative**") of the Debtors, pursuant to the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36, as amended (the "**CCAA**") for an Order substantially in the form attached at Tab 3 of the Motion Record was heard this day at 330 University Avenue, Toronto, Ontario.

**ON READING** the affidavit of David Orlofsky sworn February 16, 2017 and the exhibits thereto (the "**Orlofsky Affidavit**"), the second report of Alvarez & Marsal Canada Inc. ("**A&M**") in its capacity as the Court-appointed information officer (the "**Information Officer**") dated February 16, 2017 (the "**Second Report**"), the affidavit of Alan J. Hutchens sworn February 15, 2017 and the exhibits thereto (the "**Hutchens Affidavit**"), the affidavit of Adam Slavens sworn February 15, 2017 and the exhibits thereto (the "**Slavens Affidavit**") and on hearing the submissions of counsel for the Foreign Representative, counsel for the Information Officer, counsel for Bank of America, N.A., as Administrative Agent for the lenders under the Debtors' Post-Petition Credit Agreement (collectively, the "**DIP Lender**"), counsel for the Ad

Hoc Group of Noteholders and such other counsel as may be present, and upon reading the affidavit of service of Evita Ferreira sworn February 16, 2017, filed,

**SERVICE**

1. **THIS COURT ORDERS** that the time for service and filing of the Notice of Motion and the Motion Record is hereby abridged and validated so that this motion is properly returnable today and hereby dispenses with further service thereof.

**CAPITALIZED TERMS**

2. **THIS COURT ORDERS** that capitalized terms not defined herein shall have the meanings ascribed thereto in the Plan (as defined below).

**RECOGNITION OF THE CONFIRMATION ORDER**

3. **THIS COURT ORDERS** that the order (the “**Confirmation Order**”) (i) confirming the Debtors’ joint pre-packaged plan of reorganization pursuant to Chapter 11 of the United States Bankruptcy Code originally distributed on or about December 20, 2016 and as filed in revised form with the United States Bankruptcy Court for the District of Delaware on February 3, 2017 (including all amendments, modifications and supplements, the “**Plan**”) and (ii) approving the Debtors’ disclosure statement in respect of the Plan be and is hereby recognized and declared to be effective and that the Confirmation Order shall be implemented in Canada in accordance with its terms, and all persons subject to the jurisdiction of this Court shall be so bound. The Confirmation Order is attached to this Order as Schedule “A”.

**IMPLEMENTATION OF PLAN**

4. **THIS COURT ORDERS** that the Debtors are authorized, directed and permitted to take all such steps and actions, and to do all things necessary or appropriate to implement the Plan and the transactions contemplated thereby in accordance with and subject to the terms of the Plan, and to enter into, execute, deliver, implement and consummate all the steps, transactions and agreements contemplated pursuant to the Plan.

5. **THIS COURT ORDERS AND DECLARES** that on the Effective Date (as defined in the Plan), the terms of the Plan shall be immediately effective and enforceable in Canada and deemed binding upon the Debtors and all claimants and shall be binding on all parties, subject to

the jurisdiction of this Court, with a claim against any of the Debtors and that is a party to or are subject to the settlements, compromises, releases, discharges and injunctions defined in the Plan.

#### **ARTICLES OF REORGANIZATION**

6. **THIS COURT ORDERS** that the articles of ModSpace Financial Services Canada, Ltd. (“**ModSpace Canada**”) will be amended in accordance with the Plan, as set out in the Articles of Reorganization attached hereto as Schedule “**B**”.

7. **THIS COURT ORDERS** that in accordance with this Order and the steps outlined in the Plan, the Registrar of Corporations of the Alberta Corporate Registry is hereby directed to file the Articles of Reorganization that are attached hereto as Schedule B, pursuant to Section 192 of the *Business Corporations Act* (Alberta), which Articles of Reorganization amend and restate Schedule B of the Articles of ModSpace Canada to:

- (a) authorize directors, between annual general meetings, to appoint one or more additional directors of ModSpace Canada to serve until the next annual general meeting, but limiting the number of additional directors to an amount that is not in excess of 1/3 of the number of directors who held office at the expiration of the last meeting of ModSpace Canada; and
- (b) prohibit ModSpace Canada from issuing any class of non-voting equity securities unless and solely to the extent permitted by section 1123(a)(6) of Chapter 11 of Title 11 of the United States Bankruptcy Code,

as more particularly outlined in Schedule B hereto.

#### **RELEASES AND INJUNCTIONS**

8. **THIS COURT ORDERS** that the Plan be and is hereby recognized and shall be immediately effective in Canada in accordance with the Confirmation Order and the Plan on the Effective Date.

### **APPROVAL OF A&M'S ACTIVITIES AND REPORTS**

9. **THIS COURT ORDERS** that the Second Report and the activities of A&M in its capacity as the Information Officer, as described in the Second Report, be and are hereby approved.

### **APPROVAL OF FEES**

10. **THIS COURT ORDERS** that the fees and disbursements of the Information Officer as described in the Second Report and as set out in the Hutchens Affidavit, including the estimated fees and disbursements of the Information Officer up to its date of discharge, be and are hereby approved.

11. **THIS COURT ORDERS** that the fees and disbursements of the Information Officer's legal counsel, Torys LLP ("**Torys**"), as described in the Second Report and as set out in the Slavens Affidavit, including the estimated fees and disbursements of Torys in connection with services to be provided to the Information Officer up to its date of discharge, be and are hereby approved. In the event the fees and disbursements of the Information Officer or its legal counsel Torys exceed the estimate, the Debtors may elect to pay such additional amounts without further application to this Court for approval of such fees and disbursements.

### **DISCHARGE OF THE COURT-ORDERED CHARGES**

12. **THIS COURT ORDERS** that the Administration Charge and the DIP Lender's Charge, as each is defined in and created in the Supplemental Order of Mr. Justice Newbould dated December 27, 2016, be and are hereby fully and finally terminated, discharged and released on the Effective Date.

### **TERMINATING THE STAY OF PROCEEDINGS AND THE PART IV CCAA PROCEEDINGS**

13. **THIS COURT ORDERS** that the stay of proceedings, as provided for in the Initial Recognition Order and the Supplemental Order of Mr. Justice Newbould, both dated December 27, 2016, be and is hereby terminated on the Effective Date.

14. **THIS COURT ORDERS** that the within proceedings under Part IV of the CCAA be and are hereby terminated on the Effective Date.

### **DISCHARGE OF A&M AS INFORMATION OFFICER**

15. **THIS COURT ORDERS** that on the Effective Date, the Information Officer shall be discharged as Information Officer of the Debtors, provided however that notwithstanding its discharge herein (a) the Information Officer shall remain Information Officer for the performance of such incidental duties as may be required to complete the administration of these proceedings, and (b) the Information Officer shall continue to have the benefit of the provisions of all orders made in this proceeding, including all approvals, protections and stays of proceedings in favour of A&M in its capacity as Information Officer.

16. **THIS COURT ORDERS** that, on the Effective Date, A&M is hereby released and discharged from any and all liabilities that A&M now has, or may hereafter have by reason of, or in any way arising out of, the acts and omissions of A&M while acting in its capacity as Information Officer in these proceedings. Without limiting the generality of the forgoing, A&M is hereby forever released and discharged from any and all liabilities relating to matters that were raised, or which could have been raised in these proceedings, save and except for any gross negligence or wilful misconduct on the part of the Information Officer.

### **INITIAL RECOGNITION ORDER AND SUPPLEMENTAL RECOGNITION ORDER**


17. **THIS COURT ORDERS** that except to the extent that the Initial Recognition Order and the Supplemental Recognition Order made in these proceedings on December 27, 2016 (the “**Supplemental Recognition Order**” and, together with the Initial Recognition Order, the “**Recognition Orders**”) have been varied by or are inconsistent with this Order or any further Order of this Court, the provisions of the Recognition Orders shall remain in full force and effect until the Effective Date, provided that the protections granted in favour of the Information Officer pursuant to the Recognition Orders shall continue in full force and effect.

### **AID AND RECOGNITION**

18. **THIS COURT HEREBY REQUESTS** the aid and recognition of any court, tribunal, regulatory or administrative body having jurisdiction in Canada or in the United States to give effect to this Order and to assist the Foreign Representative, the Debtors, the Reorganized Debtors (as defined in the Plan), the Information Officer and their respective agents in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and to provide such assistance to the Foreign

Representative, the Debtors, the Reorganized Debtors, the Information Officer, as an officer of this Court, as may be necessary or desirable to give effect to this Order or to assist the Foreign Representative, the Debtors, the Reorganized Debtors, the Information Officer and their respective agents in carrying out the terms of this Order.

19. **THIS COURT ORDERS** that each of the Foreign Representative, the Debtors, the Reorganized Debtors and the Information Officer be at liberty and is hereby authorized and empowered to apply to any court, tribunal, regulatory or administrative body, wherever located, for the recognition of this Order and for assistance in carrying out the terms of this Order.

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FEB 21 2017

PER / PAR:

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**SCHEDULE "A"**  
**CONFIRMATION ORDER**

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE

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<i>In re:</i>	: Chapter 11
MODULAR SPACE HOLDINGS, INC., et al.,	: Case No. 16-12825 (KJC)
Debtors. <sup>1</sup>	: Jointly Administered
	: Re: Docket Nos. 17, 18, 224, 226, 227, 228, 229
	: and 249
----- X	

**ORDER APPROVING DEBTORS' DISCLOSURE STATEMENT FOR, AND  
CONFIRMING, DEBTORS' JOINT PREPACKAGED PLAN OF REORGANIZATION  
PURSUANT TO CHAPTER 11 OF THE BANKRUPTCY CODE**

Modular Space Holdings, Inc. and certain of its affiliates, as debtors and debtors in possession in the above-captioned cases (the "Debtors"), having:

- a. distributed on or about December 20, 2016 (i) the *Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 17] (as modified, amended or supplemented from time to time, the "Plan"), (ii) the *Disclosure Statement for the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 18] (as modified, amended or supplemented, the "Disclosure Statement"); and (iii) ballots for voting on the Plan to holders of Claims<sup>2</sup> and Equity Interests entitled to vote on the Plan, including holders in Class 5C (Management Agreement Claims), Class 6A (Existing Holdings Equity Interests), Classes 7B through 7G (First Lien Credit Facility Claims) and Classes 8B, 8C, 8D, 8E and 8G (Note Claims) in accordance with the terms of title 11 of the United States Code (the "Bankruptcy Code"), the Federal Rules of Bankruptcy Procedure (the "Bankruptcy Rules") and the Local Rules of

<sup>1</sup> The Debtors and the last four digits of their respective United States Tax Identification Number, or similar foreign identification number, as applicable, are as follows: Modular Space Holdings, Inc. (8595); Modular Space Intermediate Holdings, Inc. (1161); Modular Space Corporation (5284); Resun ModSpace, Inc. (0701); ModSpace Government Financial Services, Inc. (8573); ModSpace Financial Services Canada, Ltd. (CRA BN 0001); Resun Chippewa, LLC (6773). The address of the Debtors' corporate headquarters is 1200 Swedesford Road, Berwyn, PA 19312.

<sup>2</sup> All capitalized terms used but not defined herein have the meanings ascribed to them in the Plan, the Disclosure Statement or the Bankruptcy Code, as applicable. The rules of construction set forth in Article I.B. of the Plan shall apply.



Bankruptcy Practice and Procedure of the United States Bankruptcy Court for the District of Delaware (the "Local Rules");

- b. commenced, on December 21, 2016 (the "Petition Date"), the Chapter 11 Cases by filing voluntary petitions for relief under chapter 11 of the Bankruptcy Code;
- c. filed,<sup>3</sup> on the Petition Date, the Plan and Disclosure Statement;
- d. filed, on the Petition Date, the *Debtors' Motion for Entry of an Order (I) Scheduling a Combined Disclosure Statement Approval and Plan Confirmation Hearing, (II) Establishing a Plan and Disclosure Statement Objection Deadline and Related Procedures, (III) Approving Solicitation and Related Procedures, (IV) Approving the Notice Procedures, (V) Approving Notice and Objection Procedures for the Assumption, Assignment and Rejection of Executory Contracts and Unexpired Leases and (VI) Extending the Time and, Upon Confirmation, Waiving the Requirements that Statements and Schedules be Filed and a Creditors' Meeting Be Convened* [Docket No. 19] (the "Scheduling Motion");
- e. filed, on the Petition Date, the *Debtors' Motion for an Order Approving Procedures for Rights Offering and Related Forms and Authorizing the Debtors to Conduct the Rights Offering in Connection with the Debtors' Joint Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 20] (the "Rights Offering Procedures Motion");
- f. filed, on December 27, 2016, the *Technical Modifications to the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, Dated December 20, 2016* [Docket No. 93] (which is included in the definition of "Plan");
- g. filed, on December 27, 2016, the *Notice of (A) Commencement of Prepackaged Chapter 11 Bankruptcy Cases, (B) Combined Hearing on the Disclosure Statement, Confirmation of the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, and Related Matters, (C) Assumption of Executory Contracts and Unexpired Leases and Cure Costs, (D) Objection Deadlines, and (E) Summary of the Plan of Reorganization*, which contained notice of the commencement of the Chapter 11 Cases, the date and time set for the hearing to consider approval of the Disclosure Statement and Confirmation of the Plan (the "Confirmation Hearing") and the deadline for filing objections (the "Objection Deadline") to the Plan and the Disclosure Statement [Docket No. 92] (the "Confirmation Hearing Notice");

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<sup>3</sup> Unless otherwise indicated, use of the term "filed" herein also refers to the service of the applicable document filed on the docket in the Chapter 11 Cases, as applicable.

- h. published, on December 29, 2016, in the *New York Times (National Edition)*, consistent with the order granting the Scheduling Motion [Docket No. 77] (the "Scheduling Order"), the Confirmation Hearing Notice (the "Confirmation Hearing Publication Notice") as evidenced by the *Affidavit of Publication of the Notice of (A) Commencement of Prepackaged Chapter 11 Bankruptcy Cases, (B) Combined Hearing on the Disclosure Statement, Confirmation of the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, and Related Matters, (C) Assumption of Executory Contracts and Unexpired Leases and Cure Costs, (D) Objection Deadlines and (E) Summary of the Plan of Reorganization in the New York Times* [Docket No. 112] (the "Confirmation Hearing Publication Notice Affidavit");
- i. filed, on January 9, 2017, the *Supplemental Notice to Certain Stakeholders Regarding the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 120] (the "Supplemental Notice")
- j. filed, on January 11, 2017, the *Affidavit of Service of Robert Terzian re: 1) Notice of (A) Commencement of Prepackaged Chapter 11 Bankruptcy Cases, (B) Combined Hearing on the Disclosure Statement, Confirmation of Debtors Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, and Related Matters, (C) Assumption of Executory Contracts and Unexpired Leases and Cure Costs, (D) Objection Deadlines, and (E) Summary of the Plan of Reorganization; 2) Notice of Non-Voting Status with Respect to (A) Unimpaired Classes Deemed to Accept the Plan and (B) Unclassified Claims; and 3) Supplemental Notice to Certain Stakeholders Regarding the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 127] (the "Confirmation Hearing Notice Affidavit" and, together with the Confirmation Hearing Notice Publication Affidavit, the "Affidavits");
- k. commenced, on January 11, 2017, consistent with the order granting the Rights Offering Procedures Motion [Docket No. 80] (the "Rights Offering Procedures Order"), the Rights Offering, as evidenced by the Rights Offering Affidavit [Docket No. 177] (the "Rights Offering Affidavit");
- l. served, on January 18, 2017, consistent with the Rights Offering Procedures Order, the New Shareholder Agreement, as evidenced by the Rights Offering Affidavit;
- m. filed, on January 18 and 19, 2017, the Plan Supplement for the *Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket Nos. 169 and 173] (as amended by the Amended Plan Supplement and Second Amended Plan Supplement (each as defined below), the "Plan Supplement," which is included in the definition of "Plan");

- n. filed, on January 19, 2017, the *Second Technical Modifications to the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, Dated December 20, 2016* [Docket No. 174] (which is included in the definition of "Plan");
- o. filed, on January 24, 2017, the *Debtors' Motion for an Order Under Bankruptcy Code Sections 105, 363, and 364 Authorizing Performance and Continuation of Surety Bond Program* [Docket No. 178] (the "Surety Bond Motion");
- p. filed, on January 25, 2017, the *Third Technical Modifications to the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code, Dated December 20, 2016* [Docket No. 193] (which is included in the definition of "Plan");
- q. filed, on January 30, 2017, the *Declaration of David Hartie of Kurtzman Carson Consultants, LLC Regarding the Mailing, Voting and Tabulation of Ballots Accepting and Rejecting the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 206] (the "Voting Report"), which details the results of the Plan voting and solicitation process;
- r. filed, on February 2, 2017, the *Amended Plan Supplement to the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 220] (the "Amended Plan Supplement," which is included in the definition of "Plan");
- s. filed, on February 3, 2017, a revised version of the Plan [Docket No. 224];
- t. filed, on February 3, 2017, the *Declaration of David Orlofsky in Support of (I) Approval of the Debtors' Disclosure Statement Pursuant to Sections 1125 and 1126(b) of the Bankruptcy Code, and (II) Confirming the Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 226] (the "Orlofsky Confirmation Declaration");
- u. filed, on February 3, 2017, the *Declaration of W. Craig Burns, CFO and Treasurer of Modular Space Corporation, in Support of (I) Approval of the Debtors' Disclosure Statement Pursuant to Sections 1125 and 1126(b) of the Bankruptcy Code, and (II) Confirming the Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 227] (the "Paquin Confirmation Declaration" and, together with the Orlofsky Confirmation Declaration, the "Confirmation Declarations");
- v. filed, on February 3, 2017, the *Debtors' Memorandum of Law in Support of Entry of an Order (I) Approving the Debtors' Disclosure Statement Pursuant to Sections 1125 and Section 1126(b) of the Bankruptcy Code, and (II) Confirming the Debtors' Joint Prepackaged Chapter 11 Plan of Reorganization* [Docket No. 228] (the "Confirmation Brief");

- w. filed, on February 6, 2017, the *Notice of Adjournment of Hearing to Consider Approval of Disclosure Statement and Confirmation of Plan* [D.I. 239] (the "Adjournment Notice");
- x. filed, on February 13, 2017, the *Second Amended Plan Supplement to the Debtors' Joint Prepackaged Plan of Reorganization Pursuant to Chapter 11 of the Bankruptcy Code* [Docket No. 248] (the "Second Amended Plan Supplement," which is included in the definition of "Plan"); and
- y. operated their businesses and managed their properties during the Chapter 11 Cases as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code.

The Court having:

- a. entered, on December 22, 2016, the Scheduling Order;
- b. set February 7, 2017 at 1:00 p.m. (prevailing Eastern Time), as the date and time for the Confirmation Hearing, pursuant to Bankruptcy Rules 3017 and 3018 and sections 1126, 1128 and 1129 of the Bankruptcy Code, as set forth in the Scheduling Order;
- c. reviewed the Plan, the Disclosure Statement, the Confirmation Brief, the Confirmation Declarations, the Voting Report, the Confirmation Hearing Notice, the Affidavits, the ballots and all filed pleadings, exhibits, statements and comments regarding approval of the Disclosure Statement and confirmation of the Plan, including all objections, statements and reservations of rights;
- d. held the Confirmation Hearing;
- e. heard statements made by counsel in respect of approval of the Disclosure Statement and confirmation of the Plan;
- f. considered all oral representations, testimony, documents, filings and other evidence regarding approval of the Disclosure Statement and confirmation of the Plan; and
- g. taken judicial notice of all pleadings and other documents filed, all orders entered, and all evidence and arguments presented in the Chapter 11 Cases.

NOW, THEREFORE, it appearing to the Court that notice of the Confirmation Hearing and the opportunity for any party in interest to object to approval of the Disclosure Statement and 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 approval of the Disclosure Statement and Confirmation and other evidence 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 makes and issues the following findings of fact and conclusions of law, and orders:

**FINDINGS OF FACT AND CONCLUSIONS OF LAW**

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

**A. Findings and Conclusions**

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

**B. Jurisdiction, Venue and Core Proceeding**

2. The Court has jurisdiction over the Chapter 11 Cases pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware dated February 29, 2012. The Court has exclusive jurisdiction to determine whether the Disclosure Statement and the Plan comply with the applicable provisions of the Bankruptcy Code and should be approved and confirmed, respectively. Venue is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409. Approval of the Disclosure Statement, including associated solicitation procedures and Confirmation of the Plan, are core proceedings within the meaning of 28 U.S.C. § 157(b)(2). The Court has subject matter jurisdiction over these matters pursuant to 28 U.S.C. § 1334 and exclusive jurisdiction to determine whether the Plan complies with the applicable provisions of the Bankruptcy Code and should be confirmed and the Disclosure Statement should be approved.

**C. Eligibility for Relief**

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

**D. Commencement and Joint Administration of the Chapter 11 Cases**

4. On the Petition Date, each of the Debtors commenced a voluntary case under chapter 11 of the Bankruptcy Code. In accordance with the *Order Directing Joint Administration of Cases Pursuant to Bankruptcy Rule 1015(b) and Local Rule 1015-1* [Docket No. 66], the Chapter 11 Cases have been consolidated for procedural purposes only and are being jointly administered pursuant to Bankruptcy Rule 1015. Since the Petition Date, the Debtors have operated their businesses and managed their properties as debtors in possession pursuant to sections 1107(a) and 1108 of the Bankruptcy Code. No trustee or examiner has been appointed in the Chapter 11 Cases. No statutory committee of unsecured creditors or equity security holders has been appointed in the Chapter 11 Cases pursuant to section 1102 of the Bankruptcy Code.

**E. Judicial Notice**

5. The Court takes judicial notice of (and deems admitted into evidence for Confirmation) the docket of the Chapter 11 Cases maintained by the clerk of the Court or its duly appointed agent, including all pleadings and other documents on file, all orders entered, all hearing transcripts, and all evidence and arguments made, proffered, or adduced at the hearings held before the Court during the pendency of the Chapter 11 Cases. Any resolutions of objections to Confirmation or to approval of the Disclosure Statement explained on the record at the Confirmation Hearing are incorporated by reference. All unresolved objections, statements, informal objections and reservations of rights, if any, related to the Plan, the Disclosure Statement, or Confirmation are overruled on the merits.

**F. Burden of Proof—Confirmation of the Plan**

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

**G. Notice**

7. As evidenced by the Confirmation Hearing Notice, the Confirmation Hearing Publication Notice, the Supplemental Notice, the Adjournment Notice and the Affidavits, due, adequate and sufficient notice of the Disclosure Statement, the Plan and the Confirmation Hearing, together with all deadlines for voting to accept or reject the Plan as well as objecting to the Disclosure Statement and the Plan, has been provided to: (a) the Office of the United States Trustee for the District of Delaware; (b) the entities listed on the Consolidated List of Creditors Holding the 30 Largest Unsecured Claims; (c) counsel to the First Lien Agent; (d) the First Lien Lenders; (e) Counsel to the Trustee; (f) the Noteholders; (g) counsel to the Consenting Interest Holders; (h) all other known creditors; (i) all holders of Existing Holdings Equity Interests; (j) the Internal Revenue Service (“IRS”); (k) the Securities and Exchange Commission; and (l) any party that has requested notice pursuant to Bankruptcy Rule 2002 (the parties identified in clauses (a) through (l) collectively, the “Core Notice Parties”). Also, the Confirmation Hearing Publication Notice was published in the *New York Times* in compliance with the Scheduling Order and Bankruptcy Rule 2002(l). Such notice was adequate and sufficient pursuant to section 1128 of the Bankruptcy Code, Bankruptcy Rules 2002(b) and 3020 and other applicable law and rules, and no other or further notice is or shall be required.

**H. Disclosure Statement**

8. The Disclosure Statement contains “adequate information” (as such term is defined in section 1125(a) of the Bankruptcy Code and used in section 1126(b)(2) of the

Bankruptcy Code) with respect to the Debtors, the Plan, and the transactions contemplated therein. The filing of the Disclosure Statement with the clerk of the Court satisfied Bankruptcy Rule 3016(b).

**I. Ballots**

9. The Classes of Claims and Equity Interests entitled under the Plan to vote to accept or reject the Plan (the "Voting Classes") are set forth below:

<u>Classes</u>	<u>Claim or Equity Interest</u>
5C	Management Agreement Claims
6A	Existing Holdings Equity Interests
7B -7G	First Lien Credit Facility Claims
8B, 8C, 8D, 8E and 8G	Note Claims

10. The Ballots and Master Ballots (as defined in the Scheduling Motion) that the Debtors used to solicit votes to accept or reject the Plan from holders in the Voting Classes adequately addressed the particular needs of the Chapter 11 Cases and were appropriate for holders in the Voting Classes to vote to accept or reject the Plan.

**J. Solicitation**

11. As described in the Voting Report, the solicitation of votes on the Plan complied with the solicitation procedures set forth in the Scheduling Motion and approved in the Scheduling Order (the "Solicitation Procedures"), was appropriate and satisfactory based upon the circumstances of the Chapter 11 Cases, and was in compliance with the provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules and any other applicable rules, laws and regulations, including the registration requirements under the Securities Act (and under any equivalent state securities or "Blue Sky" laws).



12. As described in the Voting Report and the Affidavits, as applicable, prior to the Petition Date, the Plan, the Disclosure Statement and the applicable ballot (collectively, the "Solicitation Materials"), and, following the Petition Date, the Confirmation Hearing Notice, were transmitted and served, including to all holders in the Voting Classes, in compliance with the Bankruptcy Code, including sections 1125 and 1126 thereof, the Bankruptcy Rules, including Bankruptcy Rules 3017 and 3018, the Local Rules, the Scheduling Order and any applicable non-bankruptcy law. Transmission and service of the Solicitation Materials and the Confirmation Hearing Notice were timely, adequate and sufficient. No further notice is required.

13. As set forth in the Voting Report, the Solicitation Materials were distributed to holders in the Voting Classes that held a Claim or an Equity Interest, as applicable, as of December 13, 2016 (the date specified in such documents for the purpose of the solicitation) (the "Voting Record Date"). The establishment and notice of the Voting Record Date were reasonable and sufficient.

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

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

**K. Service of Rights Offering Materials; Notice**

16. As evidenced by the Rights Offering Affidavit, the Debtors complied with the service requirements and procedures with respect to distribution of all necessary subscription forms and notices ("Subscription Materials") with respect to the Rights Offering as approved in the Rights Offering Procedures Order.

17. All Subscription Materials were properly served, and Eligible Participants' participation in the Rights Offering was sought in good faith and in compliance with the Rights Offering Procedures Order, the Bankruptcy Code, the Bankruptcy Rules and all other applicable orders, and federal, state and local laws, rules and regulations ("Applicable Laws").

18. The Subscription Materials included a signature page to the New Shareholder Agreement that holders of Note Claims intending to subscribe to Rights Offering Equity Interests in the Rights Offering were required to submit. On January 18, 2017, the Debtors filed a version of the New Shareholder Agreement with the Plan Supplement, and served that version on holders of Note Claims. On February 2, 2017, the Debtors filed the Amended Plan Supplement, which included a revised version of the New Shareholder Agreement (the "February 2 New Shareholder Agreement") reflecting certain technical, non-substantive changes, and served the February 2 New Shareholder Agreement on holders of Note Claims. To the extent holders of Note Claims submitted signature pages prior to their receipt of the February 2 New Shareholder Agreement, such signature pages are deemed to be signatures to the February 2 New Shareholder Agreement and, upon the Effective Date, such holders of Note Claims shall be deemed parties to the February 2 New Shareholder Agreement.

**L. Voting**

19. As evidenced by the Voting Report, votes to accept or reject the Plan have been solicited and tabulated fairly, in good faith and in compliance with the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Scheduling Order, the Disclosure Statement and any applicable non-bankruptcy law, rule, or regulation.

20. Each of the Debtors and, to the extent applicable, their respective affiliates, agents, directors, members, partners, officers, employees, advisors and attorneys have solicited

votes on the Plan in good faith and in compliance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules and all Applicable Laws.

**M. Voting Results**

21. The Voting Classes are impaired under the Plan and therefore eligible to vote on the Plan. As evidenced by the Voting Report, which is incorporated herein by reference, 100% of voting holders of Class 5C Management Agreement Claims, 100% of voting holders of Class 6A Existing Holdings Equity Interests, 100% of voting holders of Classes 7B through 7G First Lien Credit Facility Claims and 100% of voting holders of Classes 8B, 8C, 8D, 8E and 8G Note Claims voted to accept the Plan.

**N. Classes Deemed to Have Accepted the Plan**

22. Classes 1A-1G (Other Priority Claims), 2A-2G (Other Secured Claims), 3A-3G (General Unsecured Claims), 4A-4G (Intercompany Claims) and 9B-9G (Equity Interests in Intermediate, Modular Space Corporation, Resun ModSpace, Inc., ModSpace Government Financial Services, Inc., ModSpace Financial Services Canada, Ltd. and Resun Chippewa, LLC) (collectively, the "Unimpaired Classes") are unimpaired under the Plan and holders of such Claims and Equity Interests are deemed to have accepted the Plan pursuant to section 1126(f) of the Bankruptcy Code.

**O. Plan Supplement**

23. The Plan Supplement complies with the Bankruptcy Code and the terms of the Plan, and the filing and notice of the Plan Supplement was good and proper in accordance with the Bankruptcy Code, the Bankruptcy Rules and the Local Rules, and no other or further notice is required. All documents included in the Plan Supplement are integral to, part of, and incorporated by reference into the Plan. Subject to the terms of the Plan (including Article XI.F. of the Plan), the Debtors reserve the right to alter, amend, update, or modify the Plan

Supplement. The Voting Parties (as defined in the Scheduling Motion) were provided due, adequate and sufficient notice of the Plan Supplement.

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

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

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

25. The Plan satisfies the requirements of sections 1122(a) and 1123(a)(1) of the Bankruptcy Code. Article III of the Plan provides for the separate classification of Claims and Equity Interests into nine Classes with subclasses for each Debtor. Valid business, factual and legal reasons exist for the separate classification of such Classes of Claims and Equity Interests. The classifications reflect no improper purpose and do not unfairly discriminate between, or among, holders of Claims or Equity Interests. Each Class of Claims and Equity Interests contains only Claims or Equity Interests that are substantially similar to the other Claims or Equity Interests within that Class.

**(ii) Specified Unimpaired Classes—Section 1123(a)(2)**

26. The Plan satisfies the requirements of section 1123(a)(2) of the Bankruptcy Code. Article III of the Plan specifies that Claims and Equity Interests, as applicable, in the Unimpaired Classes are Unimpaired under the Plan within the meaning of section 1124 of the Bankruptcy Code.

27. Additionally, Article II of the Plan specifies that Allowed Administrative Claims, DIP Facility Claims, Fee Claims, Priority Tax Claims, U.S. Trustee Fees and RSA Claims and Backstop Commitment Agreement Claims will be paid in full in accordance with the terms of the Plan, although these Claims are not classified under the Plan.

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

28. The Plan satisfies the requirements of section 1123(a)(3) of the Bankruptcy Code. Article III of the Plan specifies that Claims and Equity Interests, as applicable, in the Voting Classes are Impaired under the Plan within the meaning of section 1124 of the Bankruptcy Code, and describes the treatment of such Classes.

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

29. The Plan satisfies the requirements of section 1123(a)(4) of the Bankruptcy Code. The Plan provides for the same treatment by the Debtors for each Claim or Equity Interest in each respective Class unless the holder of a particular Claim or Equity Interest has agreed to a less favorable treatment of such Claim or Equity Interest.

30. Consummation of the Backstop Commitment Agreement pursuant to the Plan and the provision of consideration in the form of New Common Equity Interests to each of the Backstop Parties does not violate the requirements of the Bankruptcy Code, including section 1123(a)(4). Consideration to each Backstop Party under the Backstop Commitment Agreement is provided in exchange for such Backstop Party's financial commitment to purchase New Common Equity Interests thereunder, including by backstopping the Debtors' Rights Offering. Holders of Claims or Equity Interests in the same class as the Claims or Equity Interests of one or more Backstop Parties receive the same treatment under the Plan as the Claims or Equity Interests of each Backstop Party in their capacity as Holders of such Claims or Equity Interests.

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

31. The Plan satisfies the requirements of section 1123(a)(5) of the Bankruptcy Code. The provisions in the Plan, Plan Supplement and the exhibits and attachments to the Plan and the Disclosure Statement, provide, in detail, adequate and proper means for the Plan's implementation, including, without limitation: (a) the issuance of New Common Equity

Interests; (b) authorizing the Debtors and/or the Reorganized Debtors to take all actions necessary to effectuate the Plan; (c) the Reinstatement of certain Claims; (d) equitization of the Notes; (e) the vesting of Estate assets in the Reorganized Debtors; (f) the cancellation of certain existing agreements and instruments; (h) the preservation and vesting of certain Causes of Action in the Reorganized Debtors; (i) the appointment of the directors to the New Board of each of the Reorganized Debtors; and (j) entry into the Exit Credit Facility Documents.

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

32. The Plan satisfies the requirements of section 1123(a)(6) of the Bankruptcy Code. It prohibits the issuance of non-voting Equity Securities as required by such section. The New Corporate Governance Documents, as filed with the Plan Supplement, contain this prohibition.

**(vii) Directors and Officers—Section 1123(a)(7)**

33. The Plan satisfies the requirements of section 1123(a)(7) of the Bankruptcy Code. Article V.B. of the Plan contains provisions regarding the manner of selection of the Reorganized Debtors' directors and officers that are consistent with the interests of all holders of Claims and Equity Interests and public policy. The identity and affiliations of any person proposed to serve as a director or officer of the Reorganized Debtors has been disclosed in the Plan Supplement.

**(viii) Impairment / Unimpairment of Classes—Section 1123(b)(1)**

34. The Plan is consistent with section 1123(b)(1) of the Bankruptcy Code. Article III of the Plan impairs or leaves unimpaired each Class of Claims and Equity Interests.

**(ix) Assumption and Rejection—Section 1123(b)(2)**

35. The Plan is consistent with section 1123(b)(2) of the Bankruptcy Code. Article IX of the Plan provides for the assumption, assumption and assignment, or rejection of

the Debtors' Executory Contracts and Unexpired Leases not previously assumed, assumed and assigned, or rejected during the Chapter 11 Cases under section 365 of the Bankruptcy Code.

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

36. The Plan is consistent with section 1123(b)(3) of the Bankruptcy Code. In accordance with section 363 of the Bankruptcy Code and Bankruptcy Rule 9019, and in consideration of the distributions and other benefits provided under the Plan, except as stated otherwise in the Plan, the provisions of the Plan constitute a good-faith compromise of all Claims, Equity Interests and controversies relating to the contractual, subordination and other legal rights that a holder of a Claim or Equity Interest may have with respect to any Allowed Claim or Equity Interest, or any distribution to be made on account of such Allowed Claim or Equity Interest. The compromise and settlement of such Claims and Equity Interests embodied in the Plan and reinstatement and unimpairment of other Classes identified in the Plan are in the best interests of the Debtors, the Estates and all holders of Claims and Equity Interests, and are fair, equitable and reasonable.

37. Article VII.2. of the Plan describes certain releases granted by the Debtors (the "Debtor Releases"). The Debtors have satisfied the business judgment standard with respect to the propriety of the Debtor Releases. Such releases are a necessary and integral element of the Plan, and are fair, reasonable and in the best interests of the Debtors, the Estates and creditors. Also, the Debtor Releases are: (1) in exchange for the good and valuable consideration provided by the Lender Released Parties and Non-Lender Released Parties; (2) a good-faith settlement and compromise of the Claims released by Article VII.2. of the Plan; (3) given, and made, after due notice and opportunity for hearing; and (4) a bar to any of the Debtors asserting any Claim or Cause of Action released by Article VII.2. of the Plan.

38. Article VII.3. of the Plan describes certain releases granted by certain third parties (the "Third-Party Releases"). The Third-Party Releases provide finality for the Debtors, the Reorganized Debtors, the Lender Released Parties and the Non-Lender Released Parties regarding the parties' respective obligations under the Plan and with respect to the Reorganized Debtors. The Confirmation Hearing Notice sent to holders of Claims and Equity Interests and the Confirmation Hearing Publication Notice published in the *New York Times*, and the ballots sent to all holders of Impaired Claims and Equity Interests entitled to vote on the Plan, in each case, unambiguously referred recipients to the Plan sections containing Third-Party Releases. Such releases are a necessary and integral element of the Plan, and are fair, equitable, reasonable and in the best interests of the Debtors, the Estates and all holders of Claims and Equity Interests. Also, the Third-Party Releases are: (1) in exchange for the good and valuable consideration provided by the Debtors, the Reorganized Debtors, the Estates, the Lender Released Parties and the Non-Lender Released Parties; (2) a good-faith settlement and compromise of the Claims released by Article VII. of the Plan; (3) given, and made, after due notice and opportunity for hearing; (4) consensual by holders of Claims and Equity Interests granting Third-Party Releases; and (5) a bar to any Entity granting a release under Article VII.3. of the Plan from asserting any Claim or Cause of Action released by Article VII.3. of the Plan.

39. The exculpation, described in Article VII.6. of the Plan (the "Exculpation"), is appropriate under the Bankruptcy Code and Applicable Laws because it was proposed in good faith, was formulated following extensive good-faith, arm's-length negotiations with key constituents and is appropriately limited in scope. Without limiting anything in the Exculpation, each Exculpated Party has participated in the Chapter 11 Cases in good faith and is appropriately released and exculpated from any right of action against any Exculpated Party, for any



prepetition or postpetition act taken or omitted to be taken in connection with, related to or arising out of the Chapter 11 Cases or the consideration, formulation, preparation, dissemination, implementation, confirmation or consummation of the Plan, the exhibits to the Plan, the Plan Supplement, the Disclosure Statement, any transaction proposed in connection with the Chapter 11 Cases or any contract, instrument, release, or other agreement or document created or entered into or any other act taken or omitted to be taken, in connection therewith. The Exculpation, including its carve-outs for (a) any First Lien Credit Facility Claims, as assumed by the Reorganized Debtors in accordance with the amended and restated First Lien Credit Agreement pursuant to the terms of the Exit Credit Facility Documents, liabilities or obligations at any time outstanding under the Exit Credit Facility Documents, (b) the failure to perform or pay any obligation or liability under the Plan or any contract, instrument, release or other agreement or document to be entered into or delivered in connection with the Plan and (c) fraud, gross negligence or willful misconduct as determined in a Final Order, are entirely consistent with established practice in this jurisdiction and others.

40. The injunction provision set forth in Article VI.I.7. of the Plan is necessary to implement, preserve and enforce the Debtors' discharge, the Debtor Releases, the Third-Party Releases and the Exculpation, and is narrowly tailored to achieve this purpose.

41. Article VI.D. of the Plan appropriately provides that the Reorganized Debtors will retain, and may enforce, all rights to commence and pursue, as appropriate, any and all Causes of Action except for Causes of Action that have been expressly waived, settled, or otherwise released as provided in Article VI.D., whether arising before or after the Petition Date in accordance with section 1123(b) of the Bankruptcy Code. The provisions regarding the

preservation of Causes of Action in the Plan, are appropriate, fair, equitable and reasonable, and are in the best interests of the Debtors, the Estates and holders of Claims and Equity Interests.

42. The full release and discharge of all mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates described in Article VII.4. of the Plan except (a) with respect to the ABL Liens, (b) with respect to the Liens securing the DIP Facility prior to the payment in full of the DIP Facility, or (c) as otherwise provided in the Plan or in any contract, instrument, release or other agreement or document created pursuant to the Plan (the "Lien Release"), is necessary to implement the Plan. The provisions of the Lien Release are appropriate, fair, equitable and reasonable and are in the best interests of the Debtors, the Estates and holders of Claims and Equity Interests.

**(xi) Additional Plan Provisions—Section 1123(b)(6)**

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

**(xii) Curing Defaults—Section 1123(d)**

44. The Plan satisfies section 1123(d)'s requirement that any amounts necessary to cure any defaults have been determined in accordance with the relevant underlying agreement and any applicable nonbankruptcy law.

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

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

- a. is an eligible debtor under section 109, and a proper proponent of the Plan under section 1121(a), of the Bankruptcy Code;

- b. has complied with applicable provisions of the Bankruptcy Code, except as otherwise provided or permitted by orders of the Court; and
- c. complied with the applicable provisions of the Bankruptcy Code, including sections 1125 and 1126, the Bankruptcy Rules, the Local Rules, any applicable non-bankruptcy law, rule and regulation, the Scheduling Order and all other applicable law, in transmitting the Solicitation Materials, and related documents and notices, and in soliciting and tabulating the votes on the Plan.

46. Furthermore, the solicitation of acceptances or rejections of the Plan and solicitation of participation in the Rights Offering: (a) complied with the Rights Offering Procedures Order; (b) complied with all Applicable Laws governing the adequacy of disclosure in connection with such solicitation; and (c) occurred only after disclosing “adequate information,” as section 1125(a) of the Bankruptcy Code defines that term, to holders of Claims and Equity Interests. The Debtors and each Backstop Party, and their respective affiliates, agents, directors, members, partners, officers, employees, advisors and attorneys, each in their capacities as such, have acted in “good faith” within the meaning of section 1125(e) of the Bankruptcy Code. The Plan, therefore, satisfies the requirements of section 1129(a)(2) of the Bankruptcy Code.

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

47. The Plan satisfies the requirements of section 1129(a)(3) of the Bankruptcy Code. The Debtors have proposed the Plan in good faith and not by any means forbidden by law. In so determining, the Court has examined the totality of the circumstances surrounding the filing of the Chapter 11 Cases, the Plan itself, the process leading to Confirmation, including the overwhelming support of holders of Claims and Equity Interests for the Plan, and the transactions to be implemented pursuant thereto, including the equitization of the Notes and the issuance of New Common Equity Interests. The Chapter 11 Cases were filed, and the Plan was proposed, with the legitimate purpose of allowing the Debtors to emerge from bankruptcy with a

capital and organizational structure that will allow them to conduct their businesses and satisfy their obligations with sufficient liquidity and capital resources. The Rights Offering to be performed under or in connection with the Plan is an essential element of the Plan, and the terms of the various agreements evidencing such Rights Offering (including the equity purchases of each Backstop Party thereunder) are in the best interests of the Reorganized Debtors, the Debtors, their Estates, creditors and Equity Interest holders and were negotiated and obtained in good faith.

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

48. Payments made or to be made by the Debtors for services or for costs and expenses in connection with the Chapter 11 Cases prior to confirmation, or in connection with the Plan and incidental to the Chapter 11 Cases, including Allowed Administrative Claims, DIP Facility Claims, U.S. Trustee Fee, RSA Claims and Backstop Commitment Agreement Claims, have been approved by, or are subject to the approval of, this Court as reasonable. After the Effective Date, the Court will retain jurisdiction with respect to applications for allowance of Fee Claims and expenses incurred up to and through the Effective Date. The procedures set forth in the Plan for the Court's review and ultimate determination of the fees and expenses to be paid by the Debtors in connection with the Chapter 11 Cases, or in connection with the Plan and incidental to the Chapter 11 Cases, satisfy the objectives of, and are in compliance with, section 1129(a)(4) of the Bankruptcy Code.

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

49. The Debtors have satisfied the requirements of section 1129(a)(5) of the Bankruptcy Code. Article V.B. of the Plan, in conjunction with Exhibit B of the Plan Supplement, and the Confirmation Brief disclose the identity and affiliations of the individuals proposed to serve as the initial directors and officers of the Reorganized Debtors, and the identity

and nature of any compensation for any insider (as section 101 of the Bankruptcy Code defines that term) who will be employed or retained by the Reorganized Debtors. The proposed directors and officers for the Reorganized Debtors are qualified, and the appointments to, or continuance in, such offices by the proposed directors and officers is consistent with the interests of the holders of Claims and Interests and with public policy.

**U. No Rate Changes—Section 1129(a)(6)**

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

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

51. The Plan satisfies the requirements of section 1129(a)(7) of the Bankruptcy Code. The liquidation analysis, attached to the Disclosure Statement, and the other evidence related thereto in support of the Plan that was proffered, or adduced, at, or prior to, or in a declaration, 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; (d) provide a reasonable estimate of the liquidation value of the Debtors' Estates upon a conversion to a chapter 7 proceeding; and (e) establish that holders of Allowed Claims and Equity Interests in every Class will recover at least as much under the Plan on account of such Claim or Equity Interest, as of the Effective Date, as such holder would receive if the Debtors were liquidated, on the Effective Date, under chapter 7 of the Bankruptcy Code.

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

52. The Plan satisfies the requirements of section 1129(a)(8) of the Bankruptcy Code. Each of the Voting Classes voted to accept the Plan. Each of the Unimpaired Classes is deemed to accept the Plan.

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

53. The treatment of Administrative Claims, DIP Facility Claims, Fee Claims, Priority Tax Claims, U.S. Trustee Fees and RSA Claims and Backstop Commitment Agreement Claims, under Article II of the Plan, and of Other Priority Claims under Article III of the Plan, satisfies the requirements of, and complies in all respects with, section 1129(a)(9) of the Bankruptcy Code.

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

54. The Plan satisfies the requirements of section 1129(a)(10) of the Bankruptcy Code. As evidenced by the Voting Report, the Voting Classes voted to accept the Plan by the requisite numbers and amounts of Claims and Equity Interests, as applicable, determined without including any acceptance of the Plan by any insider (as that term is defined in section 101(31) of the Bankruptcy Code), specified under the Bankruptcy Code.

**Z. Feasibility—Section 1129(a)(11)**

55. The Plan satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code. The financial projections attached to the Disclosure Statement and the other evidence supporting Confirmation of the Plan proffered or adduced by the Debtors at, or prior to, or in a declaration filed in connection with, the Confirmation Hearing, including but not limited to the Exit Credit Facility in an aggregate amount of approximately \$719.5 million consisting of two revolving loans and two term loans, and the approximately \$90 million fully backstopped rights

offering the Debtors have secured: (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; (d) establish that the Plan is feasible and Confirmation of the Plan is not likely to be followed by the liquidation, or the need for further financial reorganization of the Reorganized Debtors or any successor to the Reorganized Debtors under the Plan, except as provided in the Plan; and (e) establish that the Reorganized Debtors will have sufficient funds available to meet their obligations under the Plan.

**AA. Payment of Fees—Section 1129(a)(12)**

56. The Plan satisfies the requirements of section 1129(a)(12) of the Bankruptcy Code. Article II.A. of the Plan provides for the payment of all fees payable by the Debtors under 28 U.S.C. § 1930(a).

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

57. The Plan satisfies the requirements of section 1129(a)(13) of the Bankruptcy Code. Article V.D. of the Plan provides that from and after the Effective Date, the payment of all retiree benefits, as defined in section 1114 of the Bankruptcy Code, if any, will continue in accordance with applicable law.

**CC. Non-Applicability of Certain Sections—Section 1129(a)(14), (15) and (16)**

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

**DD. Only One Plan—Section 1129(c)**

59. The Plan satisfies the requirements of section 1129(c) of the Bankruptcy Code. The Plan is the only chapter 11 plan filed in each of the Chapter 11 Cases.

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

60. The Plan satisfies the requirements of section 1129(d) of the Bankruptcy Code. The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the application of section 5 of the Securities Act.

**FF. Good Faith—Sections 1125(e) and 1126(e)**

61. The Debtors, the Reorganized Debtors, the First Lien Lenders, the First Lien Agent, the DIP Lenders, the DIP Agent, the Consenting Noteholders, the Indenture Trustee and the Consenting Interest Holders (and each of their respective affiliates, agents, directors, officers, employees, advisors, attorneys and all other Professionals), have acted in “good faith” within the meaning of sections 1125(e) and 1126(e) of the Bankruptcy Code in compliance with the applicable provisions of the Bankruptcy Code and Bankruptcy Rules in connection with all of their respective activities relating to support of the Plan, including without limitation the execution, delivery and performance of the Restructuring Support Agreement, and solicitation of acceptances of the Plan, and are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code.

**GG. Rights Offering**

62. Without limiting, impairing or modifying any previous order of this Court approving or governing the Rights Offering, the Backstop Commitment Agreement, or the rights of each of the Backstop Parties (which orders are hereby reaffirmed and ratified), the proposed terms and conditions of the Rights Offering, Backstop Commitment Agreement and any amendments thereto (subject to the terms thereof), as set forth in the Disclosure Statement, Rights Offering Procedures, the instructions attached to the Rights Offering Procedures, the subscription forms utilized in the Rights Offering, the Backstop Commitment Agreement and any amendments to any of the foregoing, are fair and reasonable. The Rights Offering, including



the Backstop Commitment Agreement (and the registration statement to be filed pursuant thereto), has been an essential element of the Plan, is in the best interests of the Debtors, the Estates and Holders of Claims and Equity Interests, and does not conflict with Applicable Laws. The Debtors and each Backstop Party have acted in good faith and exercised reasonable business judgment in connection with the Rights Offering and the Backstop Commitment Agreement.

**HH. Administration of Unimpaired or Reinstated Claims**

63. The Plan provides that certain Claims will be Unimpaired or Reinstated without requiring holders of such Claims (the "Unimpaired or Reinstated Claims") to file Proofs of Claim in the Chapter 11 Cases. Notwithstanding this treatment, certain Proofs of Claim were filed in respect of Unimpaired or Reinstated Claims. Such Proofs of Claim are not necessary to preserve the rights of holders of Unimpaired or Reinstated Claims to assert the liability alleged in the Proofs of Claim against the Reorganized Debtors on and after the Effective Date. Providing the Reorganized Debtors with the ability to direct their claims agent, Kurtzman Carson Consultants, LLC (the "Claims Agent"), to mark Proofs of Claim filed in respect of Unimpaired or Reinstated Claims as "Unimpaired" or "Reinstated" on their register of claims is necessary to effectuate the treatment provided for such Claims in the Plan, does not affect the rights of the holders of such Claims nor the rights of the Debtors, Reorganized Debtors, or other parties-in-interest, and facilitates the effective administration of the Debtors' estates, which would be impeded but for the authorization granted herein.

**II. Satisfaction of Confirmation Requirements**

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

**JJ. Implementation**

65. All documents necessary to implement the Plan and all other relevant and necessary documents have been negotiated in good faith and at arm's-length and shall, upon completion of documentation and execution, be valid, binding and enforceable agreements and shall not be in conflict with any federal or state law. The Debtors have exercised reasonable business judgment in determining to enter into all such documents and agreements and have provided sufficient and adequate notice of such documents and agreements to parties in interest. The Debtors and Reorganized Debtors, as applicable, are authorized, without further notice to, or action, order or approval of this Court or any other Person, to execute and deliver all agreements, documents (including all Exit Credit Facility Documents), instruments and certificates relating to such documents and agreements and to perform their obligations thereunder, including, without limitation, to pay all fees, costs and expenses thereunder in accordance with the Plan. The terms and conditions of such documents and agreements (and in the case of the Exit Credit Facility Documents, the terms and conditions set forth in the Exit Commitment Letter and Exit Credit Facility Term Sheet) are reaffirmed or approved, as applicable, and shall, upon completion of documentation and execution, be valid, binding and enforceable and shall not conflict with any Applicable Laws.

**KK. Disclosure of Facts**

66. The Debtors have disclosed all material facts regarding the Plan, including, without limitation, with respect to the equitization of the Notes, the Rights Offering and Backstop Commitment Agreement, the issuance of the New Common Equity Interests, the Exit Credit Facility and the assumption and incurrence of debt thereunder, securities registration exemptions for the New Common Equity Interests, the adoption, execution and delivery of all other material contracts, leases, instruments, releases, indentures, supplemental indentures and

other agreements relating to any of the foregoing and the fact that each applicable Debtor will emerge from its Chapter 11 Case as a validly existing corporation, limited liability company, partnership, or other form, as applicable, with separate assets, liabilities and obligations.

**LL. Good Faith**

67. The Debtors, the Lender Released Parties, the Non-Lender Released Parties, the Lender Releasing Parties and the Non-Lender Releasing Parties have been and will be acting in good faith if they proceed to: (a) consummate the Plan and the agreements, settlements, transactions and transfers contemplated thereby, and (b) take the actions authorized and directed by this Confirmation Order to implement the restructuring transactions.

**MM. Authorization and Issuance of Securities**

68. The issuance of the New Warrants, New Common Equity Interests (including New Common Equity Interests issued upon exercise of the New Warrants), the Old Equity Plan Consideration, the Rights Offering Equity Interests, the Non-Rights Offering Equity Interests, and the Commitment Premium Equity Interests and any other security to be issued under the Plan, including, without limitation, pursuant to the Backstop Commitment Agreement, and the New Management Incentive Plan is hereby approved and authorized.

**NN. Executory Contracts and Unexpired Leases; Adequate Assurance**

69. The Debtors have exercised reasonable business judgment in determining to assume each of their Executory Contracts and Unexpired Leases as set forth in Article IX of the Plan or otherwise, and in this Confirmation Order. Each assumption of an Executory Contract or Unexpired Lease pursuant to this Confirmation Order, in accordance with Article IX of the Plan or otherwise, shall be legal, valid and binding upon the applicable Debtor or Reorganized Debtor and all non-Debtor Persons party to such Executory Contract or Unexpired Lease, all to the same extent as if such assumption had been authorized and effectuated pursuant to a separate order of

this Court that was entered pursuant to section 365 of the Bankruptcy Code prior to the Effective Date.

70. The assumption of Executory Contracts and Unexpired Leases pursuant to this Confirmation Order and in accordance with Article IX of the Plan is integral to the Plan and is in the best interests of the Debtors and their estates, creditors, holders of Equity Interests and other parties in interest.

71. The Debtors have provided adequate assurance of future performance for each of the assumed Executory Contracts and Unexpired Leases that are being assumed by the Reorganized Debtors, as applicable, pursuant to the Plan. The Debtors have cured or provided adequate assurance that the Reorganized Debtors will cure defaults (if any) under or relating to each of the Executory Contracts and Unexpired Leases that are being assumed by the Reorganized Debtors, as applicable, pursuant to the Plan. Except as specifically provided herein, the Cure Claim with respect to assumed contracts, as set forth in Article IX of the Plan, are the sole amounts necessary under section 365(b) of the Bankruptcy Code to cure all monetary defaults and losses. By the payment of the Cure Claim, where applicable, the Debtors shall have cured and/or provided adequate assurance of cure of any monetary default existing as of the Effective Date and provided for compensation or adequate assurance of compensation to any party for actual pecuniary loss to such party resulting from a default under such assumed contracts and leases. The Plan, therefore, satisfies the requirements of section 365 of the Bankruptcy Code.

**OO. Conditions to Confirmation; Effective Date**

72. The conditions to confirmation of the Plan set forth in Article VI.A. have been satisfied.

73. Each of the conditions precedent to the Effective Date, as set forth in Article X.A. of the Plan, has been or is reasonably likely to be satisfied or waived in accordance with the Plan.

**PP. Trustee**

74. The Trustee diligently, fully, and in good faith discharged its duties and obligations pursuant to the Indenture and otherwise conducted itself with respect to all matters in any way relating to the Notes with the same degree of care and skill that a prudent person would exercise or use under the circumstances in the conduct of his or her own affairs.

**QQ. Retention of Jurisdiction**

75. This Court may properly retain jurisdiction over all matters arising out of or related to the Chapter 11 Cases, the Debtors, the Reorganized Debtors and the Plan after the Effective Date, to the fullest extent permitted by law, in accordance with Article VIII. of the Plan.

**ORDER**

IT IS ORDERED, ADJUDGED, DECREED AND DETERMINED THAT:

1. **The Disclosure Statement.** The Disclosure Statement is approved in all respects.
2. **Ballots.** The Ballots and Master Ballots (as defined in the Scheduling Motion) are approved in all respects.
3. **Solicitation.** The forms of Ballots (as defined in the Scheduling Motion) and the solicitation of votes on the Plan complied with sections 1125 and 1126 of the Bankruptcy Code, Bankruptcy Rules 3017 and 3018, all other provisions of the Bankruptcy Code and all other applicable rules, laws and regulations, and was appropriate and satisfactory and is approved in all respects.

4. **Notice of the Confirmation Hearing.** Notice of the Confirmation Hearing was appropriate and satisfactory and is approved in all respects.

5. **Confirmation of the Plan.** The Plan is approved in its entirety and CONFIRMED under section 1129 of the Bankruptcy Code. The terms of the Plan, including the Plan Supplement, the proposed terms and conditions of the Exit Credit Facility Documents (including the Exit Credit Facility Security Documents), as set forth in the definitive documentation to be entered into substantially on the terms and conditions set forth in the Exit Commitment Letter and Exit Credit Facility Term Sheet, as filed with the Plan Supplement, the Rights Offering Procedures, Backstop Commitment Agreement and all other related, relevant and necessary documents and agreements are incorporated by reference into and are an integral part of this Confirmation Order.

6. **Record Closed.** The record of the Confirmation Hearing is closed.

7. **Plan Modifications.** Subsequent to filing the Plan on December 21, 2016, the Debtors made certain technical modifications to the Plan [Docket Nos. 93, 174 and 193] (the "Technical Modifications"). The Technical Modifications comply with the requirements under the Restructuring Support Agreement and do not materially adversely affect the treatment of any Claim against or Equity Interest in any of the Debtors under the Plan. After giving effect to the Technical Modifications, the Plan continues to meet the requirements of sections 1122 and 1123 of the Bankruptcy Code. The filing with the Court of the Technical Modifications, and the service of the Technical Modifications on the parties served with the Plan and Disclosure Statement, including the Voting Parties, constitute due and sufficient notice thereof. Accordingly, pursuant to section 1127(a) of the Bankruptcy Code and Bankruptcy Rule 3019, the Technical Modifications do not require additional disclosure under section 1125 of the

Bankruptcy Code or resolicitation of votes under section 1126 of the Bankruptcy Code, nor do they require that holders of Claims or Equity Interests be afforded an opportunity to change previously cast votes on the Plan.

8. **Deemed Acceptance of the Plan as Modified.** In accordance with section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019, all holders of Claims and Equity Interests who voted to accept the Plan or who are conclusively presumed to accept the Plan are deemed to have accepted the Plan as modified by the Technical Modifications. No holder of a Claim or Equity Interest shall be permitted to change its vote as a consequence of the Technical Modifications.

9. **No Action Required.** Under the provisions of the Delaware General Corporation Law, including section 303 thereof, and the comparable provisions of the Delaware Limited Liability Company Act, and section 1142(b) of the Bankruptcy Code, no action of the respective directors, stockholders, managers, or members of the Debtors is required to authorize the Debtors to enter into, execute, deliver, file, adopt, amend, restate, consummate, or effectuate, as the case may be, the Plan and any contract, instrument, or other document to be executed, delivered, adopted, or amended in connection with the implementation of the Plan.

10. **Binding Effect.** Upon the entry of this Confirmation Order and subject to the occurrence of the Effective Date, the terms of the Plan, including all agreements, instruments and other documents filed in connection with the Plan, are immediately effective and enforceable and deemed binding on the Debtors, the Reorganized Debtors, and any and all holders of Claims or Equity Interests (regardless of whether such holders of Claims or Equity Interests have or are deemed to have accepted the Plan), all Entities that are parties to or are subject to the settlements, compromises, releases, discharges and injunctions described in the

Plan, each Entity acquiring property under the Plan, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the Debtors. Notwithstanding the foregoing or any other provision herein, if there is any direct conflict between the Plan, the Plan Supplement and all exhibits and addenda thereto (including the terms of the Plan, the Plan Supplement, all exhibits and addenda thereto, incorporated by reference herein), and the terms of this Confirmation Order, the terms of this Confirmation Order shall control.

11. The payments, obligations and benefits of any entity named or referred to in the Plan shall be binding upon and inure to the benefit of such entity's heirs, executors, administrators, successors or assigns, including, with respect to the Debtors, the Reorganized Debtors, any successor to the Debtors or the Reorganized Debtors or any Estate representative appointed or selected pursuant to section 1123 of the Bankruptcy Code, including any trustee subsequently appointed in any of the Chapter 11 Cases or in any superseding chapter 7 case.

12. **Corporate Existence; Vesting of Assets in the Reorganized Debtors.** Except as otherwise provided in the Plan, this Confirmation Order, or in any agreement, instrument, or other document incorporated in the Plan, on the Effective Date, all property in each Estate, all Causes of Action, and any property acquired by any of the Debtors under the Plan (all of which transfers are approved) will vest in each respective Reorganized Debtor, free and clear of all Liens (other than the ABL Liens or Liens securing Claims that are Reinstated pursuant to the Plan), Claims (other than the First Lien Credit Facility Claims as amended, restated and assumed by the Reorganized Debtors in accordance with the amended and restated First Lien Credit Agreement pursuant to the terms of the Exit Credit Facility Documents), charges, or other encumbrances and each Reorganized Debtor shall continue to exist after the Effective Date as a separate corporate entity, limited liability company, or other form, as the case may be,



with all the powers of a corporation, limited liability company, or other form, pursuant to the Applicable Laws in the jurisdiction in which each applicable Reorganized Debtor is incorporated or formed and pursuant to the respective certificate of incorporation or bylaws (or other formation documents) in effect prior to the Effective Date, except to the extent such certificate of incorporation or bylaws (or other formation documents) are amended by or in accordance with this Plan, their terms and Applicable Law. On and after the Effective Date, except as otherwise provided in the Plan, the Reorganized Debtors may operate their businesses and may use, acquire, or dispose of property and compromise or settle any Claims, Equity Interests, or Causes of Action without supervision or approval by the Court and free of any restrictions of the Bankruptcy Code or the Bankruptcy Rules.

13. **Effectiveness of All Actions.** All actions authorized to be taken under the Plan or this Confirmation Order are effective on, prior to or after the Effective Date, as applicable, under this Confirmation Order, without further application to, or order of the Court, or further action by the respective officers, directors, members or stockholders of the Debtors or the Reorganized Debtors and with the effect that such actions had been taken by unanimous action of such officers, directors, members, or stockholders.

14. **Additional or Further Restructuring Transactions.** The Debtors or Reorganized Debtors, as applicable, are authorized, subject to compliance with the Exit Credit Facility Documents and with (i) the prior written consent of the Majority Noteholders in their sole discretion and (ii) the prior written consent of the DIP Agent and, subject to the CIH Consent Limitation, the Consenting Interest Holders, which consent shall not be unreasonably withheld, conditioned or delayed, may cause any of the Debtors or the Reorganized Debtors to engage in additional corporate restructuring transactions necessary or appropriate for the

purposes of implementing the Plan or reducing pre- or post-Effective Date liabilities for the Debtors, Reorganized Debtors or their successors, as set forth in Article IV.I. of the Plan.

15. **Issuance of Securities.** On the Effective Date, Reorganized Holdings is authorized to and shall issue and distribute, or cause to be distributed, the New Common Equity Interests and New Warrants. The issuance and distribution of the New Warrants and the New Common Equity Interests (including the Old Equity Plan Consideration, the MIP Equity Compensation, the Rights Offering Equity Interests, the Non-Rights Offering Equity Interests, the Commitment Premium Equity Interests and the New Common Equity Interests issued upon exercise of the New Warrants) are authorized, as of the Effective Date, without further notice to or order of the Court, any further corporate action, or any further act or action under the Applicable Laws, or the vote, consent, authorization or approval of any Person. The issuance of the New Warrants and the New Common Equity Interests (including the Old Equity Plan Consideration, the MIP Equity Compensation, the Rights Offering Equity Interests, the Non-Rights Offering Equity Interests, the Commitment Premium Equity Interests and the New Common Equity Interests issued upon exercise of the New Warrants) are duly authorized, validly issued and, in the case of any equity securities, fully paid and non-assessable.

16. **Cancellation of Notes, Instruments, Certificates and Other Documents.** On the Effective Date, except as otherwise specifically provided for in the Plan, the obligations of the Debtors under the Restructuring Support Agreement, the Existing Management Incentive Plans, the Senior Secured Note Documents, the DIP Documents, the Management Agreement and any other certificate, share, note, bond, indenture, purchase right, option, warrant, or other instrument or document directly or indirectly evidencing or creating any indebtedness or obligation of or ownership interest in the Debtors giving rise to any Claim or Equity Interest

(except (i) the First Lien Loan Documents as amended, restated and assumed pursuant to the Exit Credit Facility Documents, (ii) the Exit Credit Facility Documents, (iii) the Equity Interests in Intermediate, Modular Space Corporation, Resum ModSpace, Inc., ModSpace Government Financial Services, Inc., ModSpace Financial Services Canada, Ltd., and Resum Chippewa, LLC and (iv) such certificates, notes, or other instruments or documents evidencing indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the Plan), shall be terminated and cancelled as to the Debtors, and the Reorganized Debtors shall not have any continuing obligations thereunder; and the obligations of the Debtors pursuant, relating, or pertaining to any agreements, indentures, certificates of designation, by-laws, or certificate or articles of incorporation or similar documents governing the units, certificates, notes, bonds, purchase rights, options, warrants, or other instruments or documents evidencing or creating any indebtedness or obligation of the Debtors (except (i) the First Lien Loan Documents as amended, restated and assumed pursuant to the Exit Credit Facility Documents, (ii) the Exit Credit Facility Documents, and (iii) such agreements, certificates, notes, or other instruments evidencing indebtedness or obligations of the Debtors that are specifically Reinstated pursuant to the Plan or assumed by the Debtors) shall be released and discharged; provided, however, that, notwithstanding the occurrence of the Confirmation Date or the Effective Date, any such indenture or agreement that governs the rights of the holder of a Claim shall continue in effect solely for purposes of allowing holders of such Claims to receive distributions under the Plan as provided herein, allowing the First Lien Agent and the Trustee to make distributions under the Plan as provided herein, and deduct therefrom such reasonable compensation, fees, and expenses due thereunder or incurred in making such distributions, to the extent not paid by the Debtors and authorized under such agreement, and allowing the First Lien Agent and the

Trustee to seek compensation and/or reimbursement of fees and expenses as and to the extent required by, and in accordance with, the terms of the Plan. For the avoidance of doubt, nothing in this section shall result in any obligation, liability, or expense of the Debtors or the Reorganized Debtors pursuant to the Bankruptcy Code, the Confirmation Order, or the Plan, or result in any additional obligation, expense, or liability of the Debtors or the Reorganized Debtors. On and after the Effective Date, all duties and responsibilities of the First Lien Agent and the Trustee shall be discharged except to the extent required to effectuate the Plan. Notwithstanding anything in this paragraph to the contrary, the DIP Credit Agreement shall continue in effect solely as to provisions relating to obligations among lenders and between agent and lenders and for the purpose of allowing the DIP Agent to receive distributions from the Debtors under the Plan and to make further distributions to the holders of DIP Facility Claims on account of such Claims.

17. **Distributions.** All distributions under the Plan shall be made in accordance with the terms and conditions set forth in the Plan.

18. **Preparation, Delivery and Execution of Additional Documents by Third Parties.** All holders of Claims and Equity Interests receiving distributions pursuant to the Plan and all other parties in interest shall, from time to time and as requested by the Debtors or Reorganized Debtors, take any reasonable actions as may be necessary or advisable to effectuate the provisions and intent of the Plan and this Confirmation Order.

19. **Treatment in Full Satisfaction.** The treatment of Claims and Equity Interests set forth in the Plan is in full and complete satisfaction of the legal, contractual and equitable rights that each Person holding a Claim or Equity Interest may have against the Debtors, the

Estates or their respective property, except as expressly provided in the Plan or this Confirmation Order.

20. **Treatment of Multiple Claims.** To the extent that a Claim is Allowed against the Estate of more than one Debtor, there shall be only a single recovery on account of such Allowed Claim. The aggregate recovery under the Plan on account of a Claim for which more than one Debtor is also liable, whether on account of a theory of primary or secondary liability, by reason of a guarantee agreement, indemnity agreement, joint and several liability or otherwise, shall not exceed 100% (exclusive of any post-petition interest paid pursuant to Plan) of the amount of the Allowed Claim.

21. **Preservation of Causes of Action.** Pursuant to Article VI.D. of the Plan, unless any Causes of Action against an Entity are expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or by a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Reorganized Debtors 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, as set forth in the Plan. The Reorganized Debtors' rights to commence, prosecute, or settle such Causes of Action shall be preserved notwithstanding the occurrence of the Effective Date. For the avoidance of doubt, the Debtors' failure to list any Causes of Action in the Disclosure Statement, the Plan, the Plan Supplement, or otherwise in no way limits the rights of the Reorganized Debtors as set forth above.

22. **Subordination.** Except as otherwise expressly provided in the Plan, this Confirmation Order, and any other order of the Court: (a) the classification and manner of satisfying all Claims and Equity Interests under the Plan takes into consideration all

subordination rights, whether arising by contract or under general principles of equitable subordination, section 510 of the Bankruptcy Code, or otherwise; (b) all subordination rights that a holder of a Claim or Equity Interest may have with respect to any distribution to be made under the Plan shall be discharged and terminated and all actions related to the enforcement of such subordination rights shall be enjoined permanently; and (c) the distributions under the Plan to the holders of Allowed Claims and Equity Interests will not be subject to payment of a beneficiary of such subordination rights, or to levy, garnishment, attachment or other legal process by a beneficiary of such terminated subordination rights.

23. **Release of Liens.** Except as otherwise expressly provided in the Plan, this Confirmation Order, or in any contract, instrument, release or other agreement, or document created pursuant to the Plan, and excluding (i) the ABL Liens, (ii) prior to payment in full of the DIP Facility, the Liens securing the DIP Facility, (iii) any Liens held by the Surety Bond Providers (as defined in the Surety Bond Motion) and (iv) the Liens securing any Claim that is Reinstated pursuant to the Plan, on the Effective Date and concurrently with the applicable distributions made pursuant to the Plan, all mortgages, deeds of trust, Liens, pledges, and other security interests against any property of any Debtor's Estate shall be fully released and discharged, and all of the right, title and interest of any holder of such mortgages, deeds of trust, Liens, pledges, or other security interests shall revert to the Reorganized Debtors and each of its successors and assigns. All mortgages, deeds of trust, Liens, pledges, or other security interests against any property of the Estates granted by the Debtors pursuant to the documents effectuating the First Lien Credit Facility shall not be released or discharged, and shall continue to secure the obligations of the Reorganized Debtors under the Exit Credit Facility Documents.

24. **Surety Bonds.** Notwithstanding anything else in the Plan or this Order to the contrary, the obligations of any of the Debtors to, among other things, indemnify Chubb Limited, or its affiliates, including (i) ACE European Group Limited, (ii) ACE INA Insurance Company, (iii) Insurance Company of North America, (iv) Pacific Employers Insurance Company, (v) Westchester Fire Insurance Company, (vi) Indemnity Insurance Company of North America, (vii) ACE American Insurance Company, and (viii) ACE Property and Casualty Insurance Company (collectively, the "Surety") pursuant to the indemnity agreement previously executed by Holdings, the new indemnity agreement executed by Modular Space Corporation, or common law ("Indemnity Obligations"), shall remain in full force and effect. Any Lien and/or Claim of the Surety on any collateral shall not be released pursuant to the Plan or this Order, and the rights of setoff and/or recoupment with respect to obligations which relate to a bond issued by the Surety will be unaffected. The Surety's subrogation rights shall also remain in full force and effect. Furthermore, any third party releases provided for in the Plan or this Order shall not apply to any claim(s) or potential claim(s) of the Surety, or any party to whose claims the Surety may become subrogated. The Surety expressly reserves the right to seek collateral and/or additional indemnity from the Reorganized Debtors and/or their affiliates after the Effective Date of the Plan and in accordance with the terms of any applicable agreement, right or law.

25. **Entry into the Exit Credit Facility Documents.** The proposed terms and conditions of the Exit Credit Facility Agreement and the other Exit Credit Facility Documents (including the Exit Credit Facility Security Documents), as set forth in the definitive documentation to be entered into substantially on the terms and conditions set forth in the Exit Commitment Letter and Exit Credit Facility Term Sheet, are fair and reasonable and approved

in all respects. The obligations of the applicable Reorganized Debtors under the Exit Credit Facility Documents, including all related mortgages and security agreements (or amendments to existing mortgages and security agreements), will, upon execution, constitute legal, valid, binding and authorized obligations of each of the Debtors or Reorganized Debtors, as applicable, enforceable in accordance with their terms and not in contravention of any state or federal law. On and as a condition to the occurrence of the Effective Date, each Debtor and Reorganized Debtor is authorized to (i) cause Full Payment (as such term is defined in the DIP Credit Agreement) to be made of all of the DIP Facility Claims, (ii) execute, deliver and perform all of its obligations under each Exit Credit Facility Document, including, without limitation, the Exit Credit Facility Agreement, the Security Documents, and all other instruments, waivers, consents, reaffirmations and perfection documents referred to in or required under the terms of the Exit Credit Facility Documents, and further including the payment of all fees, indemnities and expenses as provided in the Exit Commitment Letter, the accompanying Fee Letter and the Exit Credit Facility Documents, provided, however, that none of the Exit Credit Facility Documents shall constitute or operate as a novation or accord and satisfaction with respect to any of the First Lien Loan Documents or First Lien Credit Facility Claims (as amended, restated and assumed by the Reorganized Debtors in accordance with the Exit Credit Facility Documents), (iii) satisfy all conditions precedent to the effectiveness of the Exit Credit Facility Agreement and the making of credit extensions thereunder, (iv) incur, pay and discharge all liabilities, obligations and duties under each of the Exit Credit Facility Documents, and (v) grant to the Exit Agent (for its benefit and for the benefit of the Exit Lenders and the other secured parties under any of the Exit Credit Facility Documents) Liens upon any or all of such Reorganized Debtor's real and personal property (now existing or



hereafter created, acquired or arising and wherever located), as and to the extent provided in the Exit Credit Facility Documents, to secure all liabilities and obligations at any time outstanding under any of the Exit Credit Facility Documents. Notwithstanding anything to the contrary in sections 552 or 1141 of the Bankruptcy Code or otherwise, (x) the First Lien Credit Facility Claims (as amended, restated and assumed by the Reorganized Debtors in accordance with the Exit Credit Facility Documents) shall not be discharged, satisfied or released or otherwise affected in whole or in part, and each of the First Lien Credit Facility Claims (as amended, restated and assumed by the Reorganized Debtors in accordance with the Exit Credit Facility Documents) shall continue in effect and remain outstanding from and after the Effective Date as and to the extent provided in, and until paid in accordance with, the Exit Credit Facility Documents; (y) none of the ABL Liens shall be deemed to have been waived, released, satisfied, subordinated or discharged; and (z) in addition to any new Liens granted to the Exit Agent as authorized by clause (v) above, all of the ABL Liens shall continue in full force and effect as valid, perfected and first priority Liens with respect to, and shall continue to encumber all of, the Collateral, whether such Collateral existed on the Petition Date or was created or acquired or arose thereafter (including, without limitation, at any time after the Effective Date).

26. On the Effective Date, without any further action by the Court or the directors, officers or stockholders of any of the Reorganized Debtors, each Reorganized Debtor, as applicable, will be and is authorized to enter into the Exit Credit Facility Agreement and each of the other Exit Credit Facility Documents to which such Reorganized Debtor is contemplated to be a party on the Effective Date.

27. As of the Effective Date, without any further action by the Court or the directors, officers or stockholders of any of the Reorganized Debtors, the Liens and security interests

granted or continued pursuant to the Exit Credit Facility Documents will constitute legal, valid and enforceable Liens and security interests in the collateral (as defined in the Exit Credit Facility Documents and any other documents to be executed and delivered pursuant thereto) and such Liens and security interests constitute legal, valid and binding obligations of the Reorganized Debtors. The holders of Liens under the Exit Credit Facility Documents are authorized, but not required, to file with the appropriate authorities financing statements and other documents (the "Perfection Documents") in order to evidence and provide notice of such Liens. As of the Effective Date (i) such Perfection Documents, if any, will be valid, binding and in full force and Effect, (ii) all Liens granted or continued pursuant to the Exit Credit Facility Documents will be deemed perfected regardless of whether or not the Perfection Documents have been filed, and (iii) the Liens granted or continued under or in connection with the Exit Credit Facility Agreement will be deemed to be and become Liens granted by and obligations of the Reorganized Debtors.

28. In addition, on the Effective Date, without any further action by the Court or the directors, officers or stockholders of any of the Reorganized Debtors, each applicable Reorganized Debtor will be and is authorized to: (a) execute, deliver, file and record any other contracts, instruments, agreements, guaranties or other documents executed or delivered in connection with the Exit Credit Facility Documents; (b) perform all of its obligations under the Exit Credit Facility Documents; and (c) take all such other actions as any of the responsible officers of such Reorganized Debtor may determine are necessary, appropriate or desirable in connection with the consummation of the transactions contemplated by the Exit Credit Facility Documents.

29. The guarantees, mortgages, pledges, Liens and other security interests granted or continued pursuant to the Exit Credit Facility Documents have been and are granted in good faith for legitimate business purposes, reasonably equivalent value and as an inducement to the holders of the First Lien Credit Facility Claims to agree to the treatment of such Claims under the Plan and will be deemed not to constitute a fraudulent conveyance or fraudulent transfer, will not otherwise be subject to avoidance, recharacterization or subordination (including equitable subordination), and the priorities of such Liens and security interests will be as set forth in the Exit Credit Facility Documents. Notwithstanding the entry of this Confirmation Order, from the Confirmation Date through the Effective Date, all of the claims, Liens, interests, rights, priorities, protections and remedies afforded to the DIP Agent and DIP Lenders in the Final DIP Order shall remain in full force and effect, and shall constitute, and continue to constitute, the legal, valid, binding and enforceable obligations of the Debtors, which shall not be impaired, prejudiced or modified in any way at any time prior to the Effective Date. On the Effective Date, the DIP Agent and DIP Lenders shall release any and all cash collateral securing letters of credit to the Debtors held by the DIP Agent and DIP Lenders, such cash collateral to be applied as provided under the Exit Credit Facility Documents. Additionally, on the Effective Date, the DIP Agent and DIP Lenders shall be released from any and all liability, responsibility, and/or obligation to hold, reserve for, or otherwise fund or ensure the funding of the Carve-Out (as defined in the Final DIP Order) or any other expenses included within the Carve-Out and from any obligation, responsibility or liability to Debtors, any of the Professionals (as defined in the Final DIP Order) or any other third party to pay, fund or otherwise satisfy the fees and expenses of such Professionals; provided, however, that nothing herein shall relieve the Reorganized Debtors from their obligation to pay the professional fees approved and allowed by

the Bankruptcy Court or otherwise required to be paid pursuant to Article VI.F of the Plan and to fund the professional fee escrow account as set forth in Article II.C.3 of the Plan.

30. Notwithstanding anything to the contrary in this Confirmation Order or Article VIII of the Plan, after the Effective Date, any disputes arising under the Exit Credit Facility Documents will be governed by the jurisdictional provisions therein.

31. **Debtors' Obligations Under the Backstop Commitment Agreement.** Notwithstanding anything to the contrary in the Plan or this Confirmation Order, (i) the Debtors' obligations under the Backstop Commitment Agreement, including their indemnification obligations to the Backstop Parties, shall remain unaffected and shall remain in full force and effect following the Effective Date and (ii) any such obligations, including such indemnification obligations, shall not be discharged under the Plan.

32. **Compromise of Controversies.** In consideration for the distributions and other benefits, including releases, provided under the Plan, the provisions of the Plan constitute a good faith compromise and settlement of all Claims, Equity Interests and controversies resolved under the Plan and the entry of this Confirmation Order constitutes approval of such compromise and settlement under Bankruptcy Rule 9019.

33. **Assumption or Rejection of Contracts and Leases.** On the Effective Date, each Debtor shall be deemed to have assumed, each Executory Contract and Unexpired Lease to which it is a party, pursuant to section 365 of the Bankruptcy Code and in accordance with the terms and conditions of the Plan. Except as otherwise provided in this Confirmation Order, any and all objections or reservations of rights in connection with the assumption of an Executory Contract or Unexpired Lease under the Plan, if any, are overruled on their merits. Entry of this Confirmation Order constitutes an order approving the assumption of executory contracts or

Account provided for in this Court's *Final Order Pursuant to Bankruptcy Code Sections 105(a) and 366 (I) Approving Debtors' Proposed Form of Adequate Assurance of Payment, (II) Establishing Procedures for Resolving Objections by Utility Companies, and (III) Prohibiting Utility Companies from Altering, Refusing or Discontinuing Service* [D.I. 151].

39. **Release, Exculpation, Discharge and Injunction Provisions.** The release, exculpation, discharge, injunction and related provisions set forth in the Plan are approved and authorized in their entirety, and such provisions are effective and binding on all Persons and Entities to the extent provided therein.

40. **Indemnification Obligations.** On and after the Effective Date, and except as prohibited by applicable law, the Reorganized Debtors shall assume or reinstate, as applicable, all indemnification obligations in place as of the Effective Date (whether in by-laws, certificates of incorporation, or similar constituent documents, by statutory law or by written agreement, policies or procedures of the Debtors (collectively, the "Indemnification Agreements")) for the directors, officers, employees, or agents of the Debtors who served or were employed by the Debtors on or after the Petition Date. To the extent that any indemnifiable claims arise under the Indemnification Agreements, the Indemnified Individuals shall first claim against any D&O or E&O insurance that is available to satisfy such claims, and shall seek recovery under the Indemnification Agreements only to the extent such insurance is insufficient or unavailable to cover such claims in full.

41. **Compliance with Tax Requirements.** Each holder of an Allowed Claim or Equity Interest that is to receive a distribution under the Plan shall be liable for any tax obligations imposed by any governmental unit, including income, withholding and other tax obligations, on account of such distribution and any amounts deducted or withheld from any

distribution under the Plan shall be treated as if distributed to such holder of an Allowed Claim or Equity Interest in connection with the Plan. Any party making any distribution under the Plan has the right, but not the obligation, to not make a distribution until such holder has made arrangements satisfactory to such issuing or distributing party for payment of any such tax obligations. The Debtors or Reorganized Debtors, as applicable, and any disbursing agent, warrant agent, or transfer agent are authorized to take any and all actions that may be necessary or appropriate to comply with applicable 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. Except as otherwise provided in the Plan, 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 Claims (as determined for federal income tax purposes), and, thereafter, to the accrued, but unpaid interest, if any (but solely to the extent that interest is an allowable portion of such Allowed Claim).

42. **Administration of Unimpaired or Reinstated Claims.** On and after the Effective Date, the Reorganized Debtors shall have the sole authority to compromise, settle, or resolve any Claims without notice to or approval by the Bankruptcy Court or any other party and to file, litigate, compromise, settle, otherwise resolve or withdraw any objections to all Claims. For the avoidance of doubt, the Reorganized Debtors shall have the sole authority to direct the Claims Agent to mark any Proof of Claim filed in respect of an Unimpaired or Reinstated Claim as “Unimpaired” or “Reinstated,” respectively, on their register of claims; provided, however, that such designation shall not affect, impair or diminish (i) the non-

bankruptcy rights of the holder of such Claim to assert the liability alleged in the Unimpaired or Reinstated Proof of Claim against the Reorganized Debtors in a non-bankruptcy forum of competent jurisdiction, provided that the non-bankruptcy rights of the Debtors, Reorganized Debtors or any interested party to object to or defend against any such assertion of liability on any and all grounds shall be preserved, or (ii) the validity or operation of Articles III.G or VI.K of the Plan.

43. **Resolution of the Texas Taxing Authorities' Objection.** Any lien held by Bexar County, Dallas County, Irving ISD, Jefferson County, Atascosa County, Cotulla ISD, El Paso, Fort Bend Co WCID #02, Fort Bend County, Harris County, La Salle County, Nueces County, Victoria County, Wilson CAD and Wilson County (each a "Texas Taxing Authority") pursuant to Sections 32.01 and Section 32.05(b) of the Texas Property Tax Code that secures an Allowed Claim against any Debtor shall be retained with the same validity, extent and priority by the applicable Texas Taxing Authority until such Allowed Claim is satisfied in full. If any provision of the Bankruptcy Code requires the payment of interest on an Allowed Claim or Administrative Claim of a Texas Taxing Authority, or the payment of interest to enable a Texas Taxing Authority to receive the present value of the allowed amount of an Allowed Claim, the rate of interest shall be determined in accordance with section 511 of the Bankruptcy Code. It is not necessary that any Texas Taxing Authority file any Proof of Claim on account of the 2017 taxes. The administrative expense taxes are not discharged by entry of the confirmation order and liens for 2017 taxes shall be retained with the same validity, extent and priority until such time as all taxes, and any accrued penalties and interest, are paid.

44. **Resolution of the Texas Comptroller Objection.** Notwithstanding any provision to the contrary in the Plan Documents, nothing shall affect the rights of the Texas

Comptroller of Public Accounts (the "Texas Comptroller") to assert setoff and recoupment and such rights are expressly preserved, provided that the rights of the Debtors, Reorganized Debtors or any interested party to object to assertion of such setoff or recoupment rights shall be preserved and nothing provided in the Plan or this Confirmation Order shall prohibit the Texas Comptroller and its agents from proceeding with any audits of the Debtors or Reorganized Debtors in accordance with the Texas Tax Code. Any Claims held by the Texas Comptroller shall be afforded the same treatment as is provided to general unsecured claims in Article VI.K. of the Plan.

45. **Resolution of LDR Objection.** Nothing shall affect the rights of the Louisiana Department of Revenue (the "LDR") to assert setoff and recoupment and such rights are expressly preserved, provided that the rights of the Debtors, Reorganized Debtors or any interested party to object to assertion of such setoff or recoupment rights shall be preserved. Notwithstanding anything in the Plan to the contrary, the Bankruptcy Court shall not retain jurisdiction with respect to the LDR's pre-petition claim(s) except for (i) resolving the amount of any tax claim arising prior to confirmation, and (ii) enforcing any discharge and injunction provision of the Plan.

46. **Resolution of Travis County Objection.** Any lien held by Travis County, Travis County Healthcare District dba Central Health, City of Austin, Austin Community College, Travis County ESD #2 and Pflugerville Independent School District (together, "Travis County"), pursuant to Sections 32.01 and Section 32.05(b) of the Texas Property Tax Code that secures an Allowed Claim against any Debtor, shall be retained with the same validity, extent and priority by Travis County until such Allowed Claim is satisfied in full. If any provision of the Bankruptcy Code requires the payment of interest on an Allowed Claim or Administrative



Claim of Travis County, or the payment of interest to enable Travis County to receive the present value of the allowed amount of an Allowed Claim, the rate of interest shall be determined in accordance with section 511 of the Bankruptcy Code. It is not necessary that Travis County file any Proof of Claim on account of the 2017 taxes.

47. **Exemption from Securities Laws.** Pursuant to section 1125(e) of the Bankruptcy Code, neither the Debtors nor the Reorganized Debtors shall be liable for violation of any otherwise Applicable Law, rule, or regulation governing solicitation of acceptance of a plan of reorganization or the offer, issuance, sale, or purchase of securities on account of the Debtors' distribution of Subscription Rights and the transmittal of the Solicitation Materials and all materials necessary to the Rights Offering as set forth herein, their solicitation of acceptances of the Plan and participation in the Rights Offering, and the Reorganized Debtors' issuance and distribution of any securities under the Plan.

48. The Rights Offering Equity Interests (other than the Unsubscribed Equity Interests purchased by the Backstop Parties pursuant to the Backstop Commitment) and the Non-Rights Offering Equity Interests were offered and shall be issued, distributed and sold in exchange for the Notes Claims, in reliance on the exemption from registration under the Securities Act provided by section 1145 of the Bankruptcy Code. At the time of issuance, the Rights Offering Equity Interests (other than the Unsubscribed Equity Interests purchased by the Backstop Parties pursuant to the Backstop Commitment) and the Non-Rights Offering Equity Interests shall not be subject to any Securities Act transfer restrictions, except for any such Rights Offering Equity Interests or Non-Rights Offering Equity Interests issued to a person who is deemed to be an "underwriter" within the meaning of section 1145 of the Bankruptcy Code.

49. The offering, issuance, distribution and sale of the Commitment Premium Equity Interests and the Unsubscribed Equity Interests purchased by the Backstop Parties pursuant to the Backstop Commitment will be exempt from the registration requirements of the Securities Act pursuant to section 4(a)(2) of the Securities Act and/or other available exemptions from registration under the Securities Act and state securities laws, as applicable, including Regulation D under the Securities Act. Such New Common Equity Interests will be “restricted securities” within the meaning of Rule 144 of the Securities Act.

50. The New Warrants shall be offered, issued, distributed and sold in exchange for the Existing Holdings Equity Interests, in reliance on the exemption from registration under the Securities Act provided by section 1145 of the Bankruptcy Code. At the time of the issuance, the New Warrants shall not be subject to any Securities Act transfer restrictions, except for any such New Warrants issued to a person who is deemed to be an “underwriter” within the meaning of section 1145 of the Bankruptcy Code.

51. The New Common Equity Interests issued upon exercise of any New Warrants shall be exempt from registration under the Securities Act in reliance on, in the case of (x) physical settlement of the New Warrants, Section 4(a)(2) of the Securities Act and/or other available exemptions from registration under the Securities Act and state securities laws, as applicable, including Regulation D under the Securities Act, and in the case of (y) net share settlement of the New Warrants, Section 3(a)(9) of the Securities Act and/or other available exemptions from registration under the Securities Act and state securities laws, as applicable. New Common Equity Interests issued upon physical settlement of the New Warrants shall be “restricted securities” within the meaning of Rule 144 of the Securities Act. New Common Equity Interests issued upon net share settlement of the New Warrants shall not be “restricted

securities” within the meaning of Rule 144 of the Securities Act, except for New Common Equity Interests issued upon the exercise of New Warrants that were issued to a person who is deemed to be an “underwriter” within the meaning of section 1145 of the Bankruptcy Code.

52. The offering, sale, issuance and distribution of the New Common Equity Interests and New Warrants, in each case as contemplated by the Plan shall, to the extent such offering, sale, issuance or distribution is made pursuant to section 1145 of the Bankruptcy Code, be exempt from the registration requirements of Section 5 of the Securities Act and any other applicable law requiring registration or qualification prior to the offering, issuance, distribution, or sale of securities under section 1145 of the Bankruptcy Code, except with respect to any person who is deemed to be an “underwriter” within the meaning of section 1145 of the Bankruptcy Code, in which case the New Equity Interests and New Warrants shall be exempt from registration pursuant to the exemptions referenced in paragraphs 48 and 50 of this Confirmation Order.

53. The Debtors and Reorganized Debtors are authorized and directed to take actions to preserve the foregoing exemptions in accordance with the terms of the New Shareholder Agreement, the Plan or otherwise as the Debtors and Reorganized Debtors determine is appropriate and necessary.

54. **Exemption from Transfer and Intangibles Taxes.** Pursuant to section 1146(a) of the Bankruptcy Code, the issuance, transfer, or exchange of notes, equity securities, instruments or documents under or in connection with the Plan, the assignment or surrender of any lease or sublease, the creation of any mortgage, deed of trust, Lien, pledge or other security interest or the making, assignment or the delivery of any lease, sublease, deed or any other instrument of transfer under, in furtherance of, or in connection with the Plan, Exit Credit

Facility, Exit Credit Facility Documents or Backstop Commitment Agreement, including any deeds, bills of sale, assignments, mortgages, deeds of trust or similar documents executed in connection with any assets subject to the Plan, shall not be subject to any stamp, real estate transfer, intangibles, mortgage recording, sales, use or other similar tax nor any Uniform Commercial Code filing or recording fee or similar or other governmental assessment, pursuant to section 1146(a) of the Bankruptcy Code. All appropriate state or local government officials or agents shall forgo the collection of any such tax or governmental assessment and to accept for filing and recordation any of the foregoing instruments or other documents without the payment of any such tax or governmental assessment.

55. **Documents, Mortgages and Instruments.** Each federal, state, commonwealth, local, foreign, or other governmental agency is authorized to accept any and all documents, mortgages and instruments necessary or appropriate to effectuate, implement, or consummate the Plan, and this Confirmation Order.

56. **Continued Effect of Stays and Injunction.** Unless otherwise provided in the Plan or this Confirmation Order, any injunction or stay arising under or entered during the Chapter 11 Cases under sections 105 or 362 of the Bankruptcy Code or otherwise that is in existence on the Confirmation Date shall remain in full force and effect until the later of the Effective Date and the date indicated in the order providing for such injunction or stay.

57. **Officers and Boards of Directors of Reorganized Debtors.** The initial board of directors of the Reorganized Debtors shall consist of the persons identified in Exhibit B to the Plan Supplement. On the Effective Date and effective as of the Effective Date, the new directors of the Reorganized Debtors shall be deemed appointed, without the need for any further notice to or action, order or approval of this Court, other act or action under Applicable

Laws. In accordance with Article V.B. of the Plan, existing officers of each of the Debtors and the Reorganized Debtors Subsidiaries as of the Petition Date shall remain in their current capacities as officers.

58. **Ownership and Control.** The consummation of the Plan and the transactions contemplated thereby shall not constitute a change of ownership or change in control, as such terms are used in any statute, regulation, contract, indenture or agreement (including any employment, severance, termination or insurance agreements) in effect on the Effective Date and to which any of the Debtors is a party under any Applicable Law of any Governmental Unit.

59. **Separate Plans.** The Plan is a separate Plan for each of the Debtors. Accordingly, the provisions of the Plan, including without limitation the definitions and distributions to creditors and equity interest holders, shall apply to the respective assets of, Claims against, and Equity Interests in, each of the Debtor's separate Estate.

60. **Nonseverability of Plan Provisions Upon Confirmation.** Each provision of the Plan is: (a) valid and enforceable in accordance with its terms; (b) integral to the Plan and may not be deleted or modified without the Debtors' consent; and (c) nonseverable and mutually dependent.

61. **Post-Confirmation Modifications.** Without need for further order or authorization of the Court, the Debtors and the Reorganized Debtors, as applicable, are authorized and empowered to make any and all modifications to any and all documents that are necessary to effectuate the Plan that do not materially modify the terms of such documents and are consistent with the Plan. Subject to certain restrictions and requirements set forth in section 1127 of the Bankruptcy Code and Bankruptcy Rule 3019 and those restrictions on modifications

set forth in the Plan, the Debtors and the Reorganized Debtors expressly reserve their respective rights to revoke or withdraw, or to alter, amend, or modify materially the Plan with respect to such Debtor, one or more times, after Confirmation, and, to the extent necessary, may initiate proceedings in the Court to so alter, amend, or modify the Plan, or remedy any defect or omission, or reconcile any inconsistencies in the Plan, the Disclosure Statement, or this Confirmation Order, in such manner as may be necessary to carry out the purposes and intent of the Plan. Any such modification or supplement shall be considered a modification of the Plan and shall be made in accordance with Article X.F. of the Plan. Any modifications to the Plan shall be subject to the Restructuring Support Agreement so long as such agreement shall remain effective.

62. **Applicable Non-Bankruptcy Law.** The provisions of this Confirmation Order, the Plan and related documents, or any amendments or modifications thereto, shall apply and be enforceable notwithstanding any otherwise applicable non-bankruptcy law.

63. **Waiver of Filings.** Any requirement under section 521 of the Bankruptcy Code or Bankruptcy Rule 1007 obligating the Debtors to file any list, schedule, or statement with the Court or the Office of the U.S. Trustee is permanently waived as to any such list, schedule, or statement not filed as of the Confirmation Date.

64. **Governmental Approvals Not Required.** This Confirmation Order shall constitute all approvals and consents required, if any, by the laws, rules, or regulations of any state or other governmental authority with respect to the dissemination, implementation or consummation of the Plan and the Disclosure Statement, any documents, instruments or agreements, and any amendments or modifications thereto, and any other acts referred to in, or contemplated by, the Plan and the Disclosure Statement.

65. **Notices of Confirmation and Effective Date.** The Reorganized Debtors shall serve notice of entry of this Confirmation Order, substantially in the form attached hereto as Exhibit B (the “Confirmation Order Notice”) in accordance with Bankruptcy Rules 2002 and 3020(c) on all holders of Claims and Equity Interests and the Core Notice Parties within 10 Business Days after the date of entry of this Confirmation Order. As soon as reasonably practicable after the Effective Date, the Reorganized Debtors shall file notice of the Effective Date and shall serve a copy of the same on the above-referenced parties. The notice of the Effective Date may be included in the Confirmation Order Notice. Notwithstanding the above, no notice of Confirmation or Effectiveness or service of any kind shall be required to be mailed or made upon any Entity to whom the Debtors mailed notice of the Confirmation Hearing, 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. The above-referenced notices are adequate under the particular circumstances of the Chapter 11 Cases and no other or further notice is necessary.

66. **Failure of Effectiveness.** In the event that the Effective Date does not occur on or before sixty (60) days after the Confirmation Date, upon notification submitted by the Debtors to the Court (which notice the Debtors shall submit at the request of the Majority Noteholders or the DIP Agent): (i) the Confirmation Order may be vacated, (ii) no distributions under the Plan shall be made; (iii) the Debtors and all holders of Claims and Equity Interests shall be restored to the *status quo ante* as of the day immediately preceding the Confirmation Date as though the Confirmation Date had never occurred; and (iv) the Debtors’ obligations with respect to the Claims and Equity Interests shall remain unchanged and nothing contained in

the Plan shall constitute or be deemed a waiver, release, or discharge of any Claims or Equity Interests by or against the Debtors or any other Person or Entity or to prejudice in any manner the rights of the Debtors or any Person in any further proceedings involving the Debtors unless extended by Court order.

67. **Termination of the Restructuring Support Agreement.** On the Effective Date, the Restructuring Support Agreement will terminate in accordance with Section 9(a) thereof.

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

69. **Waiver of Stay.** For good cause shown, the stay of this Confirmation Order provided by any Bankruptcy Rule is waived, and this Confirmation Order shall be effective and enforceable immediately upon its entry by the Court.

70. **References to and Omissions of Plan Provisions.** References to articles, sections, and provisions 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. The failure to specifically include or to refer to any particular article, section, or provision of the Plan in this Confirmation Order shall not diminish or impair the effectiveness of such article, section, or provision, it being the intent of the Court that the Plan be confirmed in its entirety and incorporated herein by this reference.

71. **Headings.** Headings utilized herein are for convenience and reference only, and do not constitute a part of the Plan or this Confirmation Order for any other purpose.

72. **Effect of Conflict.** This Confirmation Order supersedes any Court order issued prior to the Confirmation Date that may be inconsistent with this Confirmation Order. If there



is any direct inconsistency between the terms of the Plan and the terms of this Confirmation Order, the terms of this Confirmation Order govern and control.

73. **IRS Provision.** Notwithstanding any provision to the contrary in the Plan, this Confirmation Order, and any implementing Plan documents, nothing shall: (1) affect the ability of the IRS to pursue any non-debtors to the extent allowed by non-bankruptcy law for any liabilities that may be related to any federal tax liabilities owed by the Debtors or the Debtors' Estates; (2) affect the rights of the IRS to assert setoff and recoupment and such rights are expressly preserved; (3) discharge any claim of the IRS described in Bankruptcy Code section 1141(d)(6); (4) require the IRS to allocate Plan distributions first to principal and then to interest; or (5) require the IRS to file an administrative claim in order to receive payment for any liability described in Bankruptcy Code sections 503(b)(1)(B) and 503(b)(1)(C). Any IRS administrative expense claims shall accrue interest and penalties as provided by non-bankruptcy law until paid in full. The Court shall retain non-exclusive jurisdiction regarding Priority Tax Claims to the extent permissible under applicable federal law.

74. **Resolution of United States' Objection.** Nothing in the Plan, this Order or the related Plan documents discharges or releases the Debtors, the Reorganized Debtors or any non-Debtor from any Claim, liability or cause of action of the United States or impairs the ability of the United States to pursue any Claim, liability or cause of action against any Debtor, Reorganized Debtor or non-Debtor. Contracts, leases, covenants, agreements or other interests with the federal government shall be paid, treated, determined and administered in the ordinary course of business as if the Debtors' Chapter 11 Cases were never filed and the Debtors and Reorganized Debtors shall comply with all applicable non-bankruptcy law. All Claims, liabilities, or causes of action of or to the United States shall survive the Chapter 11 Cases as if

the Chapter 11 Cases had not been commenced and be determined in the ordinary course of business, including in the manner and by the administrative or judicial tribunals in which such rights or Claims would have been resolved or adjudicated if the Chapter 11 Cases had not been commenced. Without limiting the foregoing, for the avoidance of doubt: (1) the United States shall not be required to file any proofs of claim in the Debtors' Chapter 11 Cases in order to be paid on account of any Claim, liability or cause of action; (2) nothing shall affect or impair the exercise of the United States' police and regulatory powers against the Debtors and/or the Reorganized Debtors; (3) nothing shall be interpreted to set cure amounts or to require the United States to novate or otherwise consent to the transfer of any federal interests and (4) nothing shall affect or impair the United States' rights to assert setoff and recoupment against the Debtors and/or the Reorganized Debtors and such rights are expressly preserved.

75. **Final Order.** This Confirmation Order is a Final Order and the period in which an appeal must be filed shall commence upon the entry hereof. All interim orders entered by the Court in the Chapter 11 Cases that are in effect are deemed final by operation of this Final Order.

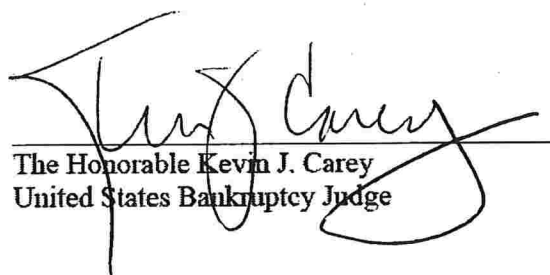
76. **Authorization to Consummate.** The Debtors are authorized to consummate the Plan at any time after entry of the Confirmation Order, subject to satisfaction or waiver of the conditions precedent to effectiveness in accordance with Article X.A. of the Plan.

77. **Aid and Assistance.** This Court requests the aid and recognition of any court, tribunal or administrative body having jurisdiction in the United States or in Canada to give effect to this Order and to assist the Debtors and Reorganized Debtors in carrying out the terms of this Order. All courts, tribunals, regulatory and administrative bodies are hereby respectfully requested to make such orders and provide such assistance to the Debtors and Reorganized

Debtors as may be necessary or desirable to give effect to this Order or to assist the Debtors and Reorganized Debtors in carrying out the terms of this Order. In particular, this Court requests the assistance of the Ontario Superior Court of Justice (Commercial List) and the Registrar of Corporations of the Alberta Corporate Registry to give effect to this Order and the Articles of Reorganization to be filed with the Alberta Corporate Registry to implement the changes to the charter of ModSpace Financial Services Canada, Ltd. contemplated by the Plan.

78. **Retention of Jurisdiction.** The Court may properly, and upon the Effective Date shall, to the full extent set forth in the Plan, retain jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases, including the matters set forth in Article VIII of the Plan and section 1142 of the Bankruptcy Code.

Dated: February 15, 2017  
Wilmington, Delaware

  
The Honorable Kevin J. Carey  
United States Bankruptcy Judge