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The following constitutes the order of the Court.
Signed: February 16, 2021

M. Elaine Hammond

M. Elaine Hammond
U.S. Bankruptcy Judge

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UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

19 In re:) Case No. 20-50682 (MEH)
20 WAVE COMPUTING, INC., *et al.*,)
21 Debtors.¹) Chapter 11 (Jointly Administered)
22) **(CORRECTED) ORDER**
23) **CONFIRMING THE SIXTH**
24) **AMENDED JOINT CHAPTER 11 PLAN**
25) **OF REORGANIZATION OF WAVE**
26) **COMPUTING, INC. AND ITS DEBTOR**
27) **AFFILIATES**
28)
Date: February 10, 2021

¹ The Debtors in these chapter 11 cases are Wave Computing, Inc., MIPS Tech, Inc., Hellosoft, Inc., Wave Computing (UK) Limited, Imagination Technologies, Inc., Caustic Graphics, Inc., and MIPS Tech, LLC. The Debtors' mailing address is 3201 Scott Blvd, Santa Clara, CA 95054.

1 Time: 10:15 a.m. (Pacific Time)
2 Judge: Honorable M. Elaine Hammond
via Zoom

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4 Wave Computing Inc. (“Wave”) and its debtor affiliates, as debtors and debtors in possession
5 (collectively, the “Debtors”), having:

- 6 a. commenced, on April 27, 2020 (the “Petition Date”), these chapter 11 cases
7 (the “Chapter 11 Cases”) by each filing a voluntary petition for relief under chapter 11 of
8 the United States Code, 11 U.S.C. §§ 101–1532 (the “Bankruptcy Code”) in the United
9 States Bankruptcy Court for the Northern District of California (the “Court”);
- 10 b. continued to operate their businesses and manage their properties as debtors in possession
11 in accordance with sections 1107(a) and 1108 of the Bankruptcy Code;
- 12 c. filed, on October 15 2020, the: (i) *Joint Chapter 11 Plan of Reorganization for Wave*
13 *Computing, Inc. and its Debtor Affiliates* [Docket No. 600] (as may be amended, modified,
14 or supplemented, the “Plan”)² and (ii) the *Disclosure Statement for the Joint Chapter 11*
15 *Plan of Reorganization for Wave Computing, Inc. and Its Debtor Affiliates* [Docket No.
16 601] (together with all exhibits thereto, as may be amended, modified, or supplemented,
17 the “Disclosure Statement”);
- 18 d. filed, on October 23, 2020, the *Debtors' Motion for Entry of an Order (i) Approving*
19 *Solicitation and Voting Procedures; and (ii) Granting Related Relief* [Docket No. 667];
- 20 e. filed, on December 1, 2020, the solicitation version of the Plan [Docket No. 846];
- 21 f. obtained, on December 3, 2020, an *Order (I) Approving the Adequacy of the Fifth Amended*
22 *Disclosure Statement, and (II) Granting Related Relief* (the “Disclosure Statement Order”),
23 and *Order(I) Approving Solicitation and Voting Procedures; And (II) Granting Related*
24 *Relief* (the “Solicitation Procedures Order”) [Docket No. 860];
- 25 g. caused, commencing on December 4, 2020, through their solicitation and balloting agent
26 Donlin, Recano & Co., LLC (“Donlin,” or the “Solicitation and Balloting Agent”), the
27 transmittal of the Plan solicitation materials to Holders of Claims and Interests as described
28 in the *Certificate of Service* [Docket No. 898] (the “Solicitation COS”), including the
Disclosure Statement Flash Drive, the Confirmation Hearing Notice, the Cover Letter, the
Solicitation and Voting Procedures, the Class 3 Ballot, the Class 5 Ballot, the Unimpaired
Non-Voting Notice, and the Impaired Non-Voting Notice (each as defined in the
Solicitation Affidavit and collectively, the “Solicitation Materials”) in accordance with the
Disclosure Statement Order;

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² All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to such terms in the Plan and supporting documents filed thereto or the Disclosure Statement Order (defined below), as applicable. The rules of interpretation set forth in Section I.B of the Plan shall apply to this Confirmation Order.

- 1 h. filed, on December 10, 2020, the *Debtors Motion for Entry of an Order (I) Approving*
2 *Bidding Procedures in Connection With the Sale of Substantially All of the Debtors Assets;*
3 *(II) Approving Procedures for the Assumption and Assignment of Executory Contracts and*
4 *Unexpired Leases; and (III) Granting Related Relief* [Docket No. 883], which was
5 approved by the order dated December 17, 2020 [Docket No. 940] (the “Bidding
6 Procedures Order”);
- 7 i. filed, on December 15, 2020, the Debtors’ Motion to Sell Property Free and Clear Under
8 363(f) [Docket No. 982] (the “Sale Motion”);
- 9 j. conducted, commencing December 21, 2020 and concluding December 22, 2020, an
10 auction (the “Auction”) in furtherance of a sale of substantially all of the Debtors’ assets
11 (the “Asset Sale”), pursuant to the Plan;
- 12 k. filed, on December 23, 2020, the *Notice of Designation of Successful Bidder and Backup*
13 *Bidder* [Docket No. 965];
- 14 l. filed, on December 28, 2020, a *Stipulation and Proposed Order Regarding Confirmation*
15 *Deadlines and Publication Requirements* [Docket No. 973] (the “Confirmation Deadlines
16 Stipulation”);
- 17 m. obtained, on December 30, 2020, approval of the Confirmation Deadlines Stipulation
18 [Docket No. 981] (the “Confirmation Deadline Stipulation Order”);
- 19 n. withdrawn, on December 30, 2020, the Sale Motion without prejudice [Docket No. 982];
- 20 o. filed, on January 11, 2021, a notice of the filing of certain documents related to the Plan
21 [Docket No. 1035] (the “First Plan Supplement”);
- 22 p. filed, on January 12, 2021, *Notice of Filing of Second Plan Supplement in Connection With*
23 *the Fourth Amended Joint Chapter 11 Plan of Reorganization for Wave Computing, Inc.,*
24 *and Its Debtor Affiliates Dated Dec. 1, 2020* [Docket No. 1047] (the “Second Plan
25 Supplement”);
- 26 q. filed, on January 15, 2021, the second Motion to Sell Property Free and Clear Under
27 Section 363(f) [Docket No. 1055] (the “Renewed Sale Motion”), and the *Fifth Amended*
28 *Joint Chapter 11 Plan of Reorganization for Wave Computing, Inc. and Its Debtor*
Affiliates [Docket No. 1063];
- r. filed, on January 15, 2021, a revised Liquidating Trust Agreement, as Exhibit E to the Plan
Supplement [Docket Nos. 1067, 1068] (the “Third Plan Supplement”)
- s. obtained, on January 25, 2021, approval of the stipulation extending the Voting and Plan
Objection Deadline for certain creditors [Docket No. 1087];
- t. obtained, on January 26, 2021, the *Order Approving Stipulation Regarding Deadlines*
Under (I) The Key Employee Incentive Plan; And (II) The Stalking Horse Agreement
[Docket No. 1091];

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- u. filed, on February 5, 2021, the *Declaration of John Burlacu of Donlin, Recano & Company, Inc. Regarding the Solicitation and Tabulation of Votes Cast on the Fifth Amended Disclosure Statement for the Joint Chapter 11 Plan of Reorganization For Wave Computing, Inc. and Its Debtor Affiliates* [Docket No. 1131];
- v. filed, on February 5, 2021, the *Debtors' Memorandum of Law in Support of Confirmation of the Joint Chapter 11 Plan of Reorganization and Response to Objections to Confirmation* [Docket No. 1129] (the "Confirmation Brief");
- w. filed, on February 5, 2021, the *Declaration of Lawrence R. Perkins in Support of Confirmation of the Amended Joint Chapter 11 Plan of Reorganization for Wave Computing, Inc. and its Debtor Affiliates* [Docket No. 1130] (the "Perkins Declaration");
- x. filed, on February 8, 2021, the *Amended Declaration of John Burlacu of Donlin, Recano & Company, Inc. Regarding the Solicitation and Tabulation of Votes Cast on the Fifth Amended Disclosure Statement for the Joint Chapter 11 Plan of Reorganization For Wave Computing, Inc. and Its Debtor Affiliates* [Docket No. 1141] (the "Voting Affidavit");
- y. filed, on February 8, 2021, a fourth Plan Supplement [Docket No. 1142] (the "Fourth Plan Supplement, and collectively with the First, Second and Third Plan Supplements, the "Plan Supplements");
- z. filed, on February 10, 2021, the *Notice of Revised Liquidating Trust Agreement and Redline in Connection With The Debtors' Plan Supplement* [Docket No. 1149]; and
- aa. filed, on February 11, 2021, a subsequent *Notice of Revised Liquidating Trust Agreement and Redline in Connection With The Debtors' Plan Supplement* [Docket No. 1153].

And the Official Committee of Unsecured Creditors of Wave Computing, Inc. (the "Committee"), as a Plan Co-Proponent, having filed:

- bb. on February 5, 2021, the *Statement of the Official Committee of Unsecured Creditors of Wave Computing, Inc. in Support of Plan Confirmation and Reply to Objection and Reservation of Rights of the United States Trustee to Confirmation of Joint Plan of Reorganization* [Docket No. 1137];
- cc. on February 6, 2021, the *Request for Judicial Notice in Support of Statement of the Official Committee of Unsecured Creditors of Wave Computing, Inc. in Support of Plan Confirmation and Reply to Objection and Reservation of Rights of the United States Trustee to Confirmation of Joint Plan of Reorganization* [Docket No. 1138];
- dd. on February 10, 2021, the *Supplemental Statement of the Official Committee of Unsecured Creditors of Wave Computing, Inc. in Support of Plan Confirmation and Reply to Objection and Reservation of Rights of the United States Trustee to Confirmation of Joint Plan of Reorganization* [Docket No. 1147]; and

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2 ee. on February 10, 2021, the *Supplemental Request for Judicial Notice in Support of*
3 *Statement of the Official Committee of Unsecured Creditors of Wave Computing, Inc.*
4 *in Support of Plan Confirmation and Reply to Objection and Reservation of Rights of*
5 *the United States Trustee to Confirmation of Joint Plan of Reorganization* [Docket No.
6 1148];

7 And this Court having:

8 ff. set January 25, 2021 at 10:15 a.m., prevailing Pacific Time, as the deadline for Holders
9 of Claims in Classes 3 and 5 to accept or reject the Plan (the “Voting Deadline”);

10 gg. set January 25, 2021 at 4:00 p.m., prevailing Pacific Time, as the deadline to file and
11 serve objections to confirmation of the Plan (the “Plan Objection Deadline”);

12 hh. set February 10, 2021 at 10:15 a.m., prevailing Pacific Time, as the date and time for
13 the commencement of the Confirmation Hearing pursuant to Bankruptcy Rules 3017
14 and 3018 and sections 1126, 1128, and 1129 of the Bankruptcy Code;

15 ii. reviewed the Plan, the Disclosure Statement, the Plan Supplements, the Voting
16 Affidavit, the Perkins Declaration, the Confirmation Brief, and all pleadings, exhibits,
17 statements, responses, and comments regarding Confirmation, including all objections,
18 statements, and reservations of rights filed by parties in interest on the docket of these
19 Chapter 11 Cases;

20 jj. held the Confirmation Hearing on February 10, 2021;

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

23 ll. considered all oral representations, testimony, documents, filings, and other evidence
24 regarding Confirmation;

25 mm. overruled any objections to the Plan and to Confirmation and all statements and
26 reservations of rights not consensually resolved or withdrawn unless otherwise
27 indicated; and

28 nn. taken judicial notice of all papers and pleadings filed in these Chapter 11 Cases and all
evidence proffered or adduced and all arguments made at the hearings held before the
Court during the pendency of these Chapter 11 Cases.

NOW, THEREFORE, the Court having found that notice of the Confirmation Hearing and
the opportunity for any party in interest to object to confirmation of the Plan has been adequate and
appropriate as to all parties affected or to be affected by the Plan and the transactions contemplated

1 thereby, and that the legal and factual bases set forth in the pleadings and submissions in support of
2 Confirmation and all evidence presented at the Confirmation Hearing establish just cause for the relief
3 granted herein; and after due deliberation thereon and good cause appearing therefor, the Court hereby
4 makes and issues the following findings of fact and conclusions of law and orders:
5

6 **FINDINGS OF FACT AND CONCLUSION OF LAW**

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

8 **I. Findings and Conclusions.**

9 1. The findings and conclusions set forth herein, in the recitals, and in the record of the
10 Confirmation Hearing constitute the Court's findings of fact and conclusions of law pursuant to Rule
11 52 of the Federal Rules of Civil Procedure, made applicable herein by Bankruptcy Rules 7052 and
12 9014. To the extent any findings of fact constitute conclusions of law, or any conclusions of law
13 constitute findings of fact, they are adopted as such.
14

15 **II. Jurisdiction, Venue, and Core Proceeding.**

16 2. The Court has jurisdiction over this proceeding and the parties and property affected
17 hereby pursuant to 28 U.S.C. § 1334. Venue in this district is proper pursuant to 28 U.S.C. §§ 1408
18 and 1409. Approval of the confirmation of the Plan is a core proceeding under 28 U.S.C. § 157(b)(2),
19 and the Court has exclusive jurisdiction to (a) determine whether the Plan complies with the applicable
20 provisions of the Bankruptcy Code and should be confirmed and (b) enter a final order with respect
21 thereto.
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23 **III. Eligibility for Relief.**

24 3. The Debtors were and are entities eligible for relief under section 109 of Bankruptcy
25 Code.
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1 **IV. Commencement and Joint Administration of the Chapter 11 Cases.**

2 4. On the Petition Date, the Debtors commenced the Chapter 11 Cases by filing voluntary
3 petitions for relief under chapter 11 of the Bankruptcy Code. On May 1, 2020, the Court entered an
4 *Order (I) Directing Joint Administration of Chapter 11 Cases and (II) Granting Related Relief* in
5 accordance with Bankruptcy Rule 1015(b) [Docket No. 50]. The Debtors have operated their
6 businesses and managed their properties as debtors in possession under sections 1107(a) and 1108 of
7 the Bankruptcy Code. No request for the appointment of a trustee or an examiner has been made in
8 the Chapter 11 Cases.
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10 **V. Judicial Notice.**

11 5. The Court takes judicial notice of (and deems admitted into evidence for Confirmation)
12 the docket of the Chapter 11 Cases maintained by the clerk of the Court or its duly appointed agent,
13 including all pleadings and other documents on file, all orders entered, all hearing transcripts, and all
14 evidence and arguments made, proffered, or adduced at the hearings held before the Court during the
15 pendency of the Chapter 11 Cases.
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17 **VI. Appointment of Committee of General Unsecured Creditors.**

18 6. On May 18, 2020, the United States Trustee filed the *Notice of Appointment of the Official*
19 *Committee of Unsecured Creditors in Wave Computing, Inc.* [Docket No. 114]. On October 14, 2020,
20 the United States Trustee filed the *Amended Appointment of the Official Committee of Unsecured*
21 *Creditors* [Docket No. 593]. On December 2, 2020, the United States Trustee filed the *Amended*
22 *Appointment of the Official Committee of Unsecured Creditors* [Docket No. 855]. No other statutory
23 committee has been requested or appointed in the Chapter 11 Cases.
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25 **VII. Filing of Plan Supplements.**

26 7. On January 11, 2021, January 12, 2021, January 25, 2021, and February 8, 2021, the
27 Debtors filed the First, Second, Third and Fourth Plan Supplements, respectively, with the Court. The
28 Plan Supplements (including as subsequently modified, supplemented, or otherwise amended pursuant

1 to a filing with the Court), comply with the terms of the Plan, and the Debtors provided good and
2 proper notice of the filings in accordance with the Bankruptcy Code, the Bankruptcy Rules, the Local
3 Rules, the Disclosure Statement Order, and the facts and circumstances of these Chapter 11 Cases.
4 No other or further notice is or will be required with respect to the Plan Supplements. The Plan
5 Supplements consist of the following documents: (a) the Exit Facility Term Sheet; (b) the New
6 Organizational Documents (including the Shareholder Agreement filed as Exhibit B-8 to the Fourth
7 Plan Supplement); (c) the Rejected Executory Contracts Schedule; (d) the Cure Notice(s);
8 (e) the Liquidating Trust Agreement; (f) the identity of the Liquidating Trust Manager and the
9 Compensation Schedule; (g) the Liquidating Trust Manager Resume; (h) the Senior Secured Note; (i)
10 the GUC Loan and payment schedule; (j) the Secured Subordinated Note; (k) the Intercreditor
11 Agreement; (l) the Schedule of Retained Causes of Action; (m) the Liquidation Analysis and Financial
12 Projections; (n) the Board Compensation; (o) the 1129(a)(5) Disclosures; and (p) any additional
13 documents Filed with the Bankruptcy Court prior to the Effective Date as amendments to the Plan
14 Supplements.
15 Supplements.

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17 **VIII. Plan Modifications.**

18 8. Pursuant to section 1127 of the Bankruptcy Code, any modifications to the Plan described
19 or set forth in this Confirmation Order constitute technical or clarifying changes, changes with respect
20 to particular Claims by agreement with Holders of such Claims, or modifications that do not otherwise
21 materially and adversely affect or change the treatment of any other Claim or Interest under the Plan.
22 These modifications are consistent with the disclosures previously made pursuant to the Disclosure
23 Statement and Solicitation Materials served pursuant to the Disclosure Statement Order, and notice of
24 these modifications was adequate and appropriate under the facts and circumstances of these Chapter
25 11 Cases. In accordance with Bankruptcy Rule 3019, these modifications do not require additional
26 disclosure under section 1125 of the Bankruptcy Code or the re-solicitation of votes under section
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1 1126 of the Bankruptcy Code, and they do not require that Holders of Claims or Interests be afforded
2 an opportunity to change previously cast acceptances or rejections of the Plan. Accordingly, the Plan,
3 as modified, is properly before this Court and all votes cast with respect to the Plan prior to such
4 modification shall be binding, and shall apply with respect to the Plan.

5 **IX. Objections Overruled.**

6 9. Any resolution or disposition of objections to Confirmation explained or otherwise ruled
7 upon by the Court on the record at the Confirmation Hearing is hereby incorporated by reference. Any
8 resolutions of objections to Confirmation explained on the record at the Confirmation Hearing are
9 hereby incorporated by reference. All remaining unresolved objections, statements, informal
10 objections, and reservations of rights, if any, related to the Plan, are overruled on the merits, with
11 prejudice.
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13 **X. Disclosure Statement and Solicitation Procedures Order.**

14 10. On December 3, 2020, the Court entered the Disclosure Statement Order and the
15 Solicitation Procedures Order, which, among other things: (a) approved the Disclosure Statement as
16 containing adequate information within the meaning of section 1125 of the Bankruptcy Code and
17 Bankruptcy Rule 3017; (b) approved the Solicitation and Voting Procedures; and (c) approved the
18 Solicitation Materials. On December 30, 2020, the Court entered the Confirmation Deadline
19 Stipulation Order, which, among other things (a) set January 25, 2021 at 4:00 p.m. (prevailing Pacific
20 Time) as the Voting Deadline; (b) set January 25, 2021 at 4:00 p.m. (prevailing Pacific Time) as the
21 Plan Objection Deadline; and (c) set February 10, 2021, at 10:15 a.m. (prevailing Pacific Time) as the
22 date of the Confirmation Hearing. The solicitation of votes on the Plan complied with the Disclosure
23 Statement Order and Solicitation Procedures Order, was appropriate and satisfactory in all respects
24 based upon the circumstances of the Chapter 11 Cases, and was in compliance with sections 1125 and
25 1126 of the Bankruptcy Code and any other applicable provisions of the Bankruptcy Code, Bankruptcy
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1 Rules 3017 and 3018 and any other applicable Bankruptcy Rules, the Local Rules, and applicable non-
2 bankruptcy law.

3 **XI. Transmittal of Solicitation Materials and Notice.**

4 11. As evidenced by the Solicitation COS and the Voting Affidavit, the Debtors provided due,
5 adequate, and sufficient notice of the Plan, the Disclosure Statement, the Disclosure Statement Order,
6 the Solicitation Procedures Order and Solicitation Materials, the Confirmation Hearing Notice, the
7 Plan Supplements, and all of the other materials distributed by the Debtors in connection with
8 Confirmation in compliance with the Bankruptcy Code, Bankruptcy Rules, including Bankruptcy
9 Rules 2002(b), 3017, 3019, and 3020(b), the Local Rules, and the procedures set forth in the Disclosure
10 Statement Order and the Solicitation Procedures Order. The Debtors and their Solicitation and
11 Balloting Agent adhered to the terms of the Disclosure Statement Order and the Solicitation
12 Procedures Order. The Debtors provided due, adequate, and sufficient notice of the Voting Deadline,
13 the Plan Objection Deadline, the Confirmation Hearing, and any applicable bar dates and hearings
14 described in the Disclosure Statement Order and the Solicitation Procedures Order in compliance with
15 the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, the Disclosure Statement Order and the
16 Solicitation Procedures Order.
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19 12. On or before the Solicitation Deadline, the Solicitation and Balloting Agent mailed to
20 Holders of Claims or Interests in Non-Voting Classes (Class 1 (Other Secured Claims), Class 2 (Other
21 Priority Claims), Class 4 (De Minimis Unsecured Claims), Class 6 (Intercompany Claims), Class 7
22 (Wave Series E Preferred Interests), Class 8 (Series E Section 510(b) Claims), Class 9 (Wave Series
23 D Preferred Interests), Class 10 (Series D Section 510(b) Claims), Class 11 (Wave Series C Preferred
24 Interests), Class 12 (Wave Series B Preferred Interests), Class 13 (Wave Series A-2 Preferred
25 Interests), Class 14 (Wave Series A-1 Preferred Interests), Class 15 (Wave Common Interests), and
26 Class 16 (Intercompany Interests)) a Notice of Non-Voting Status. The Notice of Non-Voting Status
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1 provided sufficient notice of the injunction, release, and exculpation provisions of the Plan and
2 provided the Holders of Claims or Interests receiving such Notice of Non-Voting Status with a
3 sufficient opportunity to opt into the releases included in Section IX.D of the Plan.

4 **XII. Solicitation.**

5 13. Votes on the Plan were solicited in good faith and in compliance with sections 1125 and
6 1126 of the Bankruptcy Code, Bankruptcy Rules 3017, 3018, and 3019, the Disclosure Statement, the
7 Disclosure Statement Order, the Solicitation Procedures Order, the Bankruptcy Local Rules, all other
8 applicable provisions of the Bankruptcy Code, and all other applicable rules, laws, and regulations
9 applicable to such solicitation.
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11 14. As set forth in the Plan and the Disclosure Statement, Holders of Claims or Interests in
12 Class 3 (Tallwood Claims), and Class 5 (General Unsecured Claims) (collectively, the “Voting
13 Classes”) were eligible to vote to accept or reject the Plan in accordance with the Solicitation and
14 Voting Procedures. Holders of Claims in Class 1 (Other Secured Claims), Class 2 (Other Priority
15 Claims) and Class 4 (*De Minimis* Unsecured Claims) (collectively, the “Deemed Accepting Classes”)
16 are Unimpaired and conclusively presumed to have accepted the Plan and, therefore, did not vote to
17 accept or reject the Plan. Holders of Claims in Class 6 (Intercompany Claims), Class 7 (Wave Series
18 E Preferred Interests), Class 8 (Series E Section 510(b) Interests), Class 9 (Wave Series D Preferred
19 Interests), Class 10 (Series D Section 510(b) Interests); Class 11 (Wave Series C Preferred Interests),
20 Class 12 (Wave Series B Preferred Interests), Class 13 (Wave Series A-2 Preferred Interests), Class
21 14 (Wave Series A-1 Preferred Interests), Class 15 (Wave Common Interests), and Class 16
22 (Intercompany Interests), are extinguished and released, as applicable, receiving no distribution under
23 the Plan and are thereby deemed to have rejected the Plan, and as a result, are not entitled to vote to
24 accept or reject the Plan (the “Deemed Rejecting Classes”).
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1 **XIII. Voting Affidavit.**

2 15. On February 8, 2021, the Debtors filed the Voting Affidavit on behalf of the Solicitation
3 and Balloting Agent, certifying the method and results of the ballot tabulation for each of the Voting
4 Classes. As evidenced by the Voting Affidavit, (a) Holders of Class 3 (Tallwood Claims) did not
5 submit Ballots or vote to accept or reject the Plan, (b) 73.06% in amount and 96.97% in number of
6 Class 5-A (General Unsecured Claims against Wave Computing, Inc.) voted to accept the Plan, and
7 (c) 100% in amount and number of Class 5-G (General Unsecured Claims against MIPS Tech, LLC).
8 The remainder of Class 5-A voted to reject the Plan. The Debtors received votes to accept or reject
9 the Plan from 33 Holders of Record on behalf of Class 5-A Claims and 6 Holders of Record on behalf
10 of Class 5-G Claims.
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12 **XIV. Bankruptcy Rule 3016.**

13 16. The Plan and all modifications thereto are dated and identify the Entities submitting them,
14 thereby satisfying Bankruptcy Rule 3016(a). The Debtors appropriately filed the Disclosure Statement
15 and Plan with the Court, thereby satisfying Bankruptcy Rule 3016(b). The injunction, discharge,
16 release, and exculpation provisions in the Disclosure Statement and Plan describe, in bold font and
17 with specific and conspicuous language, all acts to be enjoined and identify the Entities that will be
18 subject to the injunction, thereby satisfying Bankruptcy Rule 3016(c). To the extent of any conflict
19 between the Disclosure Statement, the Plan, and this Confirmation Order, this Confirmation Order
20 controls.
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22 **XV. Bankruptcy Rule 3017.**

23 17. The Debtors provided proper and sufficient notice of the Confirmation Hearing as required
24 by Bankruptcy Rule 3017(d), as modified by the Disclosure Statement Order. The Solicitation and
25 Voting Procedures pursuant to which the Plan and the Disclosure Statement were provided to the
26 Voting Classes, and the Confirmation Hearing Notice, which was provided to all parties as required
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1 by the Solicitation and Voting Procedures, were adequate, satisfied Bankruptcy Rule 3017(e), and
2 were in accordance with the Solicitation and Voting Procedures.

3 **XVI. Bankruptcy Rule 3018.**

4 18. The solicitation of votes to accept or reject the Plan from the Voting Classes satisfies
5 Bankruptcy Rule 3018(a). The Plan was transmitted to all parties in interest entitled to vote thereon,
6 sufficient time was prescribed for such entities to accept or reject the Plan, and the Solicitation and
7 Voting Procedures complied with sections 1125 and 1126 of the Bankruptcy Code, thereby satisfying
8 Bankruptcy Rule 3018(b). The Ballots provide for acceptances or rejections of the Plan to be in
9 writing, identify the Plan to be accepted or rejected, provide for the Ballots to be signed by the Holder
10 of Claims in the Voting Classes, and generally conform to the information required in the appropriate
11 Official Form. The Solicitation Materials, including the Ballots, satisfy the requirements of
12 Bankruptcy Rule 3018(c).
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14 **XVII. Burden of Proof**

15 19. The Debtors, as proponents of the Plan, have met their burden of proving the elements of
16 section 1129 of the Bankruptcy Code by a preponderance of the evidence, the applicable evidentiary
17 standard for Confirmation. Each witness who submitted a declaration or testified on behalf of the
18 Debtors in connection with the Confirmation Hearing was credible, reliable, and qualified as to the
19 topics addressed.
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21 **XVIII. The Plan's and the Debtors' Compliance with the Bankruptcy Code.**

22 20. The Plan and the Debtors have complied with all applicable provisions of section 1129 of
23 the Bankruptcy Code.
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25 **A. 11 U.S.C. § 1129(a)(1) – Plan Compliance with the Applicable Provisions of the
Bankruptcy Code.**

26 21. As required by section 1129(a)(1) of the Bankruptcy Code, the Plan complies with all
27 applicable provisions of the Bankruptcy Code, including sections 1122 and 1123 thereof.
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1. Sections 1122 and 1123(a)(1) – Proper Classification of Claims and Interests.

22. The classification of Claims and Interests under the Plan is proper under the Bankruptcy Code. Article III of the Plan designates Classes of Claims and Interests, other than Administrative Claims, DIP Claims, Professional Fee Claims, and Priority Tax Claims, which, pursuant to section 1123(a)(1) of the Bankruptcy Code, need not be classified. As required by section 1122(a) of the Bankruptcy Code, each Class of Claims and Interests contains only Claims or Interests that are substantially similar to the other Claims or Interests within such Class. Valid business, factual, and legal reasons exist for separately classifying the various Classes of Claims and Interests created under the Plan, and the classifications were not promulgated for any improper purpose. The Plan therefore satisfies sections 1122 and 1123(a)(1) of the Bankruptcy Code.

2. Section 1123(a)(2) – Specification of Unimpaired Classes.

23. Article III of the Plan specifies that Class 1 (Other Secured Claims) and Class 2 (Other Priority Claims) are Unimpaired by the Plan, within the meaning of section 1124 of the Bankruptcy Code. The Plan therefore satisfies the requirements of section 1123(a)(2) of the Bankruptcy Code.

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

24. Article III of the Plan specifies the treatment of each Impaired Class under the Plan. The Plan therefore satisfies the requirements of section 1123(a)(3) of the Bankruptcy Code.

4. Section 1123(a)(4) – No Discrimination.

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

1 5. **Section 1123(a)(5) – Implementation of the Plan.**

2 26. The Plan and the various documents and forms of agreement included in the Plan
3 Supplements provide adequate and proper means for implementation of the Plan, including, without
4 limitation: (a) the issuance of New Common Stock in Reorganized Wave; (b) the establishment and
5 administration of the Wave Computing Liquidating Trust; (c) the preservation of certain of the
6 Debtors' Causes of Action and vesting of the assets of the Debtors' Estates in the Reorganized Debtors
7 or the Wave Computing Liquidating Trust, as applicable, free and clear of all Liens, Claims, Interests,
8 charges, or other encumbrances; (d) the Debtors, the Reorganized Debtors, and the Wave Computing
9 Liquidating Trust, as applicable, (e) funding certain distributions under the Plan with (i) Cash on hand,
10 (ii) receivables or Causes of Action not released, discharged, enjoined, or exculpated under the Plan
11 or otherwise on or prior to the Effective Date, (iii) the proceeds of the \$5,110,000 new-money Exit
12 Facility, which commitment amount could potentially increase to \$10,110,000, (iv) the issuance of
13 the Senior Secured Note, the GUC Loan, and the Secured Subordinated Note, (v) the proceeds of the
14 CIP Settlement; and/or (vi) the proceeds of a potential Patent Asset Sale, as applicable; (g) the
15 execution, delivery, filing, or recording of all contracts, instruments, releases, and other agreements
16 or documents in furtherance of the Plan (including, without limitation, the Intercreditor Agreement
17 and any UCC-1 financing statements, intellectual property security agreements and account control
18 agreements required to be delivered pursuant to any of the Exit Facility, the Senior Secured Note, the
19 GUC Loan and the Secured Subordinated Note); (h) the cancellation of certain existing agreements,
20 obligations, instruments, and Interests; (i) the rejection of Executory Contracts not previously assumed
21 by the Debtors under section 365 of the Bankruptcy Code or listed on Exhibit C of the Plan
22 Supplements; (j) authorization and approval of all corporate actions contemplated under the Plan; and
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1 (k) exemption from transfer taxes to the fullest extent permitted by section 1146(a) of the Bankruptcy
2 Code. The Plan therefore satisfies the requirements of section 1123(a)(5) of the Bankruptcy Code.

3 **6. Section 1123(a)(6) – Non-Voting Equity Securities.**

4 27. The Plan does not contemplate issuance of any equity securities. Accordingly,
5 section 1123(a)(6) of the Bankruptcy Code is not applicable to the Plan.

6 **7. Section 1123(a)(7) – Selection of Officers and Directors.**

7 28. Section IV.E.8 of the Plan provides that, as of the Effective Date, the term of the current
8 members of the board of directors shall expire, and all of the directors for the initial term of the New
9 Board shall be appointed in accordance with the terms of the New Organizational Documents. As of
10 the Effective Date, the GUC Board Representative shall remain on the New Board until fifty-one
11 percent (51%) of the principal amount outstanding under the GUC Loan as of the Effective Date has
12 been paid. The appointment of the Liquidating Trust Manager is consistent with the interests of
13 creditors and with public policy. The Plan therefore satisfies the requirements of section 1123(a)(7)
14 of the Bankruptcy Code.
15

16 **8. Sections 1123(a)(8) and 1123(c) – No Debtor is an Individual.**

17 29. None of the Debtors is an individual. Accordingly, sections 1123(a)(8) and 1123(c) of the
18 Bankruptcy Code are not applicable to the Plan.
19

20 **9. Section 1123(b) – Discretionary Contents of the Plan.**

21 30. The Plan contains various provisions that may be construed as discretionary but not
22 necessary for Confirmation under the Bankruptcy Code. Any such discretionary provision complies
23 with section 1123(b) of the Bankruptcy Code and is not inconsistent with the applicable provisions of
24 the Bankruptcy Code. The Plan therefore satisfies the requirements of section 1123(b) of the
25 Bankruptcy Code.
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a. Section 1123(b)(1) – Impairment or Unimpairment of Classes of Claims and Interests.

31. Article III of the Plan impairs or leaves unimpaired, as the case may be, each Class of Claims or Interests. Class 3 (Tallwood Claims), Class 5 (General Unsecured Claims), Class 6 (Intercompany Claims) (to the extent Impaired), Class 7 (Wave Series E Preferred Interests), Class 8 (Series E Section 510(b) Interests), Class 9 (Wave Series D Preferred Interests), Class 10 (Series D Section 510(b) Interests); Class 11 (Wave Series C Preferred Interests), Class 12 (Wave Series B Preferred Interests), Class 13 (Wave Series A-2 Preferred Interests), Class 14 (Wave Series A-1 Preferred Interests), Class 15 (Wave Common Interests), and Class 16 (Intercompany Interests) (to the extent Impaired), are impaired by the Plan. Class 1 (Other Secured Claims), Class 2 (Other Priority Claims) and Class 4 (*De Minimis* Unsecured Claims) are Unimpaired by the Plan. The Plan therefore satisfies section 1123(b)(1) of the Bankruptcy Code.

b. Section 1123(b)(2) – Assumption and Rejection of Executory Contracts and Unexpired Leases.

32. Article V of the Plan governs the assumption of the Debtors’ Executory Contracts as of the Effective Date, unless such Executory Contract is listed on the Schedule of Rejected Executory Contracts, which is included in the Plan Supplements.

c. Section 1123(b)(3) – Preservation of Claims and Causes of Action.

33. Section IV.G.4 of the Plan appropriately provides that unless any Cause of Action against an Entity is expressly waived, relinquished, exculpated, released, compromised, or settled in the Plan or a Final Order, in accordance with section 1123(b) of the Bankruptcy Code, the Debtors shall convey to the Wave Computing Liquidating Trust and the Liquidating Trust Manager all rights to commence, prosecute, settle, as appropriate, any and all Causes of Action, whether arising before or after the Petition Date; provided, however, that the primary right to object to or otherwise contest Claims or Interests shall be retained by the Reorganized Debtors. The Plan is sufficiently specific with respect

1 to the Causes of Action to be retained by the Debtors, and the Plan and Plan Supplements provide
2 meaningful disclosure with respect to the potential Causes of Action that the Debtors may retain, and
3 all parties in interest received adequate notice with respect to such retained Causes of Action. The
4 provisions regarding Causes of Action in the Plan are appropriate and in the best interests of the
5 Debtors, their respective Estates, and Holders of Claims or Interests. For the avoidance of any doubt,
6 Causes of Action released or exculpated under the Plan will not be retained by the Reorganized
7 Debtors.
8

9 **d. Section 1123(b)(6) – Releases, Injunction, Exculpation.**

10 34. The Court has jurisdiction under 28 U.S.C. §§ 1334(a), 1334(b) and 1334(e) to approve
11 the releases, injunctions, and exculpations set forth in Article IX of the Plan. Section 105(a) of the
12 Bankruptcy Code permits issuance of the injunctions and approval of the releases and exculpations set
13 forth in Article IX of the Plan because, as has been established here, based upon the record in the
14 Chapter 11 Cases and the evidence proffered or adduced at or prior to the Confirmation Hearing, such
15 provisions: are (a) made in exchange for good and valuable consideration; (b) are essential to the
16 formulation and implementation of the Plan; (c) confer substantial benefits on the Debtors and the
17 Estates; (d) are integral to and non-severable from the Plan; (e) are fair, equitable, and reasonable; and
18 (f) are in the best interests of the Debtors, the Estates, the Reorganized Debtors, creditors, and other
19 stakeholders. Pursuant to section 1123(b)(3) of the Bankruptcy Code, the releases, injunctions, and
20 exculpations set forth in the Plan, as implemented by this Confirmation Order, are fair, equitable,
21 reasonable, and in the best interests of the Debtors, the Estates, the Reorganized Debtors, and all
22 Holders of Claims or Interests. The record of the Confirmation Hearing and the Chapter 11 Cases is
23 sufficient to support the releases, injunctions, and exculpations provided for in Article IX of the Plan.
24 Accordingly, based upon the representations and arguments of counsel to the Debtors and all other
25 testimony either actually given or proffered and other evidence introduced at the Confirmation Hearing
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1 and the full record of the Chapter 11 Cases, the Court finds that the releases, injunctions, and
2 exculpations set forth in Article IX of the Plan are consistent with the Bankruptcy Code and applicable
3 law.

4
5 35. Debtor Release. The releases of Claims and Causes of Action by the Debtors described
6 in Article IX.C of the Plan in accordance with section 1123(b) of the Bankruptcy Code (the “Debtor
7 Release”) represent a valid exercise of the Debtors’ business judgment. The Debtor Release is fair
8 and equitable and complies with the absolute priority rule.

9
10 36. The Debtor Release is an integral part of the Plan and is in the best interests of the Debtors’
11 Estates. The value with respect to the released claims and Causes of Action, when weighed against
12 the costs, supports the Debtor Release. The Plan, including the Debtor Release, was negotiated by
13 sophisticated parties represented by able counsel and advisors, including the Plan Proponents, and
14 their respective representatives and professionals. The Debtor Release is therefore the result of a hard
15 fought and arm’s-length negotiation process conducted in good faith.

16
17 37. The Debtor Release appropriately offers protection to parties that participated in the
18 Debtors’ reorganization process. Each of the Released Parties made significant concessions and
19 contributions to these Chapter 11 Cases. The Debtor Release for the Debtors’ fiduciaries is appropriate
20 because the Debtors’ fiduciaries share an identity of interest with the Debtors, supported the Plan and
21 these Chapter 11 Cases, actively participated in meetings, hearings, and negotiations during these
22 Chapter 11 Cases, and have provided other valuable consideration to the Debtors to facilitate the
23 Debtors’ reorganization. The Debtor Release for Tallwood is appropriate as it has allowed the Debtors
24 to effectuate the Restructuring, including the assignments and conveyances necessary to fund the DIP
25 Financing and the Wave Computing Liquidating Trust, will continue to provide access to additional
26 capital necessary to fund the Debtors’ post-petition operations, and has been supportive and
27 constructive throughout the Debtors’ workout and restructuring efforts.
28

1 38. The scope of the Debtor Release is appropriately tailored under the facts and
2 circumstances of the Chapter 11 Cases. The Debtor Release is appropriate in light of, among other
3 things, the value provided by the Released Parties to the Debtors' Estates and the critical nature of the
4 Debtor Release to the Plan. The record of the Confirmation Hearing and the Chapter 11 Cases is
5 sufficient to support the Debtor Releases.
6

7 39. Third-Party Release. The release by the Releasing Parties (the "Third-Party Release"), set
8 forth in Section IX.D of the Plan, was consensually provided after due notice and opportunity for a
9 hearing and is an essential provision of the Plan. The Third-Party Release is: (a) in exchange for the
10 good and valuable consideration provided by the Released Parties; (b) materially beneficial to, and in
11 the best interests of, the Debtors, their Estates, and their stakeholders, and is important to the overall
12 objectives of the Plan to finally resolve certain Claims among or against certain parties in interest in
13 these Chapter 11 Cases; (c) fair, equitable, and reasonable; (d) given and made after due notice and
14 opportunity for hearing; (e) a bar to any of the Releasing Parties asserting any Claim or Cause of
15 Action released by the Third-Party Release against any of the Released Parties; and (f) consistent with
16 sections 105, 524, 1123, 1129, and 1141 and other applicable provisions of the Bankruptcy Code.
17

18 40. Like the Debtor Release, the Third-Party Release facilitated participation in both the
19 Debtors' Plan and the chapter 11 process generally, and is an integral part of the Plan. The Third-
20 Party Release was critical to incentivizing parties to support the Plan. The Third-Party Release was
21 instrumental in developing a Plan that maximized value for all of the Debtors' stakeholders. As such,
22 the Third-Party Release appropriately offers certain protections to parties who constructively
23 participated in the Debtors' reorganization process.
24

25 41. The Third-Party Release is consensual as to all parties in interest, including all Releasing
26 Parties, and such parties in interest were provided notice of the Chapter 11 Cases, the Plan, the deadline
27 to object to confirmation of the Plan, and the Confirmation Hearing and were properly informed that
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1 all Holders of Claims against or Interests in the Debtors that checked the “Opt-In” box on the
2 applicable Ballot or opt-in election form would be deemed to have expressly, unconditionally,
3 generally, individually, and collectively consented to the release and discharge of all Claims and
4 Causes of Action against the Debtors and the Released Parties. Additionally, the release provisions
5 of the Plan were conspicuous, emphasized with boldface type in the Plan, the Disclosure Statement,
6 the Ballots, and the applicable notices.

8 42. The scope of the Third-Party Release is appropriately tailored under the facts and
9 circumstances of these Chapter 11 Cases, and parties in interest received due and adequate notice of
10 the Third-Party Release. Among other things, the Plan and the Disclosure Statement provide
11 appropriate and specific disclosure with respect to the Entities, Claims, and Causes of Action that are
12 subject to the Third-Party Release, and no other disclosure is necessary. As evidenced by the
13 Solicitation Affidavit and Publication Affidavit, the Debtors provided sufficient notice of the Third-
14 Party Release, including by providing actual notice to all known parties in interest, including all known
15 Holders of Claims against, and Interests in, any Debtor and publishing notice in national and local
16 publications for the benefit of unknown parties in interest, and no further or other notice is necessary.
17 The Third-Party Release is designed to provide finality for the Debtors, the Reorganized Debtors, and
18 the Released Parties regarding the parties’ respective obligations under the Plan.

20 43. The Third-Party Release is specific in language, integral to the Plan, and given for
21 adequate consideration. The Releasing Parties were given due and adequate notice of the Third-Party
22 Release, and thus the Third-Party Release is consensual as to those Releasing Parties that elected to
23 opt-in to granting the Third-Party Release. In light of, among other things, the value provided by the
24 Released Parties to the Debtors’ Estates and the critical nature of the Third-Party Release to the Plan,
25 the Third-Party Release is appropriate. The record of the Confirmation Hearing and the Chapter 11
26 Cases is sufficient to support the Third-Party Release.

1 44. Exculpation. The exculpation provisions set forth in Section IX.E of the Plan
2 (the “Exculpation”) are essential to the Plan. The record in these Chapter 11 Cases fully supports the
3 Exculpation, which is appropriately tailored to protect the Exculpated Parties from inappropriate
4 litigation and to exclude actions to have constituted actual fraud, willful misconduct, or gross
5 negligence. The Exculpated Parties subject to the Exculpation have, and, upon entry of this
6 Confirmation Order will be deemed to have, participated in good faith and in compliance with all
7 applicable laws with regard to the distribution of recoveries under the Plan and, therefore, are not, and
8 on account of such distributions shall not be, liable at any time for the violation of any applicable law,
9 rule or regulation governing the solicitation or such distributions made pursuant to the Plan.
10

11 45. Injunctions. The injunction provisions set forth in Section IX.F of the Plan are essential
12 to the Plan and are necessary to preserve and enforce the discharge, Debtor Release, the Third-Party
13 Release, and the Exculpation, each as set forth in Sections IX.A, IX.C, IX.D, and IX.E of the Plan,
14 respectively. The injunction provisions are appropriately tailored to achieve those purposes.
15

16 46. Except as otherwise provided herein, as of the Effective Date, all releases, waivers,
17 discharges, exculpations, and injunctions set forth in the Plan and/or this Confirmation Order shall be
18 effective and binding on all persons. The Plan and this Confirmation Order shall have *res judicata*,
19 collateral estoppel, and estoppel (judicial, equitable, or otherwise) effect with respect to all matters
20 provided for in, or resolved pursuant to, the Plan and/or this Confirmation Order, including the release,
21 injunction, exculpation, discharge provisions contained in the Plan and/or this Confirmation Order.
22

23 **e. Section 1123(d) – Cure of Defaults.**

24 47. Section V.D of the Plan provides for the satisfaction of Cure Claims associated with each
25 Executory Contract to be assumed in accordance with section 365(b)(1) of the Bankruptcy Code. If
26 there is any dispute regarding any Cure, the ability of the Reorganized Debtors or any assignee to
27 provide “adequate assurance of future performance” within the meaning of section 365 of the
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1 Bankruptcy Code, or any other matter pertaining to assumption, then payment of the applicable Cure
2 amount shall occur as soon as reasonably practicable after entry of a Final Order resolving such
3 dispute, approving such assumption (and, if applicable, assignment), or as may be agreed upon by the
4 Debtors or the Reorganized Debtors, as applicable, and the counterparty to the Executory Contract.
5

6 48. Pursuant to the Plan, the Debtors served the Notices of Possible Assumption and
7 Assignment, which listed proposed cure amounts, based on the Debtors' books and records, for each
8 Executory Contract and Unexpired Lease that was to potentially be assumed and assigned. The
9 Debtors served sufficient notice on the counterparties to such Executory Contracts, and all issues
10 related to Cure and assumption/assignment are resolved. The Plan therefore satisfies the requirements
11 of section 1123(d) of the Bankruptcy Code.
12

13 **B. Section 1129(a)(2) – Debtors' Compliance with the Applicable Provisions of the
14 Bankruptcy Code.**

15 49. The Debtors, as proponents of the Plan, have complied with all applicable provisions of
16 the Bankruptcy Code as required by section 1129(a)(2) of the Bankruptcy Code, including
17 sections 1122, 1123, 1124, 1125, 1126, 1127, and 1128, and Bankruptcy Rules 3017, 3018, and 3019.
18

19 50. The Debtors and their agents solicited votes to accept or reject the Plan after the Court
20 approved the adequacy of the Disclosure Statement, pursuant to section 1125(a) of the Bankruptcy
21 Code and the Disclosure Statement Order.
22

23 51. The Debtors and their agents have solicited and tabulated votes on the Plan and have
24 participated in the activities described in section 1125 of the Bankruptcy Code fairly, in good faith
25 within the meaning of section 1125(e) of the Bankruptcy Code, and in a manner consistent with the
26 applicable provisions of the Disclosure Statement Order, the Disclosure Statement, the Bankruptcy
27 Code, the Bankruptcy Rules, the Local Rules, and all other applicable rules, laws, and regulations and
28 are entitled to the protections afforded by section 1125(e) of the Bankruptcy Code and the exculpation
provisions set forth in Section IX.E of the Plan.

1 52. The Debtors, the Debtors' board member and officers, and the Debtors' respective agents
2 have participated in good faith and in compliance with the applicable provisions of the Bankruptcy
3 Code with regard to the offering, issuance, and distribution of recoveries under the Plan and, therefore,
4 are not, and on account of such distributions will not be, liable at any time for the violation of any
5 applicable law, rule, or regulation governing the solicitation of acceptances or rejections of the Plan
6 or distributions made thereunder, so long as such distributions are made consistent with and pursuant
7 to the Plan.
8

9 **C. Section 1129(a)(3) – Plan Proposed in Good Faith.**

10 53. The Debtors have proposed the Plan (and all documents necessary to effectuate the Plan)
11 in good faith and not by any means forbidden by law. The Chapter 11 Cases were filed, and the Plan
12 was proposed, with an honest belief that the Debtors were in need of reorganization and with the
13 legitimate purpose of allowing the Debtors to reorganize and emerge from bankruptcy either with a
14 capital structure that will allow them to satisfy their obligations with sufficient liquidity and capital
15 resources or with sale proceeds to distribute to their creditors. The Debtors' good faith is evident from
16 the facts and record of the Chapter 11 Cases, the Disclosure Statement, the record of the Confirmation
17 Hearing, and other proceedings held in the Chapter 11 Cases. The Plan and the contracts, instruments,
18 releases, agreements and documents necessary and related to implementing, effectuating and
19 consummating the Plan is the culmination of extensive good-faith, arm's-length negotiations amongst
20 the Debtors, Tallwood, the Committee, and their respective representatives and professionals. Further,
21 the Plan's classification, indemnification, release, injunction, and exculpation provisions have been
22 negotiated in good faith and at arm's length, are consistent with sections 105, 1122, 1123(b)(3)(A),
23 1123(b)(6), 1129, and 1142 of the Bankruptcy Code and applicable law in this Circuit and are each
24 necessary for the Debtors' successful reorganization. In determining that the Plan satisfies section
25 1129(a)(3) of the Bankruptcy Code, the Court has examined the totality of the circumstances
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1 surrounding the filing of the Chapter 11 Cases, the Plan itself, and the process leading to Confirmation.
2 The Plan therefore satisfies the requirements of section 1129(a)(3) of the Bankruptcy Code.

3 **D. Section 1129(a)(4) – Payments for Services or Costs and Expenses.**

4 54. Except as otherwise provided or permitted by the Plan or other orders of the Court, the
5 payments for services or costs and expenses in or in connection with the Chapter 11 Cases, or in
6 connection with the Plan and incidental to the Chapter 11 Cases, in each case incurred prior to the
7 Effective Date, including Claims for professional fees that have been or will be paid by the Debtors,
8 have been, hereby are, or will be, authorized by order of the Court or are otherwise permitted under
9 the Bankruptcy Code. The Plan therefore satisfies the requirements of section 1129(a)(4) of the
10 Bankruptcy Code.
11

12 **E. Section 1129(a)(5) – Directors, Officers, and Insiders.**

13 55. The Reorganized Debtors' officers and directors have been disclosed prior to the
14 Confirmation Hearing in the Plan Supplements, respectively. The proposed officers and directors for
15 the Reorganized Debtors are qualified, and the manner in which the officers and directors were
16 selected is consistent with the interests of creditors and with public policy. The Plan therefore satisfies
17 the requirements of section 1129(a)(5) of the Bankruptcy Code. To the extent available, the identity
18 of any insider that will be employed or retained by the Reorganized Debtors and the nature of such
19 insider's compensation have also been fully disclosed.
20

21 56. Specifically, the initial New Board shall consist of three (3) directors: (i) Desi Banatao,
22 Managing Partner of Tallwood Venture Capital; (ii) Thomas G. FitzGerald of Drivetrain, LLC, the Debtors'
23 current Independent Director; and (iii) Robert Kors, a Principal at Castellammare Advisors, LLC, who
24 will serve as the initial GUC Board Representative.
25

26 57. The appointment of these individuals to the New Board is consistent with the interests of
27 creditors and equity security holders and with public policy based on the manner in which these
28

1 directors were selected—two (2) by Tallwood, a Plan sponsor and sole equity holder of the New
2 Common Stock to be issued by Reorganized Wave and one (1) to represent the interests of the Debtors’
3 general unsecured creditors—and the Debtors’ disclosure of the identities and affiliates of such
4 directors prior to confirmation of the Plan.

5
6 58. Sanjai Kohli will serve as the interim Chief Executive Officer for the Reorganized Debtors
7 and will be compensated at an annual base rate of \$250,000 for his role. Mr. Banatao will serve as
8 President, Secretary and Treasurer and will not be compensated for such roles.

9
10 59. Further, the Plan provides that the Committee shall select the initial Liquidation Trust
11 Manager. The Committee selected Robert A. Kors, a principal at Castellammare Advisors, LLC, to
12 serve as the Liquidating Trust Manager, and the identity of the Liquidating Trust Manager was
13 disclosed in accordance with section 1129(a)(5) of the Bankruptcy Code. Robert A. Kors’
14 appointment as the Liquidating Trust Manager is consistent with the interests of Creditors and with
15 public policy. The Liquidating Trust Manager shall be compensated in accordance with the terms of
16 the Plan, Plan Supplements, and the Liquidating Trust Agreement.

17 **F. Section 1129(a)(6) – No Rate Changes.**

18 60. The Plan does not provide for any change in rates subject to the jurisdiction of any
19 governmental regulatory commission and will not require governmental regulatory approval.
20 Accordingly, section 1129(a)(6) of the Bankruptcy Code does not apply to the Plan.

21 **G. Section 1129(a)(7) – Best Interests of Creditors Test.**

22 61. The liquidation analysis attached to the Fourth Plan Supplement as Exhibit S, the Perkins
23 Declaration, and other evidence proffered or adduced at the Confirmation Hearing: (a) are reasonable,
24 persuasive, credible and accurate; (b) use reasonable and appropriate methodologies and assumptions;
25 (c) have not been controverted by other evidence; and (d) establish that each Holder of a Claim or
26 Interest in an Impaired Class either (i) has accepted the Plan or (ii) will receive or retain under the
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1 Plan, on account of such Claim or Interest, property of a value, as of the Effective Date of the Plan,
2 that is not less than the amount that it would receive if the Debtors were liquidated under Chapter 7 of
3 the Bankruptcy Code on such date. The Plan therefore satisfies section 1129(a)(7) of the Bankruptcy
4 Code.

5
6 **H. Section 1129(a)(8) – Conclusive Presumption of Acceptance by Unimpaired
Classes; Acceptance of the Plan by Certain Voting Classes.**

7 62. Class 1 (Other Secured Claims), Class 2 (Other Priority Claims) and Class 4 (*De Minimis*
8 Unsecured Claims) are each a Class of Unimpaired Claims that are conclusively presumed to have
9 accepted the Plan under section 1126(f) of the Bankruptcy Code. Class 3 (Tallwood Claims) did not
10 vote and Class 5 (General Unsecured Claims) voted to accept the Plan in accordance with section
11 1126(c) of Bankruptcy Code.

12
13 **I. Section 1129(a)(9) – Treatment of Administrative Expense Claims and Priority
Tax Claims.**

14 63. The treatment of General Administrative Expense Claims, Professional Claims, DIP
15 Claims, and Priority Tax Claims under Article II of the Plan and of Other Priority Claims and Other
16 Secured Claims under Article III of the Plan satisfies the requirements of, and complies in all respects
17 with, section 1129(a)(9) of the Bankruptcy Code, subject to certain bar date provisions consistent with
18 Bankruptcy Rules 3002 and 3003. The Plan therefore satisfies section 1129(a)(9) of the Bankruptcy
19 Code.
20

21 **J. Section 1129(a)(10) – Acceptance of at Least One Impaired Class.**

22 64. As set forth in the Voting Affidavit, Class 5 (General Unsecured Claims) is an impaired
23 class and voted to accept the Plan. As such, there is at least one Voting Class that has accepted the
24 Plan, determined without including any acceptance of the Plan by any insider (as defined by the
25 Bankruptcy Code), for each Debtor. The Plan therefore satisfies the requirements of section
26 1129(a)(10) of the Bankruptcy Code.
27

28 **K. Section 1129(a)(11) – Feasibility.**

1 65. The Plan is feasible within the meaning of section 1129(a)(11) of the Bankruptcy Code.
2 The evidence proffered or adduced at or prior to the Confirmation Hearing and in the Perkins
3 Declaration, the Confirmation Brief, the Voting Affidavit, and the Disclosure Statement, including
4 exhibits thereto: (a) is reasonable, persuasive, accurate and credible as of the dates such analysis or
5 evidence was prepared, presented, or proffered; (b) has not been controverted by other evidence;
6 (c) uses reasonable and appropriate methodologies and assumptions; (d) establishes that the
7 Reorganized Debtors will have sufficient funds available to meet their obligations under the Plan; and
8 (e) establishes that confirmation of the Plan is not likely to be followed by a liquidation or need for a
9 further reorganization of the Reorganized Debtors that is not proposed in the Plan. Accordingly, the
10 Debtors have established that the Plan has a reasonable likelihood of success. The Plan therefore is
11 feasible and therefore satisfies the requirements of section 1129(a)(11) of the Bankruptcy Code.
12

13 **L. Section 1129(a)(12) – Payment of Certain Fees.**

14 66. Section XIII.C of the Plan provides that all fees payable pursuant to 28 U.S.C. § 1930(a),
15 as determined by the Court at a hearing pursuant to section 1128 of the Bankruptcy Code, shall be
16 paid by each of the Reorganized Debtors for each quarter (including any fraction thereof) until the
17 earlier of entry of a final decree closing such Chapter 11 Cases or an order of dismissal or conversion,
18 whichever comes first. The Plan therefore satisfies the requirements of section 1129(a)(12) of the
19 Bankruptcy Code.
20

21 **M. Section 1129(a)(13) – Continuation of Retiree Benefits.**

22 67. Section 1129(a)(13) of the Bankruptcy Code requires a plan to provide for retiree benefits
23 (as defined in section 1114 of the Bankruptcy Code) at levels established pursuant to section 1114 of
24 the Bankruptcy Code. Section V.H of the Plan and this Confirmation Order provide that subject to
25 the provisions of the Plan and the Plan Supplements, Compensation and Benefits Programs shall be
26 treated as Executory Contracts under the Plan and deemed assumed on the Effective Date pursuant to
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28

1 the provisions of sections 365 and 1123 of the Bankruptcy Code. No counterparty shall have rights
2 under a Compensation and Benefits Program assumed pursuant to the Plan other than those applicable
3 immediately prior to such assumption. The Plan therefore satisfies the requirements of
4 section 1129(a)(13) of the Bankruptcy Code.

5
6 **N. Sections 1129(a)(14), (15), and (16) – Domestic Support Obligations, Individuals,
and Nonprofit Corporations.**

7 68. The Debtors owe no domestic support obligations, are not individuals, and are not
8 nonprofit corporations. Accordingly, sections 1129(a)(14), (15) and (16) of the Bankruptcy Code do
9 not apply to the Plan.

10
11 **O. Section 1129(b) – Confirmation of Plan Over Nonacceptance of an Impaired
Class.**

12 69. Notwithstanding the fact that Deemed Rejecting Classes, have not accepted the Plan, the
13 Plan may be confirmed pursuant to section 1129(b)(1) of the Bankruptcy Code because: (a) an
14 impaired class voted to accept the Plan; and (b) the Plan does not discriminate unfairly and is fair and
15 equitable with respect to the Claims and Interests in the classes not accepting the Plan. As a result,
16 the Plan satisfies the requirements of section 1129(b) of the Bankruptcy Code. Thus, the Plan may be
17 confirmed even though section 1129(a)(8) of the Bankruptcy Code is not satisfied with respect to the
18 classes not accepting the Plan. After entry of this Confirmation Order and upon the occurrence of the
19 Effective Date, the Plan shall be binding upon all Holders of Claims and Interests, including the
20 members of the classes not accepting the Plan.
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26 **P. Section 1129(c) – Confirmation of Only One Plan.**
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1 70. The Plan is the only plan of reorganization for the Debtors proposed and considered by
2 the Court for Confirmation. The Plan therefore satisfies the requirements of section 1129(c) of the
3 Bankruptcy Code.

4 **Q. Section 1129(d) – Principal Purpose of the Plan.**

5 71. The principal purpose of the Plan is not the avoidance of taxes or the avoidance of the
6 application of section 5 of the Securities Act of 1933, 15 U.S.C. § 77e, and no governmental unit has
7 objected to the confirmation of the Plan on any such grounds. The Plan therefore satisfies the
8 requirements of section 1129(d) of the Bankruptcy Code.

9 **R. Section 1129(e) – Not Small Business Cases.**

10 72. These Chapter 11 Cases are not small business cases. Accordingly, section 1129(e) of the
11 Bankruptcy Code does not apply to these Chapter 11 Cases.

12 **XIX. D&O Liability Insurance Proceeds**

13 73. The Debtors’ applicable director and officer liability insurance policies have been in full
14 force and effect throughout these Chapter 11 Cases and remain, and will continue to remain, in full
15 force and effect upon entry of this Confirmation Order.

16 74. The Plan preserves, and does not settle or release (except as provided in Section IX.D of
17 the Plan), any Claims or Causes of Action held by the Debtors, the Reorganized Debtors or their
18 respective estates or creditors against any current or former directors and officers of the Debtors. Any
19 such Claims or Causes of Action are being transferred or assigned to the Wave Computing Liquidating
20 Trust as and to the extent set forth in the Plan and the Liquidating Trust Agreement. Without
21 limitation, Ker Zhang (“Zhang”) and Arthur Swift (“Swift”) are not “Released Parties” under the Plan.

22 75. The covenant not to execute against the personal assets of Zhang and Swift contained in
23 Section IX.D of the Plan (the “Covenant”) is a contractual obligation of the Debtors and the
24 Reorganized Debtors and is not a release of any claims against Zhang or Swift. The Covenant is a
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1 contractual covenant of the Debtors and the Reorganized Debtors not to take the actions identified in
2 Section IX.D of the Plan. The Covenant does not relieve Zhang or Swift of any legal obligation to
3 pay and possible settlement of or judgment related to any Claims or Causes of Action against them by
4 the Debtors, the Reorganized Debtors or the Wave Computing Liquidating Trust, as applicable. The
5 Covenant does not constitute any acknowledgment of liability by Zhang and Swift with respect to any
6 Claims or Causes of Action against them or relieve them of their obligation to cooperate with their
7 insurance carriers in connection with the defense of any Claims or Causes of Action pursued by the
8 Wave Computing Liquidating Trust or to fulfill any other contractual obligations that Zhang and Swift
9 may have under such insurance policies. The Covenant does not contravene public policy.

11 **XX. Disclosure of Agreements and Other Documents.**

12 76. The Debtors have disclosed all material facts, to the extent applicable, regarding: (a) the
13 adoption of the New Organizational Documents and the terms thereof; (b) the selection of directors
14 and officers of the Reorganized Debtors; (c) the issuance of shares of New Common Stock; (d)
15 execution of the Exit Facility; (e) the entry into the Senior Secured Note, the Secured Subordinated
16 Note, the GUC Loan and the Intercreditor Agreement and the grant and perfection of the Liens on and
17 security interests in the assets and properties of the Reorganized Debtors created or evidenced (or
18 purported to be created or evidenced) by the security agreements, pledge agreements, collateral
19 assignments, control agreements, mortgages, deeds, financing statements and other documents,
20 agreements and instruments executed and/or delivered in connection with the Senior Secured Note,
21 the Secured Subordinated Note, the GUC Loan and the Intercreditor Agreement; (f) the adoption,
22 execution and implementation of the other documents, instruments, agreements, actions and matters
23 provided for under the Plan involving corporate actions to be taken by or required of the Debtors or
24 the Reorganized Debtors; (g) the securities registration exemptions for the issuance and distribution
25 of shares of New Common Stock; (h) the establishment of the Wave Computing Liquidating Trust;

1 (i) the selection of the Liquidating Trust Manager, the Delaware Trustee and the Liquidating Trust
2 Advisory Board; and (j) the exemption under section 1146(a) of the Bankruptcy Code.

3 **XXI. Satisfaction of Confirmation Requirements.**

4 77. Based upon the foregoing and all other pleadings and evidence proffered or adduced at or
5 prior to the Confirmation Hearing, the Plan and the Debtors, as applicable, satisfy all the requirements
6 for plan confirmation set forth in section 1129 of the Bankruptcy Code.
7

8 **XXII. Good Faith**

9 78. The Debtors, Tallwood and the Supporting Creditors (and each of the foregoing parties'
10 Related Parties) have been acting in good faith and will be acting in good faith if they proceed to: (a)
11 consummate the Plan and the agreements, settlements, transactions, and transfers contemplated
12 thereby; and (b) take the actions authorized and directed by this Confirmation Order, in each case, to
13 the extent such actions are consistent with the Plan or this Confirmation Order, as applicable.
14

15 **XXIII. Implementation.**

16 79. All documents necessary to implement the Plan and establish the Wave Computing
17 Liquidating Trust have been negotiated in good faith and at arm's length and shall, upon completion
18 of documents and execution, be valid, binding and enforceable agreements and are not in conflict with
19 any federal or state laws.

20 **XXIV. Satisfaction of Conditions Precedent to Effective Date.**

21 80. Entry of this Confirmation Order shall satisfy the conditions to the Effective Date set forth
22 in Section X.A of the Plan (other than the condition that this Confirmation Order shall have become a
23 Final Order). The conditions precedent to the Effective Date set forth in Section X.A of the Plan may
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1 be waived in whole or in part by the Debtors, without notice, leave, or order of the Court or any formal
2 action.

3 **XXV. Satisfaction of Confirmation Requirements.**

4 81. Based upon the foregoing and all other pleadings and evidence proffered or adduced at or
5 prior to the Confirmation Hearing, the Plan satisfies the requirements for confirmation set forth in
6 section 1129 of the Bankruptcy Code.
7

8 **ORDER**

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

11 82. This Confirmation Order confirms the Plan, attached hereto as **Exhibit A**, in its entirety.

12 83. This Confirmation Order approves the Plan Supplements, including the documents
13 contained therein that may be amended through and including the Effective Date or otherwise in
14 accordance with and as permitted by the Plan. The terms of the Plan, the Plan Supplements, and the
15 exhibits thereto are incorporated herein by reference and are an integral part of this Confirmation
16 Order.

17 84. Any amendments or modifications to the Plan described or set forth in this Confirmation
18 Order are hereby approved, without further order of this Court.

19 85. All Holders of Claims that voted to accept the Plan are conclusively presumed to have
20 accepted the Plan.
21

22 86. The terms of the Plan, the Plan Supplements, all exhibits thereto, and this Confirmation
23 Order shall be effective and binding as of the Effective Date on all parties in interest.

24 87. The failure to include or refer to any particular article, section, or provision of the Plan,
25 the Plan Supplements or any related document, agreement, or exhibit does not impair the effectiveness
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1 of that article, section, or provision; it being the intent of the Court that the Plan, the Plan Supplements,
2 and any related document, agreement, or exhibit are approved in their entirety.

3 **I. Objections.**

4 88. All objections (including any reservations of rights contained therein) to approval of
5 Confirmation of the Plan that have not been withdrawn, waived, or settled prior to entry of this
6 Confirmation Order, are not cured by the relief granted herein, or are not otherwise resolved as stated
7 by the Debtors on the record of the Confirmation Hearing, are **OVERRULED** on the merits and in
8 their entirety, and all withdrawn objections are deemed withdrawn with prejudice.
9

10 **II. Findings of Fact and Conclusions of Law.**

11 89. The findings of fact and the conclusions of law set forth in this Confirmation Order
12 constitute findings of fact and conclusions of law in accordance with Bankruptcy Rule 7052, made
13 applicable to this proceeding by Bankruptcy Rule 9014. All findings of fact and conclusions of law
14 announced by the Court at the Confirmation Hearing in relation to Confirmation are hereby
15 incorporated into this Confirmation Order. To the extent that any of the following constitutes findings
16 of fact or conclusions of law, they are adopted as such. To the extent any finding of fact or conclusion
17 of law set forth in this Confirmation Order (including any findings of fact or conclusions of law
18 announced by the Court at the Confirmation Hearing and incorporated herein) constitutes an order of
19 this Court, it is adopted as such.
20

21 **III. The Releases, Injunction, Exculpation, and Related Provisions Under the Plan.**

22 90. The discharge, releases, injunctions, exculpations, and related provisions set forth in
23 Article IX of the Plan are incorporated herein in their entirety, are hereby approved and authorized in
24 all respects, are so ordered, and shall be immediately effective on the Effective Date without further
25 order or action on the part of this Court or any other party.
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1 **IV. References to and Omissions of Plan Provisions.**

2 91. References in this Confirmation Order to any article, section, paragraph, or provision of
3 the Plan are inserted for convenience of reference only and are not intended to be a part of or to affect
4 the interpretation of the Plan. The failure to specifically include or to refer to any particular article,
5 section, paragraph, or provision of the Plan in this Confirmation Order shall not diminish or impair
6 the effectiveness of such article, section, paragraph, or provision, it being the intent of the Court that
7 the Plan be confirmed in its entirety, except as expressly modified herein, and that the Plan, and all
8 other agreements, instruments, or other documents filed in connection with the Plan and/or executed
9 or to be executed in connection with the transactions contemplated by the Plan, and all amendments
10 and modifications of any of the foregoing made pursuant to the provisions of the Plan governing such
11 amendments and modifications, are approved in their entirety.
12

13 **V. Headings.**

14 92. Headings utilized in this Confirmation Order are for convenience of reference only and do
15 not constitute a part of the Plan or this Confirmation Order for any other purpose.
16

17 **VI. Classifications.**

18 93. The terms of the Plan shall govern the classification of Claims and Interests for purposes
19 of the distributions to be made thereunder.

20 **VII. Transactions.**

21 94. This Confirmation Order shall and shall be deemed to, pursuant to sections 363 and 1123
22 of the Bankruptcy Code, authorize, among other things, all actions as may be necessary or appropriate
23 to effectuate any transaction described in, approved by, contemplated by, or necessary to effectuate
24 the Plan.
25

26 **VIII. Exit Facility**

27 95. On or before the Effective Date, the applicable Reorganized Debtors shall enter into the
28 Exit Facility, including any documents (including, without limitation, UCC-1 financing statements

1 and intellectual property security agreements) as necessary or reasonably desirable to establish and
2 perfect the Liens and security interests granted to the Exit Facility Lenders pursuant to the Secured
3 Subordinated Note in the absence of the Plan and Confirmation Order. Confirmation shall be deemed
4 approval of the Exit Facility Documents (including the transactions contemplated thereby, and all
5 actions to be taken, undertakings to be made, and obligations to be incurred and fees paid by the
6 Debtors or the Reorganized Debtors in connection therewith), to the extent not approved by the Court
7 previously, and the Debtors or Reorganized Debtors are authorized to execute and deliver those
8 documents necessary or appropriate to consummate the Exit Facility Documents (including any
9 documents required to be delivered thereunder) without further notice to or order of the Court, act or
10 action under applicable law, regulation, order, or rule or vote, consent, authorization, or approval of
11 any Person, subject to such modifications as may be agreed between the Debtors or Reorganized
12 Debtors and the applicable Exit Facility Lenders.

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15 96. The applicable Debtors or Reorganized Debtors and the Exit Facility Lender shall be
16 authorized to execute all documents (including, without limitation, deposit account control
17 agreements), make all filings and recordings (including, without limitation, filing of UCC-1 financing
18 statements and intellectual property security filings) and to obtain all governmental approvals and
19 consents as would be necessary to establish and perfect the Liens and security interests granted to the
20 Exit Facility Lenders pursuant to the Exit Facility under the provisions of the applicable state, federal,
21 or other law that would be applicable in the absence of the Plan and the Confirmation Order.

22
23 **IX. The Wave Computing Liquidating Trust**

24 97. The approvals and authorizations specifically set forth in this Confirmation Order are not
25 intended to limit the authority of the Debtors, the Wave Computing Liquidating Trust and the
26 Liquidating Trust Manager to take any and all actions necessary or appropriate to implement,
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1 effectuate, and consummate any and all documents or transactions contemplated by the Plan or this
2 Confirmation Order.

3 98. The Wave Computing Liquidating Trust and the Liquidating Trust Manager are hereby
4 authorized to make Distributions after the Effective Date in accordance with this Confirmation Order,
5 the Plan, and the Liquidating Trust Agreement.
6

7 99. The Liquidating Trust Manager will be appointed prior to the Effective Date in accordance
8 with the Plan and the Liquidating Trust Agreement. On the Effective Date, the Reorganized Debtors,
9 on their own behalf and on behalf of the Liquidating Trust Beneficiaries, and the Liquidating Trust
10 Manager shall execute the Liquidating Trust Agreement and shall take all other steps necessary to
11 establish the Wave Computing Liquidating Trust in accordance with and pursuant to the terms of the
12 Liquidating Trust Agreement. On the Effective Date, the Liquidating Trust Assets shall automatically
13 vest in the Wave Computing Liquidating Trust free and clear of Liens, Claims, Interests, charges and
14 other encumbrances, and such vesting shall be exempt from any stamp, real estate transfer, mortgage
15 reporting, sales, use or other similar tax. To the extent that there is a conflict between the terms and
16 conditions of the Liquidating Trust Agreement and the Plan, the terms and conditions of the Plan shall
17 govern.
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19 100. On the Effective Date, the Liquidating Trust Manager is authorized, empowered, and
20 directed to take any and all actions necessary or appropriate to implement, effectuate, and consummate
21 the Plan, the Liquidating Trust Agreement, and this Order, and the transactions respectively
22 contemplated in those documents, or otherwise perform his duties as Liquidating Trust Manager
23 outlined in the Liquidating Trust Agreement, and shall be designated as the representative of the
24 Estates for purposes of prosecuting the Liquidating Trust Causes of Action consistent with the Plan,
25 the Liquidating Trust Agreement, and this Order.
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1 101. Without limiting the generality of the foregoing, the Liquidating Trust Manager shall,
2 pursuant to the terms and conditions of the Liquidating Trust Agreement, (a) hold, administer and
3 prosecute the assets of the Wave Computing Liquidating Trust and any proceeds thereof; (b) have the
4 power and authority to retain, as an expense of the Wave Computing Liquidating Trust, attorneys,
5 advisors, other professionals and employees as may be appropriate to perform the duties required of
6 the Liquidating Trust Manager under the Liquidating Trust Agreement; (c) make distributions as
7 provided in the Liquidating Trust Agreement; and (d) provide periodic reports and updates regarding
8 the status of the administration of the Wave Computing Liquidating Trust as provided in the
9 Liquidating Trust Agreement.
10

11 102. On the Effective Date, (i) the GUC Loan; and (ii) subject to the releases and exculpations
12 set forth herein (including the Debtor Release and the Third Party Release), each of the Causes of
13 Action (other than the right to object to or otherwise contest Claims or Interests, which shall vest in
14 the Reorganized Debtors) and Avoidance Actions that are not released or waived pursuant to the Plan
15 shall automatically vest in the Wave Computing Liquidating Trust for the benefit of the Liquidating
16 Trust Beneficiaries. On the Effective Date, standing to commence, prosecute and compromise all
17 Causes of Actions (other than the right to object to or otherwise contest Claims or Interests) and
18 Avoidance Actions vesting in the Estates shall transfer to the Liquidating Trust Manager and/or the
19 Wave Computing Liquidating Trust free and clear of all Liens, Claims, Interests, charges and other
20 encumbrances except as set forth herein.
21

22 103. On the Effective Date, (i) the GUC Loan; and (ii) subject to the releases and exculpations
23 set forth herein (including the Debtor Release and the Third Party Release), each of the Causes of
24 Action (other than the right to object to or otherwise contest Claims or Interest, which shall vest in the
25 Reorganized Debtors) and Avoidance Actions that are not released or waived pursuant to the Plan
26 shall automatically vest in the Wave Computing Liquidating Trust for the benefit of the Liquidating
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1 Trust Beneficiaries. On the Effective Date, standing to commence, prosecute and compromise all
2 Causes of Actions (other than the right to object to or otherwise contest Claims or Interests) and
3 Avoidance Actions vesting in the Estates shall transfer to the Liquidating Trust Manager and/or the
4 Wave Computing Liquidating Trust free and clear of all Liens, Claims, Interests, charges and
5 encumbrances except as set forth herein.
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7 104. The primary right to object to or otherwise contest Claims or Interests shall be retained
8 by the Reorganized Debtors, except as otherwise agreed between the Reorganized Debtors and the
9 Liquidating Trust Manager in writing. If the Reorganized Debtors do not object to or otherwise contest
10 a Claim, the Wave Computing Liquidating Trust shall have standing and the right to file and prosecute
11 such a Claim objection, and in all circumstances, the Wave Computing Liquidating Trust shall have
12 the right to join in any claim objection filed by or pursued by the Reorganized Debtors.
13

14 105. The Liquidating Trust Manager shall, with the majority consent of the Liquidating Trust
15 Advisory Board, be entitled to use the Restructuring Liquidating Trust Expense Advance as an
16 advance against Liquidating Trust Expenses. The Liquidating Trust Administration Reserve shall be
17 funded on the Effective Date in the amount of \$1 million, which amount may be funded, in whole or
18 in part, from the \$1 million prepayment of the GUC Loan or, in whole or in part, from the GUC
19 Account Receivables (which \$1 million shall constitute part of the Liquidating Trust Expense
20 Advance). The proceeds of the Liquidating Trust Assets realized by the Wave Computing Liquidating
21 Trust shall be used to repay the Restructuring Liquidating Trust Expense Advance to Holders of
22 Allowed General Unsecured Claims on a Pro Rata basis until the Restructuring Liquidating Trust
23 Expense Advance has been repaid in full. Until the Restructuring Liquidating Trust Expense Advance
24 has been repaid in full, no proceeds of the Liquidating Trust Assets realized by the Wave Computing
25 Liquidating Trust shall be used to repay, or deemed to repay, any portion of the GUC Loan (other than
26 the Liquidating Trust Expense Advance) or the Excess General Unsecured Claim Amount.
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1 **X. Senior Secured Note**

2 106. On or before the Effective Date, the applicable Reorganized Debtors shall enter into the
3 Senior Secured Note, including any documents (including, without limitation, UCC-1 financing
4 statements and intellectual property security agreements) as necessary or reasonably desirable to
5 establish and perfect the Liens and security interests granted to Tallwood Technology Partners LLC
6 pursuant to the Secured Subordinated Note in the absence of the Plan and Confirmation Order.
7 Confirmation shall be deemed approval of the Senior Secured Note (including the transactions
8 contemplated thereby, and all actions to be taken, undertakings to be made, and obligations to be
9 incurred and fees paid by the Debtors or the Reorganized Debtors in connection therewith), to the
10 extent not approved by the Court previously, and the Debtors or Reorganized Debtors are authorized
11 to execute and deliver those documents necessary or appropriate to consummate the Senior Secured
12 Note (including any documents required to be delivered thereunder) without further notice to or order
13 of the Court, act or action under applicable law, regulation, order, or rule or vote, consent,
14 authorization, or approval of any Person, subject to such modifications as may be agreed between the
15 Debtors or Reorganized Debtors and Tallwood Technology Partners LLC.
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18 107. The applicable Debtors or Reorganized Debtors and Tallwood Technology Partners LLC
19 shall be authorized to execute all documents (including, without limitation, deposit account control
20 agreements), make all filings and recordings (including, without limitation, filing of UCC-1 financing
21 statements and intellectual property security filings) and to obtain all governmental approvals and
22 consents as would be necessary to establish and perfect the Liens and security interests granted to
23 Tallwood Technology Partners LLC pursuant to the Senior Secured Note under the provisions of the
24 applicable state, federal, or other law that would be applicable in the absence of the Plan and the
25 Confirmation Order.
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1 **XI. Secured Subordinated Note**

2 108. On or before the Effective Date, the applicable Reorganized Debtors shall enter into the
3 Secured Subordinated Note, including any documents (including, without limitation, UCC-1 financing
4 statements and intellectual property security agreements) as necessary or reasonably desirable to
5 establish and perfect the Liens and security interests granted to Tallwood Technology Partners LLC
6 pursuant to the Secured Subordinated Note in the absence of the Plan and Confirmation Order.
7 Confirmation shall be deemed approval of the Secured Subordinated Note (including the transactions
8 contemplated thereby, and all actions to be taken, undertakings to be made, and obligations to be
9 incurred and fees paid by the Debtors or the Reorganized Debtors in connection therewith), to the
10 extent not approved by the Court previously, and the Debtors or Reorganized Debtors are authorized
11 to execute and deliver those documents necessary or appropriate to consummate the Secured
12 Subordinated Note (including any documents required to be delivered thereunder) without further
13 notice to or order of the Court, act or action under applicable law, regulation, order, or rule or vote,
14 consent, authorization, or approval of any Person, subject to such modifications as may be agreed
15 between the Debtors or Reorganized Debtors and Tallwood Technology Partners LLC.
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18 109. The applicable Debtors or Reorganized Debtors and Tallwood Technology Partners LLC
19 shall be authorized to execute all documents (including, without limitation, deposit account control
20 agreements), make all filings and recordings (including, without limitation, filing of UCC-1 financing
21 statements and intellectual property security filings) and to obtain all governmental approvals and
22 consents as would be necessary to establish and perfect the Liens and security interests granted to
23 Tallwood Technology Partners LLC pursuant to the Secured Subordinated Note under the provisions
24 of the applicable state, federal, or other law that would be applicable in the absence of the Plan and
25 the Confirmation Order.
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1 **XII. GUC Loan**

2 110. On or before the Effective Date, the applicable Reorganized Debtors shall execute the
3 GUC Loan, and any documents (including, without limitation, UCC-1 financing statements and
4 intellectual property security agreements) as necessary or reasonably desirable to establish and perfect
5 the Liens and security interests granted to the Wave Computing Liquidating Trust pursuant to the GUC
6 Loan in the absence of the Plan and Confirmation Order. Within the timeframe required by the GUC
7 Loan, the applicable Reorganized Debtors shall execute and deliver to the Wave Computing
8 Liquidating Trust deposit account control agreements with respect to deposit accounts in the name of
9 the applicable Reorganized Debtors as are required to be delivered under the GUC Loan. Confirmation
10 shall be deemed approval of the GUC Loan (including the transactions contemplated thereby, and all
11 actions to be taken, undertakings to be made, and obligations to be incurred and fees paid by the
12 Debtors or the Reorganized Debtors in connection therewith), to the extent not approved by the Court
13 previously, and the Debtors or Reorganized Debtors are authorized to execute and deliver those
14 documents necessary or appropriate to consummate the GUC Loan (including any documents required
15 to be delivered thereunder) without further notice to or order of the Court, act or action under
16 applicable law, regulation, order, or rule or vote, consent, authorization, or approval of any Person,
17 subject to such modifications as may be agreed between the Debtors or Reorganized Debtors and the
18 Liquidating Trust Manager.
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21 111. The applicable Debtors or Reorganized Debtors and the Wave Computing Liquidating
22 Trust shall be authorized to execute all documents (including, without limitation, deposit account
23 control agreements), make all filings and recordings (including, without limitation, filing of UCC-1
24 financing statements and intellectual property security filings) and to obtain all governmental
25 approvals and consents as would be necessary or desirable to establish and perfect the Liens and
26 security interests granted to the Wave Computing Liquidating Trust pursuant to the GUC Loan under
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1 the provisions of the applicable state, federal, or other law that would be applicable in the absence of
2 the Plan and the Confirmation Order.

3 112. Notwithstanding Paragraph 111 of this Confirmation Order, perfection of the Liens and
4 security interests granted to the Liquidating Trust pursuant to the GUC Loan shall occur automatically
5 by virtue of the entry of this Confirmation Order, and any filings, recordings, approval and consents
6 referenced in Paragraph 111 of this Confirmation Order shall not be required.
7

8 **XIII. No Action.**

9 113. Pursuant to the appropriate provisions of section 303 of the Delaware General
10 Corporation Law and any comparable provision of the business corporation, limited liability company
11 or limited partnership laws of any other state, as applicable, and section 1142(b) of the Bankruptcy
12 Code, no action of the equity holders, members, managers, or directors of the Debtors or Reorganized
13 Debtors shall be required to authorize the Debtors or the Reorganized Debtors to enter into, execute,
14 deliver, file, adopt, amend, restate, consummate, or effectuate, as the case may be, the Plan and any
15 contract, assignment, certificate, instrument, or other document to be executed, delivered, filed,
16 adopted, amended, restated, consummated, or effectuated, as the case may be, in connection with
17 implementation of the Plan.
18

19 **XIV. Immediate Binding Effect.**

20 114. On the date of and after entry of this Confirmation Order and subject to the occurrence of
21 the Effective Date, the terms of the Plan, the final versions of the documents contained in the Plan
22 Supplements, and any documents related or ancillary thereto and this Confirmation Order shall be
23 immediately effective and enforceable and not subject to avoidance, recharacterization or other
24 challenge, legal or otherwise, and deemed binding upon the Debtors or the Reorganized Debtors, as
25 applicable, any and all Holders of Claims or Interests (whether or not Impaired under the Plan and
26 whether or not such Holders have accepted or rejected the Plan or affirmatively voted to reject the
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1 Plan), all Entities that are parties to or are subject to the releases, discharges, exculpations, and
2 injunctions described in the Plan, each Entity acquiring property under the Plan or this Confirmation
3 Order, and any and all non-Debtor parties to Executory Contracts and Unexpired Leases with the
4 Debtors. All Claims and debts shall be as fixed, adjusted, or compromised, as applicable, pursuant to
5 the Plan regardless of whether any Holder of a Claim or debt has voted on the Plan.
6

7 115. Pursuant to section 1141 of the Bankruptcy Code, subject to the occurrence of the
8 Effective Date and subject to the terms of the Plan and this Confirmation Order, all prior orders entered
9 in these Chapter 11 Cases, all documents and agreements executed by the Debtors as authorized and
10 directed thereunder and all motions or requests for relief by the Debtors pending before this Court as
11 of the Effective Date shall be binding upon and shall inure to the benefit of (i) the Debtors and/or the
12 Reorganized Debtors, as applicable (ii) the Wave Computing Liquidating Trust; (iii) any and all
13 Holders of Claims or Interests (irrespective of whether any of such Claims or Interests are Impaired
14 under the Plan or whether the Holders of such Claims or Interests accepted, rejected or are deemed to
15 have accepted or rejected the Plan, or whether such Holders filed a proof of claim or interest in the
16 Chapter 11 Cases); (iv) any other Entity giving, acquiring or receiving property under the Combined
17 Disclosure Statement and Plan; (v) any and all non-Debtor Parties to any Executory Contract; (vi) the
18 Liquidating Trust Manager, in its capacity as such; and (vii) the respective Affiliates, officers,
19 directors, agents, representatives, attorneys, beneficiaries, successors or assigns, if any, or any Entity
20 claiming by, through or in the right of such Entity, of any of the foregoing.
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23 **XV. Effectiveness of All Actions**

24 116. Except as set forth in the Plan, all actions authorized to be taken pursuant to the Plan shall
25 be effective on, before, or after the Effective Date pursuant to this Confirmation Order, without further
26 application to, or order of the Court, or further action by the Debtors and/or the Reorganized Debtors
27 and their respective directors, officers, members, or equity holders, and with the effect that such
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1 actions had been taken by unanimous action of such officers, directors, managers, members, or equity
2 holders.

3 117. After the Confirmation Date, the Debtors shall be permitted to perform all transition
4 services pursuant to the Restructuring, as well as perform services relating to the Reorganized Debtors
5 and adjudication and resolution of claims, and may make payments to employees pursuant to
6 employment programs then in effect without any further notice to or action, order, or approval of the
7 Court.
8

9 **XVI. Implementation of the Plan.**

10 118. The provisions of Article IV of the Plan governing the means for implementation of the
11 Plan are hereby approved in their entirety. Prior to, on, and after the Effective Date, the Debtors and
12 the Reorganized Debtors, and the directors, managers, officers, and authorized persons thereof, are
13 authorized to and may issue, execute, deliver, file or record such contracts, instruments, releases, and
14 other agreements and documents and take such actions may be necessary or appropriate to effectuate,
15 implement, and further evidence the terms and provisions of the Plan without the need for any further
16 approvals, authorizations, or consents except for those expressly required pursuant to the Plan.
17

18 **XVII. Exemption from Certain Transfer Taxes.**

19 119. To the fullest extent permitted by section 1146(a) of the Bankruptcy Code, any transfers
20 (whether from a Debtor to a Reorganized Debtor or to any other Person) of property under the Plan or
21 pursuant to: (a) the issuance, distribution, transfer, or exchange of any debt, equity Security, or other
22 interest in the Debtors or the Reorganized Debtors; (b) the Restructuring; (c) the creation,
23 modification, consolidation, termination, refinancing, and/or recording of any mortgage, deed of trust,
24 or other security interest, or the securing of additional indebtedness by such or other means; (d) the
25 making, assignment, or recording of any lease or sublease; or (e) the making, delivery, or recording of
26 any deed or other instrument of transfer under, in furtherance of, or in connection with, the Plan,
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1 including any deeds, bills of sale, assignments, or other instrument of transfer executed in connection
2 with any transaction arising out of, contemplated by, or in any way related to the Plan, shall not be
3 subject to any document recording tax, stamp tax, conveyance fee, intangibles or similar tax, mortgage
4 tax, real estate transfer tax, personal property transfer tax, sales or use tax, mortgage recording tax,
5 Uniform Commercial Code filing or recording fee, regulatory filing or recording fee, or other similar
6 tax or governmental assessment, and upon entry of this Confirmation Order, the appropriate state or
7 local governmental officials or agents shall forego the collection of any such tax or governmental
8 assessment and accept for filing and recordation any of the foregoing instruments or other documents
9 without the payment of any such tax, recordation fee, or governmental assessment. All filing or
10 recording officers (or any other Person with authority over any of the foregoing), wherever located
11 and by whomever appointed, shall comply with the requirements of section 1146(a) of the Bankruptcy
12 Code, shall forego the collection of any such tax or governmental assessment, and shall accept for
13 filing and recordation any of the foregoing instruments or other documents without the payment of
14 any such tax or governmental assessment.
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17 **XVIII. Preservation of Causes of Action and Settlement of Ordinary Litigation Claims.**

18 120. Unless any Cause of Action against an Entity is expressly waived, relinquished,
19 exculpated, released, compromised, or settled in the Plan or a Final Order, in accordance with
20 section 1123(b) of the Bankruptcy Code, the Debtors shall convey to the Wave Computing Liquidating
21 Trust and the Liquidating Trust Manager all rights to commence, prosecute, or settle, as appropriate,
22 any and all Causes of Action, whether arising before or after the Petition Date, which shall vest in the
23 Wave Computing Liquidating Trust pursuant to the terms of the Plan; provided, however, that the
24 primary right to object to or otherwise contest Claims or Interests shall be retained by the Reorganized
25 Debtors. The Liquidating Trust Manager or the Reorganized Debtors, as applicable, may enforce all
26 rights to commence, prosecute, or settle, as appropriate, any and all Causes of Action, whether arising
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1 before or after the Petition Date, and the Liquidating Trust Manager's or the Reorganized Debtors'
2 rights, as applicable, to commence, prosecute, or settle such Causes of Action shall be preserved
3 notwithstanding the occurrence of the Effective Date. The Liquidating Trust Manager or the
4 Reorganized Debtors, as applicable, may, in its reasonable business judgment, pursue such Causes of
5 Action and may retain and compensate professionals in the analysis or pursuit of such Causes of Action
6 to the extent the Liquidating Trust Manager or the Reorganized Debtors, as applicable, deem
7 appropriate, including on a contingency fee basis. **No Entity may rely on the absence of a specific**
8 **reference in the Plan or the Disclosure Statement to any Cause of Action against them as any**
9 **indication that the Liquidating Trust Manager, the Debtors or the Reorganized Debtors, as**
10 **applicable, will not pursue any and all available Causes of Action against it. The Liquidating**
11 **Trust Manager, the Debtors or the Reorganized Debtors, as applicable, expressly reserve all**
12 **rights to prosecute any and all Causes of Action against any Entity, except as otherwise expressly**
13 **provided in the Plan.** Unless any Cause of Action against an Entity is expressly waived, relinquished,
14 exculpated, released, compromised, or settled in the Plan or a Final Order, the Liquidating Trust
15 Manager, the Debtors or the Reorganized Debtors, as applicable, expressly reserve all Causes of
16 Action for later adjudication, and, therefore, no preclusion doctrine, including the doctrines of *res*
17 *judicata*, collateral estoppel, issue preclusion, claim preclusion, estoppel (judicial, equitable, or
18 otherwise), or laches, shall apply to such Causes of Action upon, after, or as a consequence of the
19 Confirmation or Consummation. The Liquidating Trust Manager or the Reorganized Debtors, as
20 applicable, shall have the exclusive right, authority, and discretion to determine and to initiate, file,
21 prosecute, enforce, abandon, settle, compromise, release, withdraw, or litigate to judgment any such
22 Causes of Action, or to decline to do any of the foregoing, without the consent or approval of any third
23 party or any further notice to, or action, order, or approval of, the Bankruptcy Court.
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1 121. Discharge of Claims and Termination of Interests. Pursuant to section 1141(d) of the
2 Bankruptcy Code, and except as otherwise specifically provided in the Plan, this Confirmation Order,
3 or in any contract, instrument, or other agreement or document created pursuant to the Plan, the
4 distributions, rights, and treatment that are provided in the Plan shall be in complete satisfaction,
5 discharge, and release, effective as of the Effective Date, of Claims (including any Intercompany
6 Claims resolved or compromised after the Effective Date by the Reorganized Debtors), Interests, and
7 Causes of Action of any nature whatsoever, including any interest accrued on Claims or Interests from
8 and after the Petition Date, whether known or unknown, against, liabilities of, Liens on, obligations
9 of, rights against, and interests in, the Debtors or any of their assets or properties, regardless of whether
10 any property shall have been distributed or retained pursuant to the Plan on account of such Claims
11 and Interests, including demands, liabilities, and Causes of Action that arose before the Effective Date,
12 any liability (including withdrawal liability) to the extent such Claims or Interests relate to services
13 performed by employees of the Debtors prior to the Effective Date and that arise from a termination
14 of employment, any contingent or non-contingent liability on account of representations or warranties
15 issued on or before the Effective Date, and all debts of the kind specified in sections 502(g), 502(h),
16 or 502(i) of the Bankruptcy Code, in each case whether or not: (1) a Proof of Claim or Proof of Interest
17 based upon such debt, right, or Interest is Filed or deemed Filed pursuant to section 501 of the
18 Bankruptcy Code; (2) a Claim or Interest based upon such debt, right, or interest is Allowed pursuant
19 to section 502 of the Bankruptcy Code; or (3) the holder of such a Claim or Interest has accepted the
20 Plan. This Confirmation Order shall be a judicial determination of the discharge of all Claims (other
21 than the Reinstated Claims) and Interests (other than the Intercompany Interests that are Reinstated)
22 subject to the occurrence of the Effective Date.
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1 **XIX. Corporate Action.**

2 122. On or after the Effective Date, all other actions contemplated by the Plan shall be deemed
3 authorized, approved, and, to the extent taken prior to the Effective Date, ratified in all respects without
4 any requirement of further action by shareholders, members, creditors, directors, or managers of the
5 Debtors, the Reorganized Debtors, or any other Entity, including without limitation: (a) assumption or
6 rejection, as applicable, of Executory Contracts; (b) the execution of and entry into the Exit Facility,
7 the Senior Secured Note, the Secured Subordinated Note, the GUC Loan and the Intercreditor
8 Agreement; (c) the establishment of the Wave Computing Liquidating Trust and disbursements in
9 accordance with the Liquidating Trust Agreement; and (d) all other acts or actions contemplated, or
10 reasonably necessary or appropriate to promptly consummate the transactions contemplated by the
11 Plan (whether to occur before, on, or after the Effective Date). All matters provided for in the Plan
12 involving the company structure of the Debtors or the Reorganized Debtors, and any company action
13 required by the Debtors, the Reorganized Debtors or Wave Computing Liquidating Trust in connection
14 with the Plan (including the Liquidating Trust Agreement), shall be deemed to have timely occurred
15 on, and shall be in effect as of, the Effective Date, without any requirement of further action by the
16 security holders, directors, managers, authorized persons, or officers of the Debtors.

19 **123. To the extent that any holder of a Secured Claim that has been satisfied or**
20 **discharged in full pursuant to the Plan, or any agent for such holder, has filed or recorded**
21 **publicly any Liens and/or security interests to secure such holder's Secured Claim, then as soon**
22 **as practicable on or after the Effective Date, such holder (or the agent for such holder) shall take**
23 **any and all steps requested by the Debtors, the Reorganized Debtors, Exit Lender or Liquidating**
24 **Trust Manager that are necessary or desirable to record or effectuate the cancellation and/or**
25 **extinguishment of such Liens and/or security interests, including the making of any applicable**
26 **filings or recordings; provided that the Reorganized Debtors shall be entitled to make any such**
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1 **filings or recordings on such holder's behalf.**

2 124. **Notwithstanding anything in the foregoing, the presentation or filing of this**
3 **Confirmation Order to or with any federal, state, provincial, or local agency, records office, or**
4 **department shall constitute good and sufficient evidence of, but shall not be required to effect,**
5 **the termination of such Liens.**

6
7 **XX. Continued Corporate Existence.**

8 125. On and after the Effective Date, the Reorganized Debtors shall continue in existence for
9 purposes detailed in the Plan and the Plan Supplements. The Reorganized Debtors or Wave
10 Computing Liquidating Trust, as applicable, shall be deemed to be substituted as the party-in-lieu of
11 the Debtors in all matters, including (i) motions, contested matters, and adversary proceedings pending
12 in the Bankruptcy Court, (ii) DIP Orders (as applicable), and (iii) all matters pending in any courts,
13 tribunals, forums, or administrative proceedings outside of the Bankruptcy Court, in each case without
14 the need or requirement for the Reorganized Debtors or Liquidating Trust Manager, as applicable, to
15 file motions or substitutions of parties or counsel in each such matter.

16
17 **XXI. Vesting of Assets in the Reorganized Debtors.**

18 126. Except as otherwise provided in the Plan, this Confirmation Order, the Liquidating Trust
19 Agreement, or any agreement, instrument, or other document incorporated herein or therein, or any
20 agreement, instrument, or other document incorporated in the Plan or the Plan Supplements, on the
21 Effective Date, any assets of the Debtors remaining after effectuating the vesting of the Liquidating
22 Trust Assets in the Wave Computing Liquidating Trust shall vest in the Reorganized Debtors for the
23 purpose of liquidating the Estates, free and clear of all Liens, Claims, Interests, charges, or other
24 encumbrances. On and after the Effective Date, except as otherwise provided for in the Plan, the DIP
25 Orders, or the Liquidating Trust Agreement, the Debtors and the Reorganized Debtors may operate
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1 their business and use, acquire, or dispose of property, and compromise or settle any Claims, Interests,
2 or Causes of Action.

3 **XXII. Professional Fee Claims.**

4 127. All requests for payment of Professional Fee Claims for services rendered and
5 reimbursement of expenses incurred prior to the Confirmation Date must be Filed no later than forty-
6 five (45) days after the Effective Date. The Bankruptcy Court shall determine the Allowed amounts
7 of such Professional Fee Claims after notice and a hearing in accordance with the procedures
8 established by the Bankruptcy Court. The Reorganized Debtors shall pay the amounts of the Allowed
9 Professional Fee Claims in Cash.
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11 **XXIII. Treatment of Executory Contracts and Unexpired Leases.**

12 **A. Assumption and Rejection of Executory Contracts.**

13 128. The provisions governing the treatment of Executory Contracts set forth in Article V of
14 the Plan, including the procedures regarding the resolution of any and all disputes concerning the
15 assumption of such Executory Contracts, are hereby approved in their entirety. Pursuant and subject
16 to Article V of the Plan, except as otherwise provided in the Plan or in this Confirmation Order, as of
17 the Effective Date, each Executory Contract will be deemed assumed by the applicable Reorganized
18 Debtor in accordance with the provisions and requirements of sections 365 and 1123 of the Bankruptcy
19 Code, other than those that: (a) are identified on the Rejected Executory Contracts Schedule; (b)
20 previously expired or terminated pursuant to their own terms; (c) have been previously assumed or
21 rejected by the Debtors pursuant to a Final Order; (d) are the subject of a motion to reject that is
22 pending on the Effective Date; or (e) have an ordered or requested effective date of rejection that is
23 after the Effective Date.
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25 129. Such automatic assumption shall be effective without the need for any further notice to
26 or action, order, or approval of the Bankruptcy Court, in accordance with the provisions and
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1 requirements of sections 365 and 1123 of the Bankruptcy Code, other than any Executory Contracts
2 that: (a) have been previously assumed, assumed and assigned, or rejected pursuant to a Bankruptcy
3 Court order; (b) are the subject of a motion to assume, assume and assign, or reject such Executory
4 Contract that is pending on the Effective Date; or (c) are a contract, release, or other agreement or
5 document entered into in connection with the Plan. The assumption or rejection of Executory
6 Contracts hereunder or under the Plan may include the assignment of certain of such contracts to
7 Affiliates. This Confirmation Order will constitute an order of the Bankruptcy Court approving,
8 subject to and upon the occurrence of the Effective Date, the above-described assumptions and
9 assumptions and assignments, or rejections, as applicable. Any Filed motion to assume, assume and
10 assign, or reject any Executory Contracts (or Filed objection with respect to the proposed assumption
11 and assignment of such contract) that is pending on the Effective Date shall be subject to approval by
12 the Bankruptcy Court on or after the Effective Date by a Final Order but may be withdrawn, settled,
13 or otherwise prosecuted by the Reorganized Debtors or the Liquidating Trust Manager, with any such
14 disposition to be deemed to effect an assumption, assumption and assignment, or rejection, as
15 applicable, as of the Effective Date.

18 130. Notwithstanding the rejection procedures contemplated in Article V of the Plan, the
19 Reorganized Debtors shall not include any Executory Contracts with Nautech Corporation on any
20 altered, amended, modified, or supplemented Rejected Executory Contracts Schedule.

22 **B. Cure of Executory Contracts.**

23 131. Resolution of Cures was subject to the procedures set forth in Section V.C of the Plan,
24 and applicable bankruptcy and non-bankruptcy law. Any additional disputed Cure amounts will be
25 determined in accordance thereto.

26 132. Assumption of any Executory Contract pursuant to the Plan or otherwise and full payment
27 of any applicable Cure pursuant to Section V.C of the Plan shall result in the full release and
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1 satisfaction of any Cures, Claims, or defaults, whether monetary or nonmonetary, including defaults
2 of provisions restricting the change in control or ownership interest composition or other bankruptcy-
3 related defaults, arising under any assumed Executory Contract at any time prior to the effective date
4 of assumption. Any and all Proofs of Claim based upon Executory Contracts that have been assumed
5 in the Chapter 11 Cases, including pursuant to this Confirmation Order, and for which any Cure has
6 been fully paid pursuant to Section V.D of the Plan, shall be deemed Disallowed and expunged as of
7 the Effective Date without the need for any objection thereto or any further notice to or action, order,
8 or approval of the Bankruptcy Court.

9
10 **XXIV. Distributions under the Plan.**

11 133. The provisions governing distributions contained in Article VI of the Plan are hereby
12 approved in their entirety.

13 **XXV. Procedures for Resolving Disputed Claims.**

14 134. The procedures for resolving disputed claims contained in Article VIII of the Plan are
15 hereby approved in their entirety. The Debtors, the Reorganized Debtors, or Liquidating Trust
16 Manager, as applicable, are authorized, consistent with the terms of the Plan and this Confirmation
17 Order, to settle, pay, or otherwise resolve Claims, and the Court shall, except as otherwise provided in
18 the Plan or this Confirmation Order, retain jurisdiction to resolve, at the request of the Debtors or the
19 Reorganized Debtors, any such Claims that the Debtor or Reorganized Debtor is unable to resolve
20 consensually with the Holders thereof.

21
22 **XXVI. Setoff and Recoupment.**

23 135. Except as expressly provided in the Plan, each Reorganized Debtor may, pursuant to
24 section 553 of the Bankruptcy Code, set off and/or recoup against any distributions to be made on
25 account of any Allowed Claim, any and all claims, rights, and Causes of Action that such Reorganized
26 Debtor may hold against the Holder of such Allowed Claim to the extent such setoff or recoupment is
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1 either (1) agreed in amount among the relevant Reorganized Debtor(s) and the Holder of the Allowed
2 Claim or (2) otherwise adjudicated by the Bankruptcy Court or another court of competent
3 jurisdiction; provided, however, that neither the failure to effectuate a setoff or recoupment nor the
4 allowance of any Claim hereunder shall constitute a waiver or release by a Reorganized Debtor, or its
5 successor of any and all claims, rights, and Causes of Action that such Reorganized Debtor, or its
6 successor may possess against the applicable Holder. In no event shall any Holder of a Claim be
7 entitled to recoup such Claim against any claim, right, or Cause of Action of the Debtors or the
8 Reorganized Debtors as applicable, unless such Holder actually has performed such recoupment in
9 advance writing with consents or Court authority and in accordance with the Plan on or before the
10 Effective Date, notwithstanding any indication in any Proof of Claim or otherwise that such Holder
11 asserts, has, or intends to preserve any right of recoupment. Notwithstanding the foregoing, there shall
12 be no setoffs or recoupments with respect to the GUC Loan.
13
14

15 **XXVII. Term of Injunctions or Stays.**

16 136. All injunctions or stays contained in the Plan or this Confirmation Order shall remain in
17 full force and effect without limit to duration.

18 **XXVIII. Cancellation of Existing Agreements and Interests.**

19 137. On the Effective Date, except with respect to the extent otherwise provided in the
20 Liquidating Trust Agreement, the Plan, or this Confirmation Order, all notes, instruments, certificates,
21 and other documents evidencing Claims or Interests, including credit agreements and indentures, shall
22 be cancelled and the obligations of the Debtors and any non-Debtor Affiliate thereunder or in any way
23 related thereto shall be deemed satisfied in full, cancelled, discharged, and of no force or effect.
24 Holders of or parties to such cancelled instruments, securities, and other documentation will have no
25 rights arising from or relating to such instruments, securities, and other documentation, or the
26 cancellation thereof, except the rights provided for pursuant to the Plan.
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1 138. Notwithstanding the foregoing but subject to any applicable provisions of Article VI of
2 the Plan, the PSA, the Final DIP Order, or the DIP Credit Agreement, the DIP Documents shall
3 continue in effect solely to the extent necessary to: (1) permit Holders of Claims under the DIP Credit
4 Agreement to receive their respective Plan Distributions, as applicable; (2) permit the Reorganized
5 Debtors and the DIP Agent to make or assist in making, as applicable, Plan Distributions on account
6 of the DIP Credit Agreement and deduct therefrom such reasonable compensation, fees, and expenses
7 due to or incurred by the DIP Agent in making such Plan Distributions; and (3) permit the DIP Agent
8 to seek compensation and/or reimbursement of fees and expenses in accordance with the terms of the
9 Plan. Except as provided in the Plan (including Article VI of the Plan), on the Effective Date, the DIP
10 Agent and its agents, successors, and assigns shall be automatically and fully discharged of all of their
11 duties and obligations associated with the DIP Credit Agreement. The commitments and obligations
12 (if any) of the DIP Lender to extend any further or future credit or financial accommodations to any
13 of the Debtors, any of their respective subsidiaries, or any of their respective successors or assigns
14 under the DIP Credit Agreement shall fully terminate and be of no further force or effect on the
15 Effective Date.

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18 **XXIX. Payment of Statutory Fees.**

19 139. All fees payable pursuant to section 1930(a) of the Judicial Code, and any interest
20 accruing thereon pursuant to 31 U.S.C. § 3717, shall be paid by each of the Reorganized Debtors for
21 each quarter (including any fraction thereof) until the Chapter 11 Cases are converted, dismissed, or
22 closed, whichever occurs first.

23
24 **XXX. Retention of Jurisdiction.**

25 140. Notwithstanding the entry of this Confirmation Order, the occurrence of the Effective
26 Date, or the closing of the Chapter 11 Cases, and without limiting any other retention of jurisdiction
27 set forth in this Confirmation Order, pursuant to sections 105 and 1142 of the Bankruptcy Code, the
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1 Court, except as otherwise explicitly provided in the Plan or this Confirmation Order, shall retain
2 jurisdiction over all matters arising out of, and related to, the Chapter 11 Cases to the fullest extent
3 permitted by law, including, but not limited to, jurisdiction over the matters set forth in Article XII of
4 the Plan.

5 **XXXI. Reports.**

6 141. After the Effective Date of the Plan, the Debtors have no obligation to file with the Court
7 or serve on any parties reports that the Debtors were obligated to file under the Bankruptcy Code or a
8 Court order, including monthly operating reports (even for those periods for which a monthly
9 operating report was not filed before such Effective Date), ordinary course professional reports, and
10 monthly or quarterly reports for Professionals; provided, however, that the Debtors will comply with
11 the U.S. Trustee's quarterly reporting requirements. From Confirmation through the Effective Date
12 of the Plan, the Debtors will file such reports as are required under the Bankruptcy Local Rules.
13

14 **XXXII. Closing of Chapter 11 Cases.**

15 142. The Reorganized Debtors shall, promptly after the full administration of the Chapter 11
16 Cases, file with the Bankruptcy Court all documents required by Bankruptcy Rule 3022 and any
17 applicable order of the Bankruptcy Court to close the Chapter 11 Cases, provided, as of the Effective
18 Date, the Reorganized Debtors may submit separate orders to the Bankruptcy Court under certification
19 of counsel previously provided to the U.S. Trustee closing certain individual Chapter 11 Cases and
20 changing the caption of the Chapter 11 Cases accordingly. Any request for such relief shall be made
21 on motion served on the U.S. Trustee, and the Bankruptcy Court shall rule on such request after notice
22 and a hearing. Upon the filing of a motion to close the last Chapter 11 Case remaining open, the
23 Reorganized Debtors shall file a final report with respect to all of the Chapter 11 Cases pursuant to
24 Local Rule 3022-1(c).
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1 143. When all Disputed Claims have become Allowed or Disallowed and all remaining Cash
2 has been distributed in accordance with the Plan, the Reorganized Debtors shall seek authority from
3 the Bankruptcy Court to close the Chapter 11 Cases of the Debtors in accordance with the Bankruptcy
4 Code and the Bankruptcy Rules.

5
6 **XXXIII. Resolutions to Objections and Comments of Certain Non-Debtor Entities**

7 144. Provisions Regarding Drawbridge 3201 Scott, LLC. Notwithstanding anything herein,
8 Section V.H of the Plan is approved subject to the addition of the following provision:

9 For the avoidance of doubt, and notwithstanding anything to the
10 contrary herein, effective on the Effective Date, MIPS Tech, LLC
11 (whether as a Reorganized Debtor in the event of a Restructuring, or as
12 a Wind-Down Debtor in the event of an Asset Sale in which the
13 Postpetition Drawbridge Lease is not assigned to the Purchaser) shall be
14 bound by and will perform the obligations of MIPS Tech, LLC under
15 the Postpetition Drawbridge Lease accruing or arising prior to and after
16 the Effective Date in accordance with the terms of the Postpetition
17 Drawbridge Lease. Further, and notwithstanding the vesting of assets
18 of the Debtors otherwise provided for under this Plan, Drawbridge 3201
19 Scott, LLC, as landlord under the Postpetition Drawbridge Lease, shall
20 retain the security deposit paid thereunder and shall be entitled to use,
21 apply or otherwise exercise its rights to such security deposit after the
Effective Date pursuant to the terms of the Postpetition Drawbridge
Lease, including with respect to obligations that arise under the
Postpetition Drawbridge Lease before or after the Effective Date, but
subject to the right of MIPS Tech, LLC, as Reorganized Debtor or
Wind-Down Debtor, as applicable, to the return of the remaining
balance of such security deposit in accordance with the terms of the
Postpetition Drawbridge Lease; provided, however, that in no event
shall any portion of the security deposit be used to pay or otherwise
satisfy any claims arising before the Petition Date.

22 **XXXIV. Directors and Officers of Reorganized Debtors.**

23 145. The members of Wave Computing's Board of Directors will be deemed to have resigned
24 as directors as of the Effective Date. The members of the New Board shall be appointed in accordance
25 with Article IV.E.8 of the Plan and the terms provided in the Plan Supplements. From and after the
26 Effective Date, each director, officer, or manager of the Reorganized Debtors shall serve pursuant to
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1 the terms of their respective charters and by-laws or other formation and constituent documents, and
2 applicable laws of the respective Reorganized Debtor's jurisdiction of formation.

3 **XXXV. Employee Obligations.**

4 146. Except as otherwise provided in the Plan or the Plan Supplements, the Reorganized
5 Debtors shall honor the Debtors' written contracts, agreements, policies, programs, plans, and
6 Insurance Policies for, among other things, compensation, reimbursement, indemnity, health care
7 benefits, disability benefits, vacation and sick leave benefits, workers' compensation claims, savings,
8 severance benefits, including in the event of a change of control, retirement benefits, welfare benefits,
9 relocation programs, certain grandfathered benefits, life insurance and accidental death and
10 dismemberment insurance, including written contracts, agreements, policies, and programs; provided
11 that the consummation of the transactions contemplated herein shall not constitute a "change in
12 control" with respect to any of the foregoing arrangements. To the extent that Insurance Policies,
13 programs, and plans are Executory Contracts, pursuant to sections 365 and 1123 of the Bankruptcy
14 Code, except as set forth in the Plan Supplements, each of them will be deemed assumed as of the
15 Effective Date and assigned to the Reorganized Debtors.

16 **XXXVI. Governmental Approvals Not Required.**

17 147. Except as otherwise specifically provided herein, this Confirmation Order shall constitute
18 all approvals and consents required, if any, by the laws, rules or regulations of any state or any other
19 governmental authority with respect to the implementation or consummation of the Plan and the
20 Disclosure Statement, and any documents, instruments or agreements, and any amendments or
21 modifications thereto, and any other acts referred to in or contemplated by the Plan, the Disclosure
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1 Statement and any documents, instruments or agreements, and any amendments or modifications
2 thereto.

3 **XXXVII. Post-Confirmation Notices and Bar Dates.**

4 148. Pursuant to Bankruptcy Rules 2002 and 3020(c), no later than seven (7) days after the
5 Effective Date, the Reorganized Debtors must cause notice of Confirmation and occurrence of the
6 Effective Date (the “Notice of Effective Date”) to be served by United States mail, first-class postage
7 prepaid, by hand, or by overnight courier service to all parties served with the Confirmation Hearing
8 Notice.
9

10 149. The Notice of Effective Date will have the effect of an order of the Court, will constitute
11 sufficient notice of the entry of this Confirmation Order to filing and recording officers, and will be a
12 recordable instrument notwithstanding any contrary provision of applicable non-bankruptcy law.
13

14 150. Except as otherwise provided in the Plan, requests for payment of General Administrative
15 Claims must be Filed and served on the Debtors, the Reorganized Debtors, no later than the
16 Administrative Claims Bar Date applicable to the Debtor against whom the General Administrative
17 Claim is asserted pursuant to the procedures specified in this Confirmation Order and the notice of the
18 Effective Date. Subject to further order of the Bankruptcy Court, Holders of General Administrative
19 Claims that are required to File and serve a request for payment of such General Administrative Claims
20 by the Administrative Claims Bar Date that do not File and serve such a request by the Administrative
21 Claims Bar Date shall be forever barred, estopped, and enjoined from asserting such General
22 Administrative Claims against the Debtors, the Reorganized Debtors, or their respective property and
23 such General Administrative Claims shall be deemed forever discharged and released as of the
24 Effective Date. Subject to further order of the Bankruptcy Court, any requests for payment of General
25 Administrative Claims that are not properly Filed and served by the Administrative Claims Bar Date
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1 shall not appear on the Claims Register and shall be disallowed automatically without the need for
2 further action by the Debtors or the Reorganized Debtors, or further order of the Bankruptcy Court.

3 **XXXVIII. Plan and Confirmation Order Nonseverable and Mutually Dependent.**

4 151. The provisions of the Plan and this Confirmation Order, including the findings of fact and
5 conclusions of law set forth herein, are nonseverable and mutually dependent.

6 **XXXIX. Post-Confirmation Modifications.**

7 152. Subject to the limitations set forth in the Plan, after entry of this Confirmation Order but
8 prior to the substantial consummation of the Plan the Debtors may alter, amend, or modify the Plan in
9 accordance with section 1127(b) of the Bankruptcy Code; provided, however, that the Debtors shall
10 file any such altered, amended or modified version of the Plan on the docket of the Chapter 11 Cases
11 concurrently with the Notice of Effective Date. The Debtors are authorized to make appropriate
12 technical adjustments, remedy any defect or omission, or reconcile any inconsistencies in the Plan, the
13 Plan Supplements, and this Confirmation Order.

14 **XL. Confirmation Order Supersedes.**

15 153. This Confirmation Order shall supersede any Court orders issued in the Chapter 11 Cases
16 prior to the Confirmation Date that may be inconsistent with this Confirmation Order, in each case
17 solely to the extent of the inconsistency. The Debtors are currently unaware of any inconsistency.

18 **XLI. Conflicts Between This Confirmation Order and the Plan.**

19 154. To the extent that any provision of the Disclosure Statement, Liquidating Trust
20 Agreement, or any other order of the Court (other than this Confirmation Order) referenced in the Plan
21 (or any exhibits, appendices, supplements, or amendments to any of the foregoing) conflicts with or
22 is in any way inconsistent with any provision of the Plan, the Plan shall govern and control. To the
23 extent that any provision in the Plan conflicts with or is in any way inconsistent with any provision of
24 this Confirmation Order, this Confirmation Order shall govern and control.
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1 **XLII. Recording.**

2 155. The Debtors and the Reorganized Debtors are authorized to deliver a notice or short form
3 of this Confirmation Order, with the Plan attached (in a form complying with any applicable non-
4 bankruptcy rules or regulations), to any state or local recording officer, and such officer shall accept
5 for filing such documents or instruments without charging any stamp tax, recording tax, personal
6 property transfer tax, mortgage, or other similar tax. Such notice (a) shall have the effect of an order
7 of this Court and (b) shall constitute sufficient notice of the entry of this Confirmation Order to such
8 filing and recording officers. The Court specifically retains jurisdiction to enforce the foregoing
9 direction, by contempt or otherwise.
10

11 **XLIII. Documents, Mortgages, and Instruments.**

12 156. Each federal, state, commonwealth, local, foreign, or other governmental agency is
13 authorized to accept any and all documents, mortgages, and instruments necessary or appropriate to
14 effectuate, implement, or consummate the Plan, the transactions contemplated thereby, and this
15 Confirmation Order.
16

17 **XLIV. Substantial Consummation.**

18 157. Substantial consummation of the Plan under section 1101(2) of the Bankruptcy Code shall
19 be deemed to occur on the Effective Date.

20 **XLV. Applicable Non-Bankruptcy Law.**

21 158. Pursuant to sections 1123(a) and 1142(a) of the Bankruptcy Code, the provisions of this
22 Confirmation Order, the Plan and any related documents, or any amendments or modifications thereto,
23 shall apply and are enforceable notwithstanding any otherwise applicable non-bankruptcy law.
24

25 **XLVI. Waiver of Stay**

26 159. The requirements under Bankruptcy Rule 3020(e) that an order confirming a Plan is
27 stayed until the expiration of fourteen (14) days after entry of the order is hereby waived. This
28 Confirmation Order is a Final Order and shall take effect immediately and shall not be stayed pursuant

COURT SERVICE LIST

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ECF Participants